

**STAFF REPORT  
C41**

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08/17/17  
PRC 5551.1  
J. Holt

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

**APPLICANT:**

Jeff Chenu and Wendy Holmquist, as Trustees or Any Successor Trustees of The Chenu Holmquist Family Trust dated October 22, 2009

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Sacramento River, adjacent to 7701 Garden Highway, near Sacramento, Sacramento County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing floating boat dock, three pilings, ramp, and bank protection in the Sacramento River.

*LEASE TERM:*

10 years, beginning September 13, 2017.

*CONSIDERATION:*

**Floating boat dock, three pilings, and ramp:** \$155 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 REPORT NO. **C41** (CONT'D)

**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 State's Best Interests Analysis:**

On September 13, 2007, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use for an existing uncovered floating boat dock, three pilings, ramp, and bank protection to Jeffrey H. Chenu and Wendy Holmquist ([Item C22, September 13, 2007](#)). That lease will expire on September 12, 2017. On October 17, 2016, the upland property was transferred to Jeff Chenu and Wendy Holmquist, as Trustees or Any Successor Trustees of The Chenu Holmquist Family Trust dated October 22, 2009. The Applicant has applied for a new General Lease – Recreational and Protective Structure Use, for continued use and maintenance of existing facilities in the Sacramento River.

The proposed lease contains the same structures as the current lease, which consist of an existing floating boat dock, appurtenant facilities, and bank protection. These facilities are used for recreational boating and shoreline protection. The existing floating boat dock and appurtenant facilities have existed at this location for many years. Recreational boating is a water-dependent activity and 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 lands (Pub. Resources Code, § 6503.5).

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. The bank protection will maintain and improve the integrity of the Sacramento River channel, which will help protect the Public Trust resources of the Sacramento River for recreational and navigational purposes by the public.

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### **Climate Change:**

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Sacramento River within a tidally-influenced region. The subject facilities are vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated in this lease area include an existing floating boat dock, three pilings, adjustable ramp, and bank protection.

By 2030, California's coast 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 Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. 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, drought, 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 potentially raise the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and

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stronger storm events may expose the lease area structures to higher flood risks and cause structures 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 potentially leading to increased wear and tear on the pilings and dock, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures.

The floating dock and adjustable 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, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features, such as pilings and bank protection, may need reinforced to withstand higher levels of flood exposure. The bank protection and bank vegetation provide stability and reduce the amount of erosion and scour pressure the bank may experience during future events because of the underground root system created from the vegetation and trees on the bank. Still, there is the risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

### **Conclusion:**

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with Public Trust needs, at this location at this time, or for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine and 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 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. Staff recommends that the Commission find that issuance of the proposed lease 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).

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

3. This activity involves lands that are identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based on staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**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, or 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.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Jeff Chenu and Wendy Holmquist, as Trustees or Any Successor Trustees of The Chenu Holmquist Family Trust dated October 22, 2009; beginning September 13, 2017, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, three pilings, ramp, and bank protection, as described in Exhibit A and shown

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on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the floating boat dock, three pilings, and ramp: \$155 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 5551.1**

**LAND DESCRIPTION**

One parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Lands survey 925, patented September 1, 1869, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing floating boat dock, three pilings, and a ramp lying adjacent to that parcel described in Grant Deed recorded October 17, 2016 as Document Number 20161017 in Official Records of Sacramento County.

TOGETHER WITH any applicable impact area.

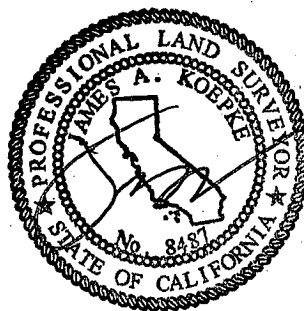
ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure lying adjacent to said deed.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

