

**STAFF REPORT
C34**

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10/18/18
PRC 8762.1
J. Holt

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Lewis J. Deak and Barbara J. Deak

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, adjacent to 425 W. Willow Tree Lane, near Isleton, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing floating boat dock with a slip, four pilings, ramp, and bank protection.

LEASE TERM:

10 years, beginning October 18, 2018.

CONSIDERATION:

Floating Boat Dock with Slip, Four Pilings, and Ramp: \$220 per year, with an annual Consumer Price Index adjustment.

Bank Protection: The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

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Public Trust and State's Best Interests Analysis:

On September 13, 2007, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to James A. Deak and Joan Deak, as trustees under Declaration of Trust, dated July 9, 1982, entitled James A. and Joan Deak Family Revocable Trust ([Item C28, September 13, 2007](#)). That lease expired on September 12, 2017. On January 14, 2010, the upland was deeded to Lewis J. Deak and Barbara J. Deak. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing floating boat dock with a slip, four pilings, ramp, and bank protection in Georgiana Slough.

The Applicant will remit compensation for the occupation of State land in the amount of \$239, for the time period of September 13, 2017, the day following expiration of the prior lease, to October 17, 2018, the day preceding issuance of the proposed new lease.

The proposed lease area includes the same facilities as in the prior lease. These facilities are used for recreational boating and shoreline protection purposes. They have existed at this location for many years. Recreational boating and water recreation are water-dependent activities, generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). The existing bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources in Georgiana Slough for recreational and navigational use by the public at no cost to the public.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term; does not grant the lessee exclusive rights to the lease premises; and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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Climate Change:

Climate change impacts, including sea-level rise increased wave activity, storm events, and flooding are not limited to the open coast. The lease area is located within a tidally influenced region vulnerable to flooding at current sea levels. In the foreseeable future, this area will be at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated with this lease area include an existing floating boat dock with slip, four pilings, ramp, and bank protection.

By 2030, this region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Georgiana Slough inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for this region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This outcome is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and

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potentially leading to increased wear-and-tear on the pilings and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating dock and ramp are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts. These structures may require more frequent maintenance to ensure continued functionality, during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features, such as pilings and bank protection may need reinforcement to withstand higher levels of flood exposure. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Pursuant to the proposed lease, the applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs, is consistent with the Public Trust, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest level of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant for the occupation of State land in the amount of \$239, for the time period of September 13, 2017, the day following expiration of the prior lease, to October 17, 2018, the day preceding issuance of the new lease.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Applicant beginning October 18, 2018, for a term of 10 years, for the use and maintenance of an existing floating boat dock with slip, four pilings, ramp, and bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the floating boat dock with slip, four pilings and ramp: \$220 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8762.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Georgiana Slough lying adjacent to fractional Swamp and Overflow Survey 943, patented April 14, 1873, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock with slip, four pilings and ramp lying adjacent to that parcel as described in that Grant Deed recorded January 14, 2010 in Book 20100114 Page 1246 in Official Records of said County.

ALSO TOGETHER WITH that land lying immediately beneath any protective structure adjacent to said parcel.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the right bank of the Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 18, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE

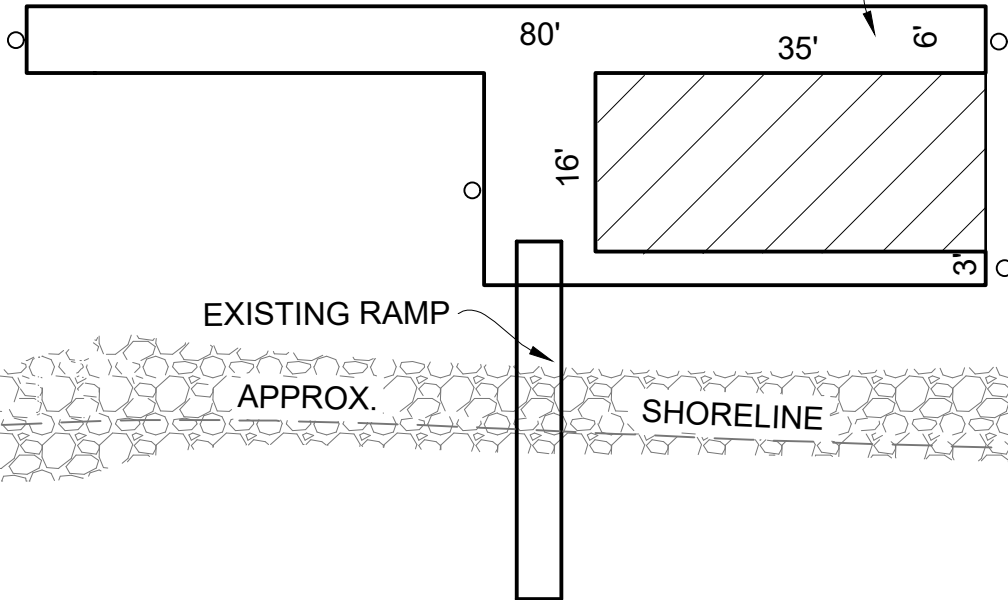


Georgiana

Slough →

EXISTING FLOATING
BOAT DOCK WITH SLIP

4 EXISTING PILINGS



EXISTING RAMP

PROTECTIVE
STRUCTURE

APPROX.

