

**STAFF REPORT  
C45**

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04/05/19  
PRC 4785.1  
J. Holt

S 3

**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE;  
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE  
STRUCTURE USE**

**LESSEE:**

Man Wah Wong and Bao Ling Yu

**APPLICANT:**

Kenneth F. Mountain and Ricki Mountain

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Sacramento River, adjacent to 17420 Grand Island Road, near Walnut Grove, Sacramento County.

*AUTHORIZED USE:*

Use and maintenance of an existing pier and eight pilings previously authorized by the Commission, and existing bank protection not previously authorized by the Commission.

*LEASE TERM:*

10 years, beginning June 27, 2018.

*CONSIDERATION:*

**Pier and eight pilings:** \$125 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:*

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

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**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.

**Public Trust and State's Best Interests Analysis:**

On August 19, 2015, the Commission authorized a 10-year General Lease – Recreational Use to Man Wah Wong and Bao Ling Yu ([Item C41, August 19, 2015](#)). That lease will expire on June 25, 2026. On June 27, 2018, the upland was deeded to Kenneth F. Mountain and Ricki Mountain. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing pier and eight pilings previously authorized by the Commission; and existing bank protection not previously authorized by the Commission. These facilities reside in the Sacramento River.

The transfer occurred without a lease quitclaim deed and notification to staff, which resulted in abandonment of the lease premises. Staff recommends termination of the existing lease, Lease No. PRC 4785.1, effective June 26, 2018, the day preceding title transfer. Staff also recommends that the Commission authorize a new lease to the Applicant, effective June 27, 2018, the day associated with upland ownership. Annual rent had been paid, through June 25, 2018, by the Lessee.

The proposed lease area contains an existing pier and eight pilings previously authorized by the Commission and existing bank protection not previously authorized by the Commission. These facilities are designed for recreational boating and fishing purposes, and shoreline protection. Recreational boating and fishing are water-dependent activities and are 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 bank protection will maintain and improve the integrity of the river channel that will help protect Public Trust resources for recreational and navigational use by 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 the improvements from State land.

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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.

**Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of an existing pier, eight pilings, and bank protection.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

**Table 1. Projected Sea-Level Rise for San Francisco<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

This effect could increase Sacramento River's 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). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change

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induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

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 potentially leading to increased wear-and-tear on the pilings. 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 fixed features may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. The bank is vegetated, which provides additional stability and will reduce the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system, but remains at risk of accelerated deterioration from currents and floods. Any exposed portions of the protective structure could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to protect the anchoring points of the other lease improvements and reduce flood impacts to the upland parcel (not within the lease area). 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 the 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 common law Public Trust Doctrine, and is in the best interests of the State.

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**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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.

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that issuance of the lease 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 impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust; and is in the best interests of the State.

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**AUTHORIZATION:**

1. Authorize termination of Lease No. PRC 4785.1, a General Lease – Recreational Use, issued to Man Wah Wong and Bao Ling Yu, effective June 26, 2018, the day preceding title transfer.
  
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning June 27, 2018, for a term of 10 years, for the use and maintenance of an existing pier and eight pilings previously authorized by the Commission and existing bank protection not previously authorized by the Commission; 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 existing pier and eight pilings: \$125 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 4785.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 957, patented October 4, 1871, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing pier and eight pilings lying adjacent to that parcel as described in Exhibit "A" of that Grant Deed recorded June 27, 2018 in Document 201806271235 Page 2101 in Official Records of said County.

TOGETHER WITH any applicable impact areas(s)