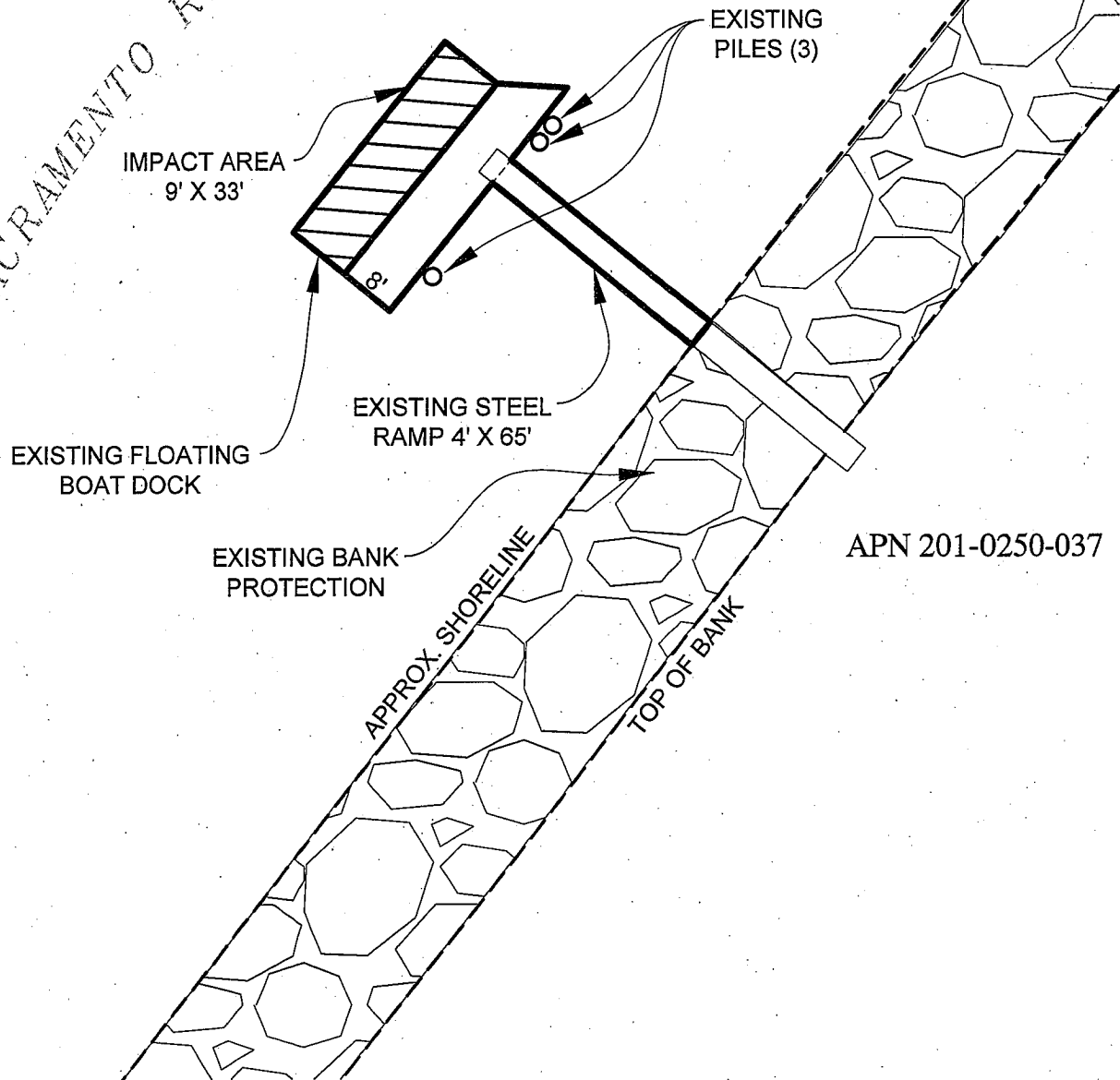
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 04/25/2017 by the California State Lands Commission Boundary Unit.



SACRAMENTO RIVER



## EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 5551.1, CHENU/HOLMQUIST TRUST  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

# SITE

SACRAMENTO RIVER

IMPACT AREA  
9' X 33'

EXISTING  
PILES (3)

EXISTING FLOATING  
BOAT DOCK

EXISTING STEEL  
RAMP 4' X 65'

EXISTING BANK  
PROTECTION

APPROX. SHORELINE

TOP OF BANK

APN 201-0250-037

7701 GARDEN HWY. NEAR SACRAMENTO

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 5551.1  
 CHENU/HOLMQUIST TRUST  
 APN 201-0250-037  
 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.

RGB 04/25/17