

**STAFF REPORT  
07**

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S 3

06/28/19  
PRC 7250.1  
S. Avila

**GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Leslie Carey

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Napa River, adjacent to 1812 Milton Road,  
Napa, Napa County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing boat dock, gangway, two pilings, and bank protection.

*LEASE TERM:*

10 years, beginning October 5, 2018.

*CONSIDERATION:*

**Boat Dock, Gangway, Two Pilings:** \$160 per year,  
with an annual Consumer Price Index adjustment.

**Bank Protection:** 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.

**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

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and 2003.

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

On June 24, 2008, the Commission authorized a General Lease - Recreational and Protective Structure Use, for the continued use and maintenance of an existing pier, ramp, uncovered floating boat dock, two pilings, and bank protection to Samuel Elmore Walker and Shelley Brandt Walker, Trustees of the Walker Family Trust, dated May 19, 1999, for a term of 10 years beginning July 1, 2008 ([Item C18, June 24, 2008](#)). The lease expired on June 30, 2018.

During the lease period, the pier and ramp were destroyed by storm activity and subsequently replaced by a gangway and a boat dock of the same size and dimensions as the previously authorized improvements.

On October 5, 2018, interest in the upland parcel was transferred to Leslie Carey. The Applicant is applying for a new lease for the continued use and maintenance of the improvements.

The Applicant owns the upland adjoining the lease premises. The subject dock and appurtenant facilities are privately owned and maintained, used for the docking and mooring of boats, and facilitate recreational boating. Recreational boating is a water-dependent use that is 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 land (Pub. Resources Code, § 6503.5). The existing bank protection maintains and improves the integrity of the river channel, which will help protect the Public Trust resources of the Napa River for recreational and navigational use by the public at no cost to the public.

The dock and appurtenant facilities have existed for many years at this location and are built on a gently sloped portion of the river bank. 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 and does not grant the lessee exclusive rights to the lease premises. 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 occupying public land.

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**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 lower Napa River, a tidally influenced site that includes salt and brackish water marshes that are vulnerable to flooding at current sea levels that will be at higher risk of flood exposure given projected scenarios of sea-level rise.

Facilities within the lease premises consist of a retaining wall with bank protection; a partially mobile rolling ramp; two pilings; and an uncovered floating boat dock. The previous pier and ramp were destroyed by storm activity, but the existing facilities are in good condition. The lease premises are in an area that is designated as a Special Flood Hazard Zone by the Federal Emergency Management Agency, and the uncovered floating boat dock and appurtenant facilities could be susceptible to damage from both rising seas and flooding events.

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 lease area 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.

Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. 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

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influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. 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. The uncovered floating boat dock and gangway are adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The fixed portion of the gangway and pilings may need reinforcement or replacement to withstand higher levels of flood exposure. In addition, the lease area may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public access safety hazard. Finally, the bank protection is at risk of accelerated deterioration from higher and stronger currents and floods. Regular maintenance, as required by 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 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 uses and values; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the boat dock, appurtenant facilities, and bank protection and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

3. 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.

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the 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 impair the public rights to navigation and fishing or 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 Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning October 5, 2018, for a term of 10 years, for continued use and maintenance of an existing boat dock, gangway, two pilings, 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 boat dock, gangway, and two pilings: \$160 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection to be the public use and benefit with the State reserving the right at any time to set a monetary rent

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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 7250.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate on the right bank of the Napa River, lying adjacent to Swamp and Overflow Location 840, patented July 3, 1893, County of Napa, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, two pilings lying adjacent to those Lots as described in Exhibit "A" in that Quitclaim Deed recorded October 1, 1999 as Document Number 1999-0030995, in Official Records of said County.

TOGETHER WITH any applicable impact area(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 Napa River.