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

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

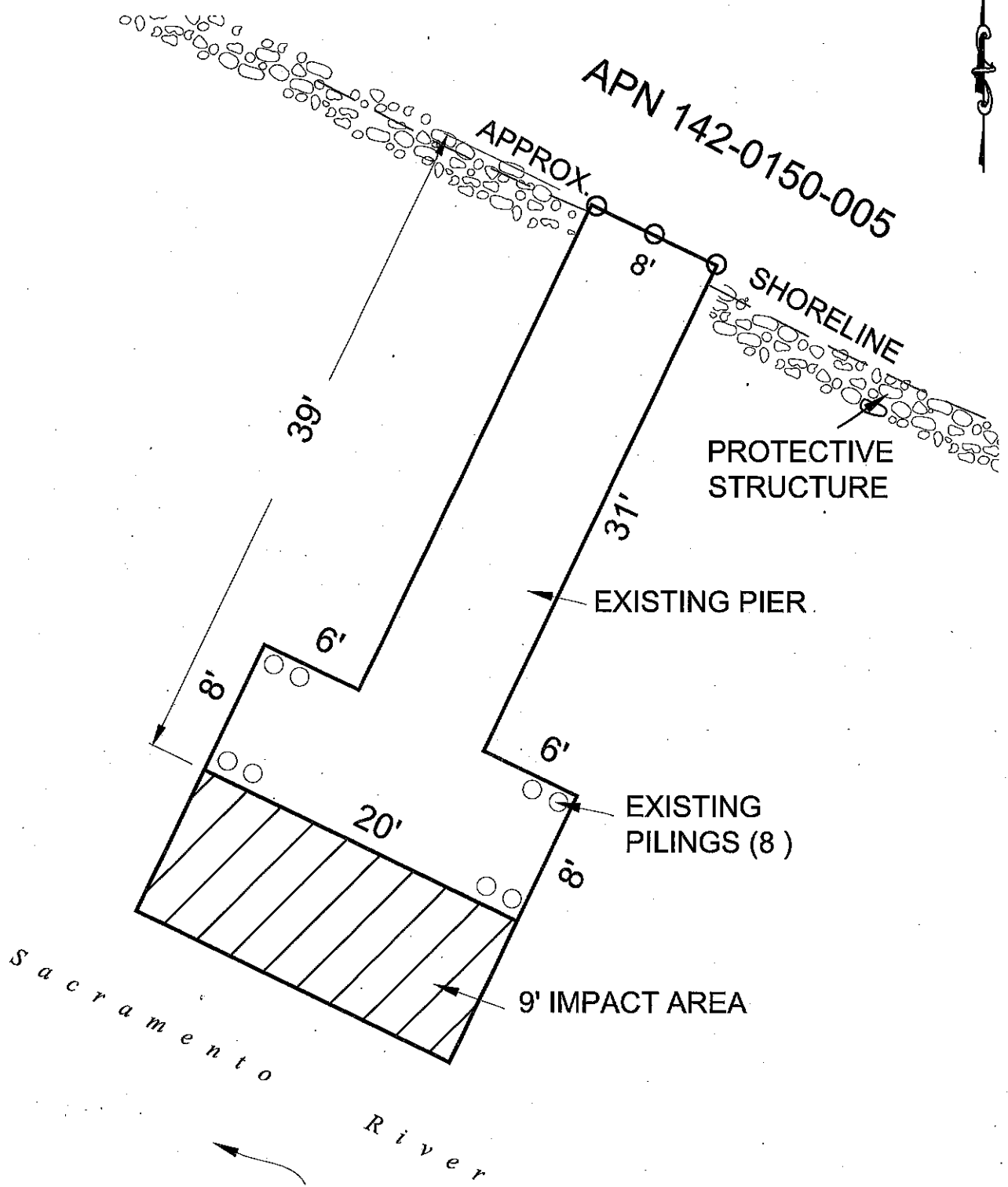
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared December 31, 2018 by the California State Lands Commission Boundary Unit.



