

**CALENDAR ITEM
C46**

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PRC 6836.1
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ASSIGNMENT OF LEASE AND AMENDMENT OF LEASE

LESSEE/ASSIGNOR:

Estate of George A. Heiner

APPLICANT/ASSIGNEE:

SHC Management, LLC, a California limited liability company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 13900 River Road, near Locke, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina known as The Boathouse Marina with berthing, fuel dock, pump-out station, launching, dry docking, and manager's quarters, and other related marina operations.

LEASE TERM:

21 years, beginning January 1, 2013.

CONSIDERATION:

\$4,517 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED LEASE AMENDMENT:

Amend the lease to:

1. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).
2. Include special lease provisions relating to the effects of climate change, including a requirement for structural assessments to ensure the long-term integrity of the authorized improvements.

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3. All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and the State's Best Interests Analysis:

On April 26, 2013, the Commission authorized a General Lease – Commercial Use to George A. Heiner and Endorsement of a Sublease ([Calendar Item C39, April 26, 2013](#)). That lease will expire on December 31, 2033. On June 21, 2013, the Commission authorized an Agreement and Consent to Encumbrancing of Lease between the State Lands Commission, George A. Heiner, and the Bank of Rio Vista ([Calendar Item C30, June 21, 2013](#)). Since that time, the Lessee died. On December 2, 2016, a probate court appointed the Lessee's children as administrator of his estate. They are now requesting an assignment of the lease. In addition, the Bank of Rio Vista has notified Commission staff that the mortgage underlying the encumbrancing agreement has been paid in full thus terminating that agreement by its terms. Lessee's children have formed a limited liability company to manage and hold title to the marina assets and have agreed to be bound by all terms, covenants and conditions of the lease. The amendment is necessary to reflect the name of the new ownership on Exhibit B.

The recommended action will not substantially interfere with the Public Trust needs at this time and at this location. The assignment of lease and amendment of lease will not change the use of the lease premises. For these reasons, staff recommends finding the proposed action is in the best interests of the State at this time.

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 lease area is located on the Sacramento River, which is a tidally influenced site vulnerable to flooding at current sea levels. The facilities associated with this lease area include 26 26-foot-long covered docks with electrical and water hookups, 20 30-foot-long covered docks with electrical and water hookups, three 30-foot-long uncovered docks with electrical and water hookups, 10 36-foot-long covered docks with electrical and water hookups, 215 feet of side-tie docking, walkways, an 81-foot-long

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gas/accommodation dock with one marine fuel dispenser and hose reels, a 165-foot long debris diverter, a pump-out station, a boat lift/launch, four restrooms, 47 dry dock storage spaces, boat repair shop, laundry room, a marina manager's office with restroom, and a manager's quarters with restroom and shower. This area will also be at a higher risk of flood exposure given future projection scenarios of sea-level rise: the region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts in the 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 is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. 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, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate.

The lease is a 21-year General Lease - Commercial Use that began on January 1, 2013, and may be subject to the climate change effects of the projected scenario of 1 foot of sea-level rise (from year 2000 levels) by 2030 described above. The facilities within the lease area could experience vulnerabilities from climate change towards the end of the 21-year lease term, particularly the fuel dock where there could be risks of fuel spills. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation or dislodgement and reduce any effects of fuel spills. Further climate change impact analyses on the leased facilities will be conducted at the time the lease expires in 2033 if a new lease is proposed and would be based on projected sea-level rise

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scenarios at that time and a structural assessment of the improvements that is required prior to lease expiration.

Conclusion:

For all the reasons above, Commission staff believes that the authorization for the assignment of this lease and the lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This activity is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety and the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Authorizing the assignment of lease and lease amendment to replace the Land Description and Site and Location Map are not projects as defined by the California Environmental Quality Act because they are administrative actions 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of lease and amendment of lease will not impact public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time or for the foreseeable term of the lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

AUTHORIZATION:

1. Authorize the assignment of Lease No. PRC 6836.1, a General Lease – Commercial Use, of sovereign land from the estate of George A. Heiner to SHC Management, LLC, a California limited liability company, effective June 22, 2017.

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2. Authorize the amendment of Lease No. PRC 6836.1, a General Lease – Commercial Use, effective June 22, 2017, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); and include special lease provisions requiring structural assessment reports.

EXHIBIT A

PRC 6836.1

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the Sacramento River, lying adjacent to Lots 3 & 4 of fractional Section 26, Township 5 North, Range 4 East, MDM, as shown on Official Government Township Plat approved June 18, 1859, County of Sacramento, State of California and being more particularly described as follows:

COMMENCING at a point being the south corner, on the west line, of 'Parcel 1' as shown on that Parcel Map filed 12/26/2001 in Book 163 of Parcel Maps, Page 17, Sacramento County, which bears S 79°16'23" E 11.30 feet from a 1" iron pipe, tagged LS 5528 as shown on said map; thence S 79°16' 23" E 100 feet more or less to a point on the left bank of the Sacramento River, said point also being the POINT OF BEGINNING; thence southerly along said bank S 06° 13' 16" E 203.93 feet; thence leaving said bank S 77° 33' 07" W 77.19 feet; thence along the following four (4) courses:

- 1) N 09° 38' 16" W 453.44 feet;
- 2) N16° 49' 57" W 488.96 feet;
- 3) N 23° 13' 43" W 359.24 feet;
- 4) N 22° 57' 32" E 133.42 feet to a point on the left bank of said river; thence southeasterly and southerly along said bank the following four (4) courses:
 - 1) S 25° 02' 00" E 329.58 feet;
 - 2) S 18° 07' 56" E 304.97 feet;
 - 3) S 14° 02' 19" E 475.02 feet;
 - 4) S 06° 13' 04" E 99.96 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

BASIS OF BEARING is Parcel Map filed 12/26/2001 in Book 163 of Parcel Maps, Page 17, Sacramento County.