SHORELINE

APN 156-0100-025

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 8762.1, DEAK
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

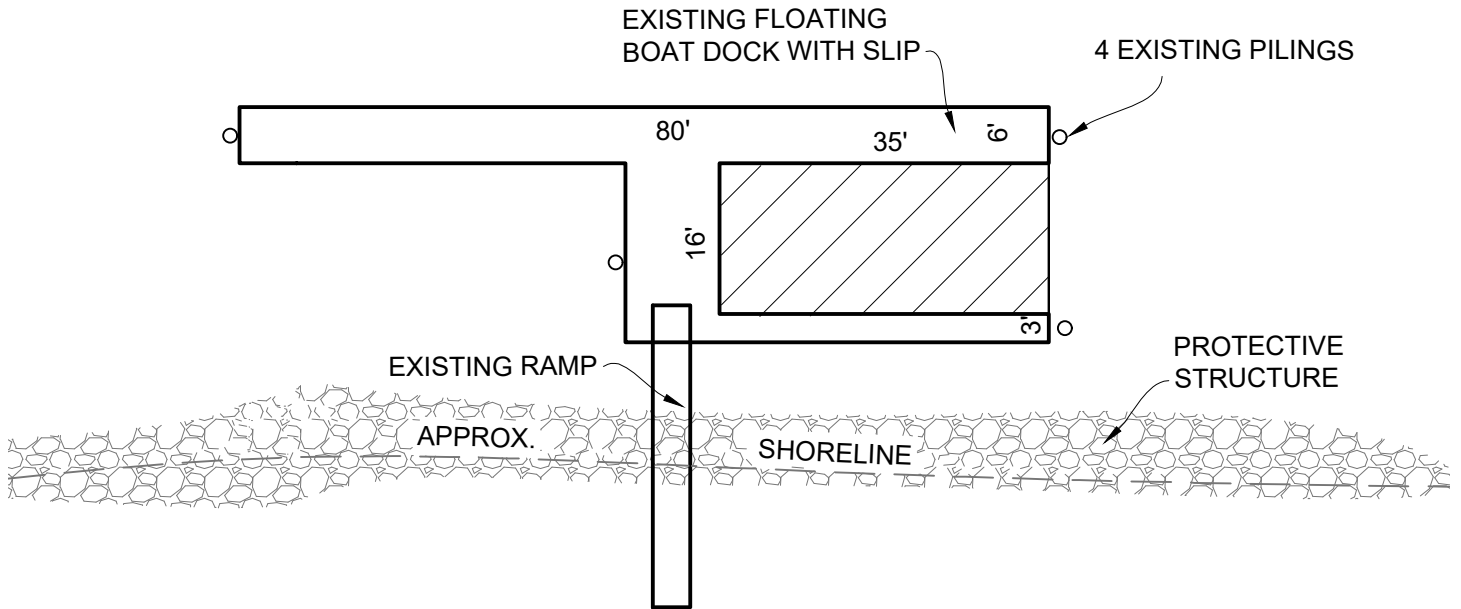


NO SCALE

SITE

Georgiana

Slough

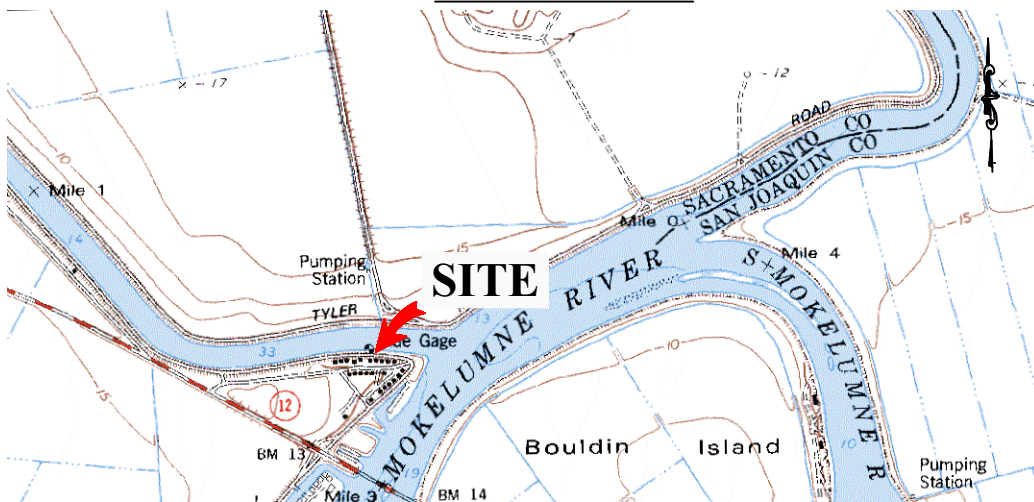


APN 156-0100-025

425 W. WILLOW TREE LANE, ISLETON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8762.1
 DEAK
 APN 156-0100-025
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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