

**STAFF REPORT
C42**

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08/17/17
PRC 8124.1
J. Holt

**ACCEPTANCE OF A LEASE QUITCLAIM DEED; AND ISSUANCE OF A GENERAL
LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE**

LESSEE:

Robert E. Sulzen and Dora L. Sulzen, Trustees of the Sulzen Family Trust, Dated November 14, 1991

APPLICANT:

Harry Nicholas Bunfill and Carla Ann Bunfill

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 2575 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing floating boat dock, ramp, landing, boat lift with shade canopy, two pilings, one two-pile dolphin, and bank protection.

LEASE TERM:

10 years, beginning August 10, 2016.

CONSIDERATION:

Floating boat dock, ramp, landing, boat lift with shade canopy, two pilings, and one two-pile dolphin: \$570 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.

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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 December 5, 2012, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use for an existing uncovered floating boat dock with landing, ramp, two pilings, one two-piling dolphin, and bank protection to Robert E. Sulzen and Dora L. Sulzen, Trustees of the Sulzen Family Trust, Dated November 14, 1991 ([Item C26, December 5, 2012](#)). That lease will expire on December 4, 2022.

On August 10, 2016, the upland property was deeded to the Applicant. The Applicant has applied for a new General Lease – Recreational and Protective Structure Use, for use and maintenance of existing structures. The Applicant has also added a boat lift with shade canopy to the lease premises. In support of the Applicant's new application, the Lessee submitted a lease quitclaim deed to Commission staff, releasing its interest in Lease No. PRC 8124.1.

The proposed lease consists of an existing floating boat dock, ramp, landing, boat lift with shade canopy, two pilings, one two-pile dolphin, and bank protection. These facilities are used for recreational boating and shoreline protection. 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 shoreline protection helps preserve the channel for navigational and recreational purposes. This protective measure is not inconsistent with the Public Trust Doctrine. The existing floating boat dock and appurtenant facilities have existed at this location for many years. These facilities are located directly adjacent to the Applicant's upland property.

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.

STAFF REPORT NO. C42 (CONT'D)

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 lease area is located on the Sacramento River, which is a tidally influenced site vulnerable to flooding at current sea levels. The existing facilities in this lease area include a floating boat dock, ramp, landing, boat lift with shade canopy, two pilings, one two-pile dolphin, and bank protection.

Based on current data, the lease area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. This 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 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 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. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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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. Acceptance of a lease quitclaim deed 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 new 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.

4. 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

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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, and 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:

1. Authorize acceptance of a lease quitclaim deed from the Lessee, effective August 9, 2016, of Lease No. PRC 8124.1, a General Lease – Recreational and Protective Structure Use, issued to Robert E. Sulzen and Dora L. Sulzen, Trustees of the Sulzen Family Trust, Dated November 14, 1991.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Harry Nicholas Bunfill and Carla Ann Bunfill beginning August 10, 2016, for a term of 10 years, for the use and maintenance of an existing floating boat dock, ramp, landing, boat lift with shade canopy, two pilings, one two-pile dolphin, 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; annual rent in the amount of \$570, 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 8124.1

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the Sacramento River lying adjacent to Swamp and Overflowed Land Survey 206, patented August 2, 1869, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying a proposed landing along with an existing floating boat dock, ramp, boat lift with shade canopy, two (2) pilings and one two-pile dolphin lying adjacent to and southwesterly of those lands as described in "Exhibit A" of that Grant Deed recorded August 10, 2016 in Book 20160810, Page 1167 in Official Records of said County.

TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

ALSO TOGETHER WITH any applicable impact area(s).