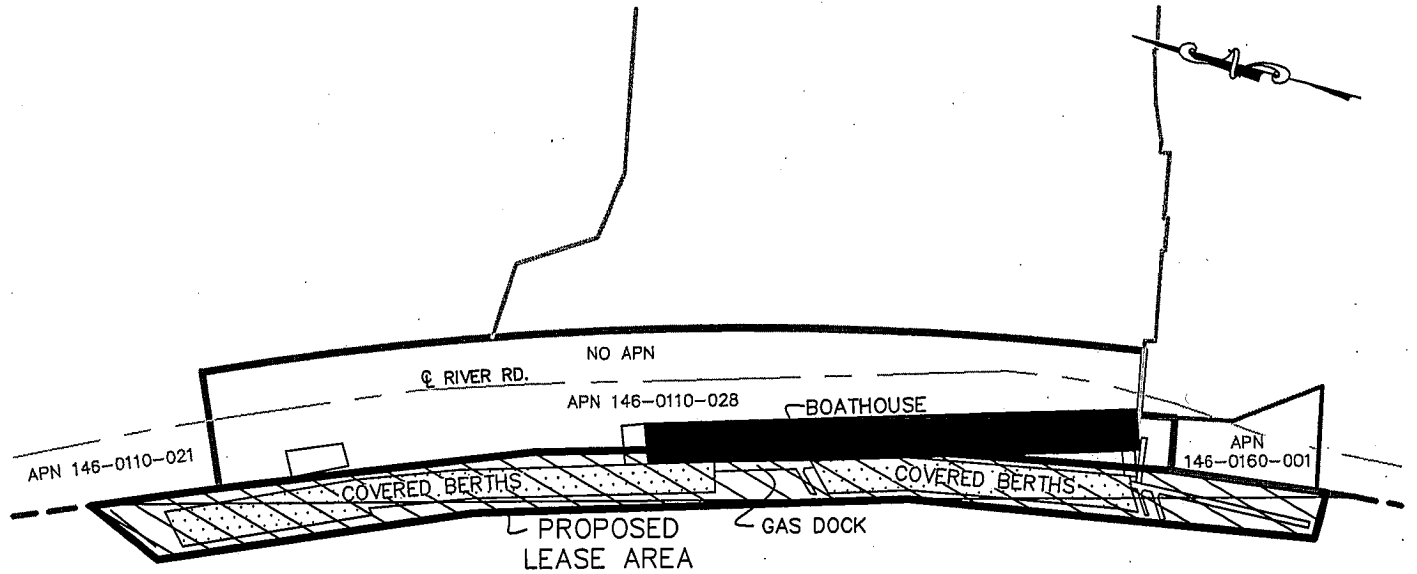
END OF DESCRIPTION

PREPARED 4/19/13 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE

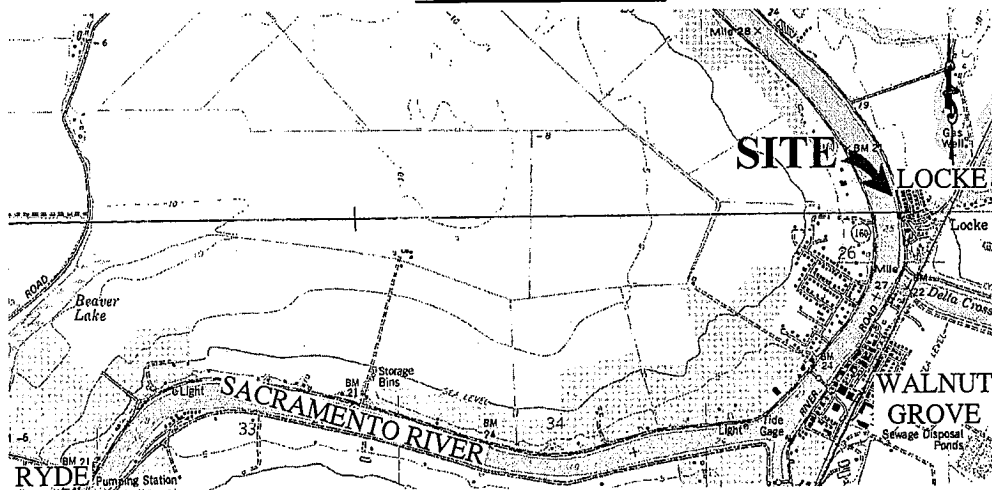


SACRAMENTO RIVER

Boathouse Marina - 13900 River Rd. Sacramento River, Locke

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6836.1
 SHC MANAGEMENT, LLC
 APN 146-0110-021,028,
 146-0160-001
 GENERAL LEASE -
 COMMERCIAL 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.

MJF 2/15/17