APN 142-0150-005



**EXHIBIT A**

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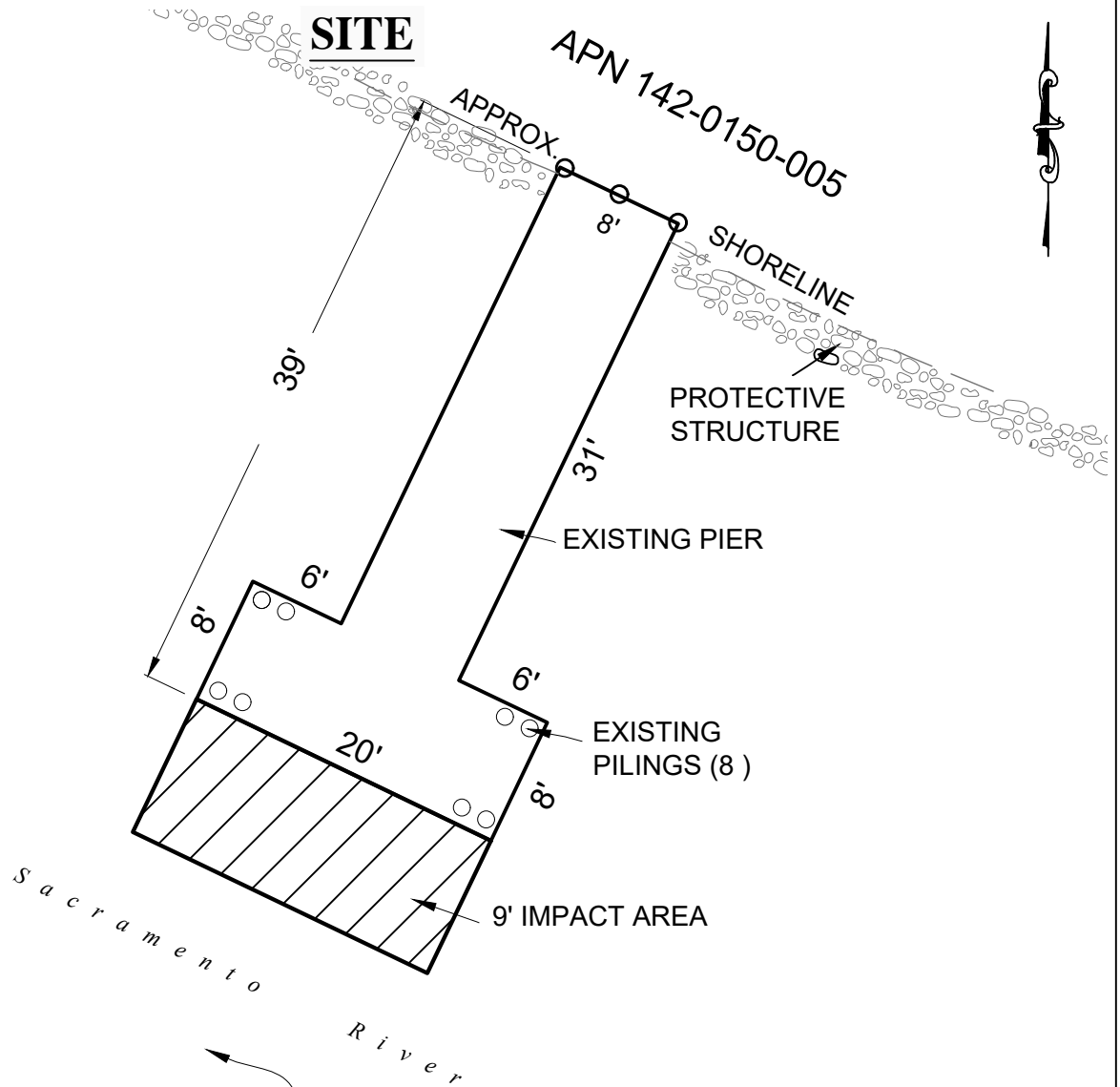
LAND DESCRIPTION PLAT  
PRC 4785.1, MOUNTAIN  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION





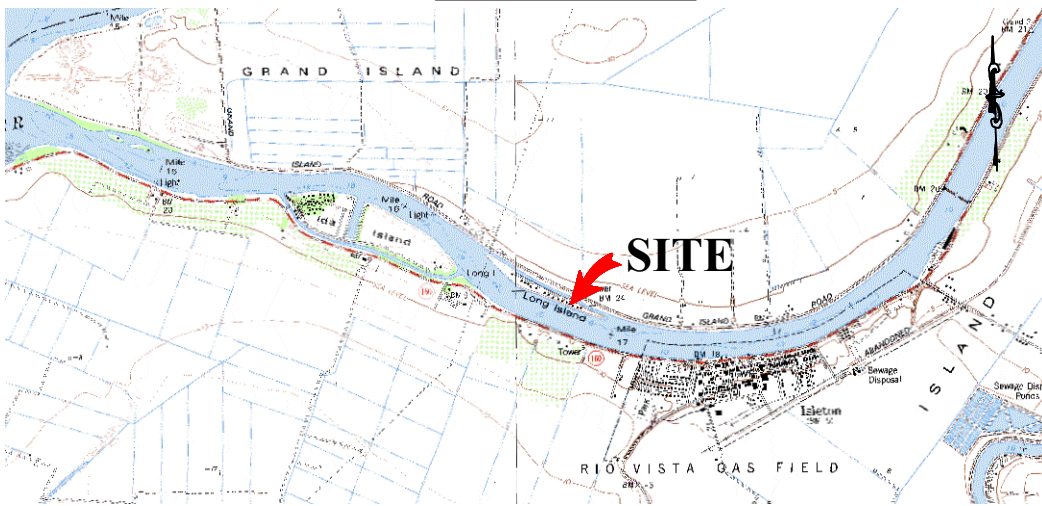
NO SCALE



17420 GRAND ISLAND ROAD, LONG ISLAND, NEAR WALNUT GROVE

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

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.

### Exhibit B

PRC 4785.1  
 MOUNTAIN  
 APN 142-0150-005  
 GENERAL LEASE -  
 RECREATIONAL &  
 PROTECTIVE STRUCTURE USE  
 SACRAMENTO COUNTY



MJJ 1/28/2019