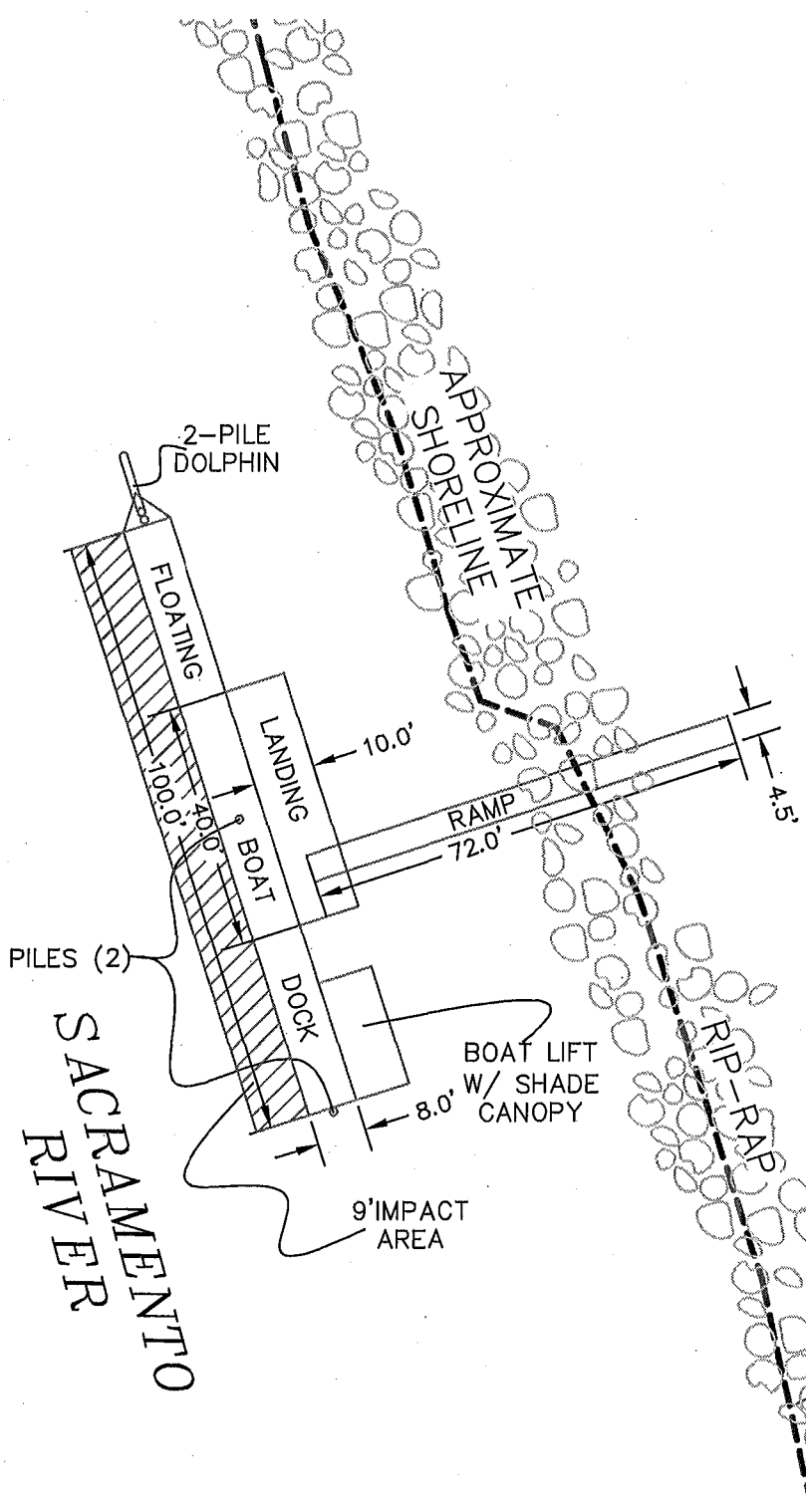
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 8/03/17 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