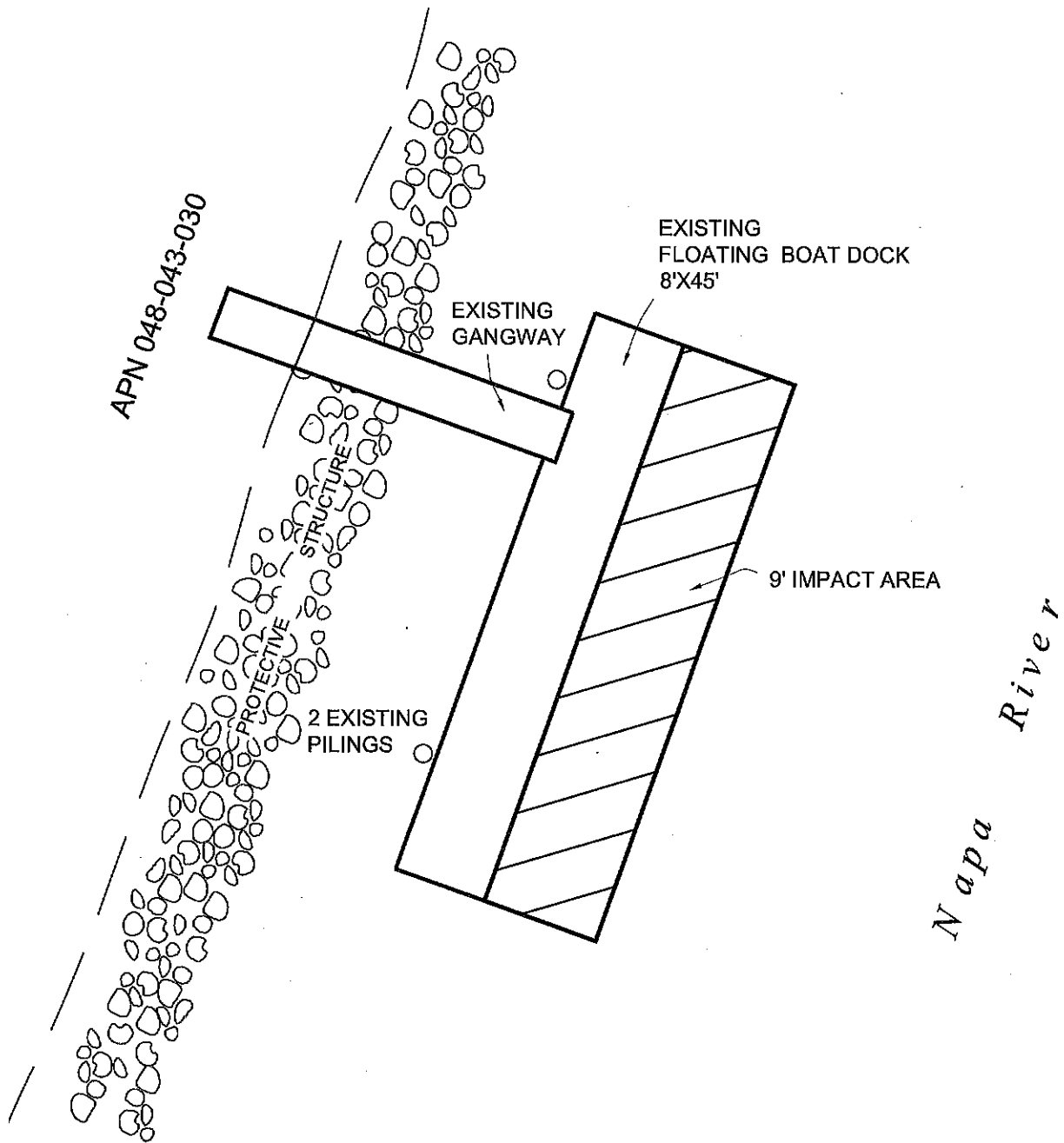
Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared August 2, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE



### EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 7250.1, CAREY  
NAPA COUNTY

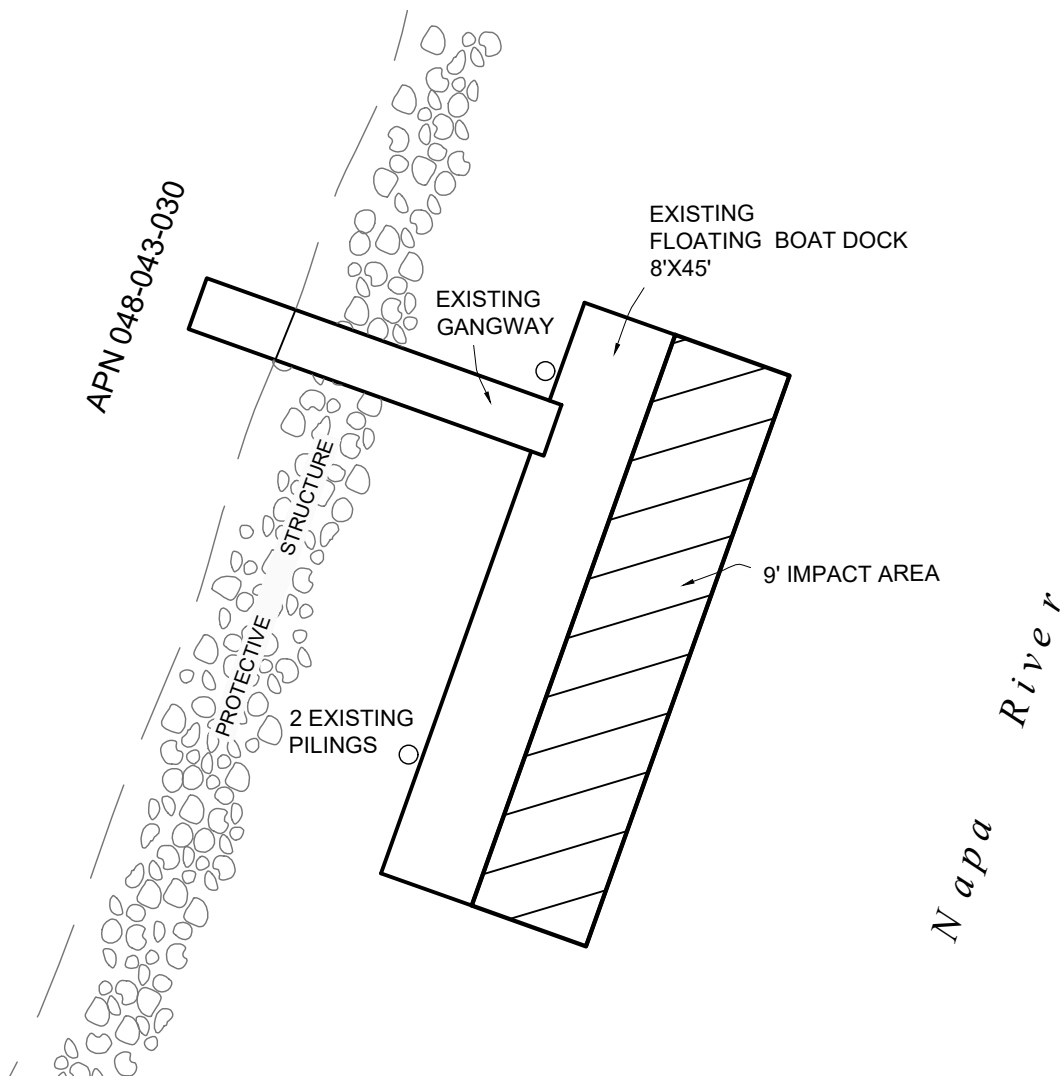
CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

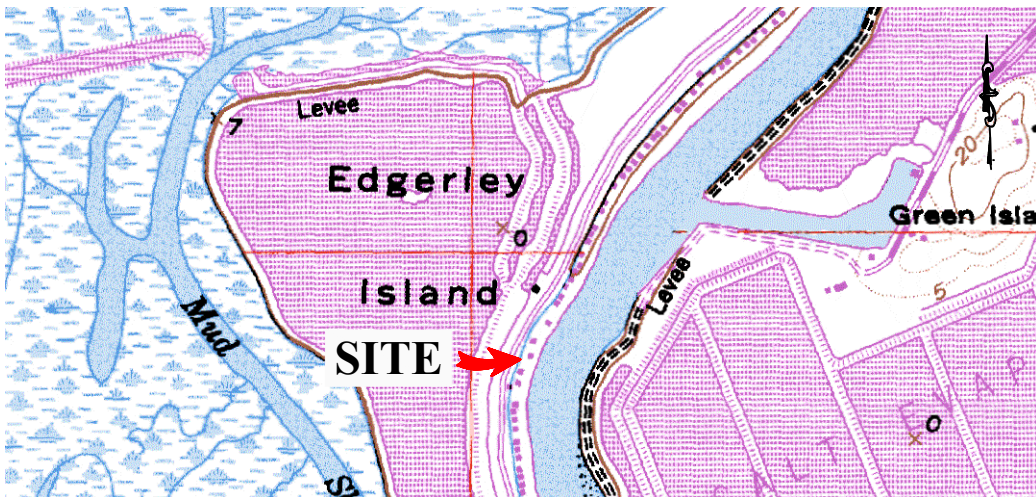
# SITE



1812 MILTON ROAD, NAPA

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 7250.1  
 CAREY  
 APN 048-043-030  
 GENERAL LEASE -  
 RECREATIONAL &  
 PROTECTIVE STRUCTURE USE  
 NAPA COUNTY



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