APN
274-0250-030

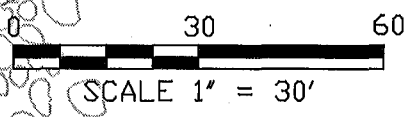


EXHIBIT A

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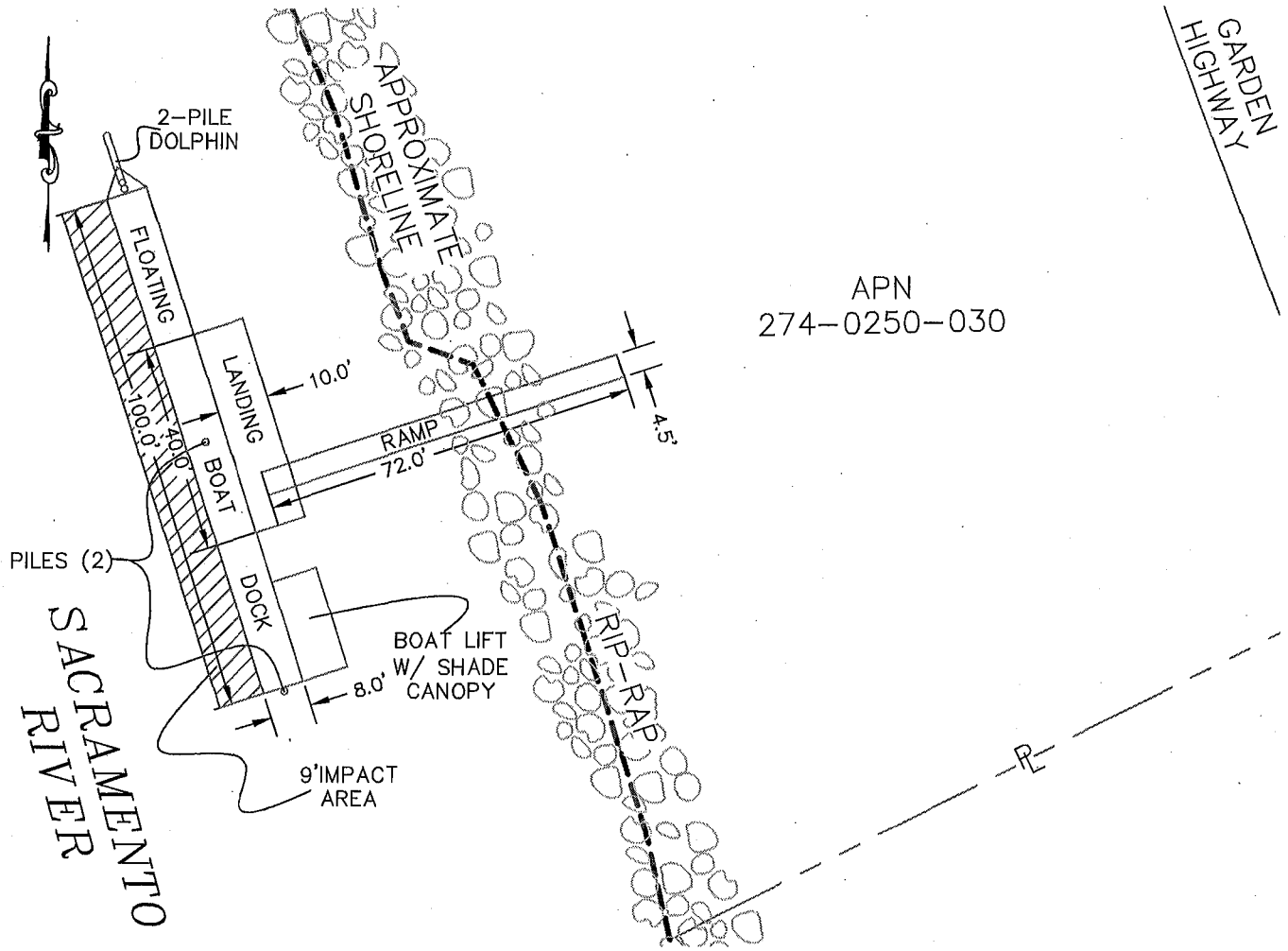
LAND DESCRIPTION PLAT
PRC 8124.1, BUNFILL - SACRAMENTO
COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

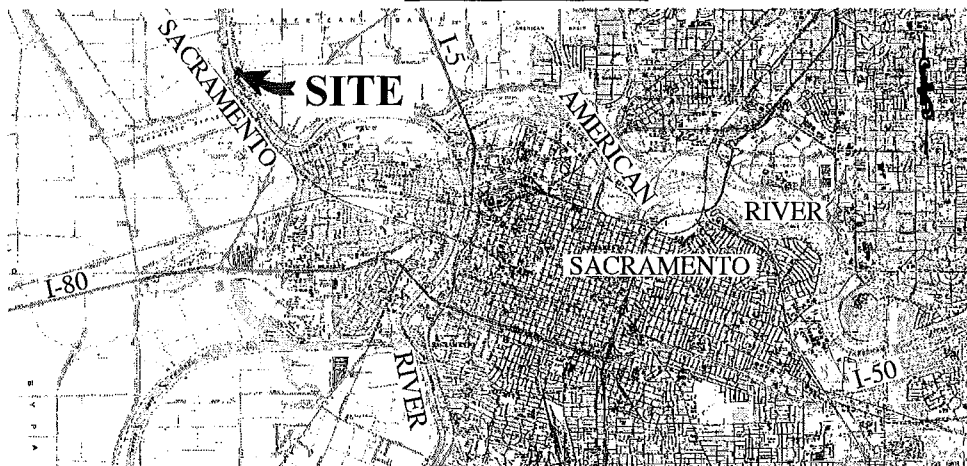


APN
274-0250-030

2575 Garden Highway, Sacramento

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8124.1
 BUNFILL
 APN 274-0250-030
 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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