

**STAFF REPORT
C44**

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08/17/17

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PRC 8760.1

J. Holt

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

William H. Kearns, Jr., Trustee of the William H. Kearns, Jr. Separate Property Trust Dated July 27, 1999

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Georgiana Slough, adjacent to 17075 Terminous Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing covered floating boat dock, jet-ski dock, dock finger, boat lift, gangway, four pilings, and bank protection in Georgiana Slough.

LEASE TERM:

10 years, beginning September 13, 2017.

CONSIDERATION:

Covered floating boat dock, jet-ski dock, dock finger, boat lift, gangway, and four pilings in Georgiana Slough: \$397 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 September 13, 2007, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use for an existing covered U-shaped floating boat dock, four steel pilings, jet-ski dock, dock finger, boat lift, gangway, and bank protection to William H. Kearns, Jr. ([Item C26, September 13, 2007](#)). That lease will expire on September 12, 2017. On November 17, 2009, the upland property was transferred to William H. Kearns, Jr., Trustee of the William H. Kearns, Jr. Separate Property Trust Dated July 27, 1999. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use, for continued use and maintenance of the existing facilities.

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 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 and occupy a reasonable area of the river, consistent with other recreational facilities in the region.

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.

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

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flooding. The existing structures within the proposed lease area are located in Georgiana Slough connected to the Sacramento River, within a region identified as tidally influenced. 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 covered floating boat dock, four pilings, floating jet-ski dock, floating dock finger, floating boat lift, adjustable gangway, 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, which would impact the lease area in Georgiana Slough. 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 could also affect erosion and sedimentation rates through increased wave action and scour, which in turn could 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 covered boat dock, jet-ski dock, dock finger, boat lift, and adjustable gangway 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 to be 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 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 are not classified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. However, the Commission believes that all Public Trust lands have notable value. 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 William H. Kearns, Jr., Trustee of the William H. Kearns, Jr. Separate Property Trust Dated July 27, 1999, beginning September 13, 2017, for a term of 10 years, for the continued use and maintenance of an existing covered floating boat dock, jet-ski dock, dock finger, boat lift, gangway, four pilings, and bank protection, as described in Exhibit A and

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shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the covered floating boat dock, jet-ski dock, dock finger, boat lift, gangway, and four pilings: \$397 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 8760.1

LAND DESCRIPTION

A parcel of tide and submerged land situated in the bed of the Georgiana Slough lying adjacent to Swamp and Overflow Survey 849 patented April 2, 1873 Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing covered floating boat dock, jet-ski dock, dock finger, boat lift, gangway, and four (4) pilings adjacent to that parcel described in that Grant Deed, recorded November 17, 2009 in Book 20091117 Page 1256 in Official Records of said County.

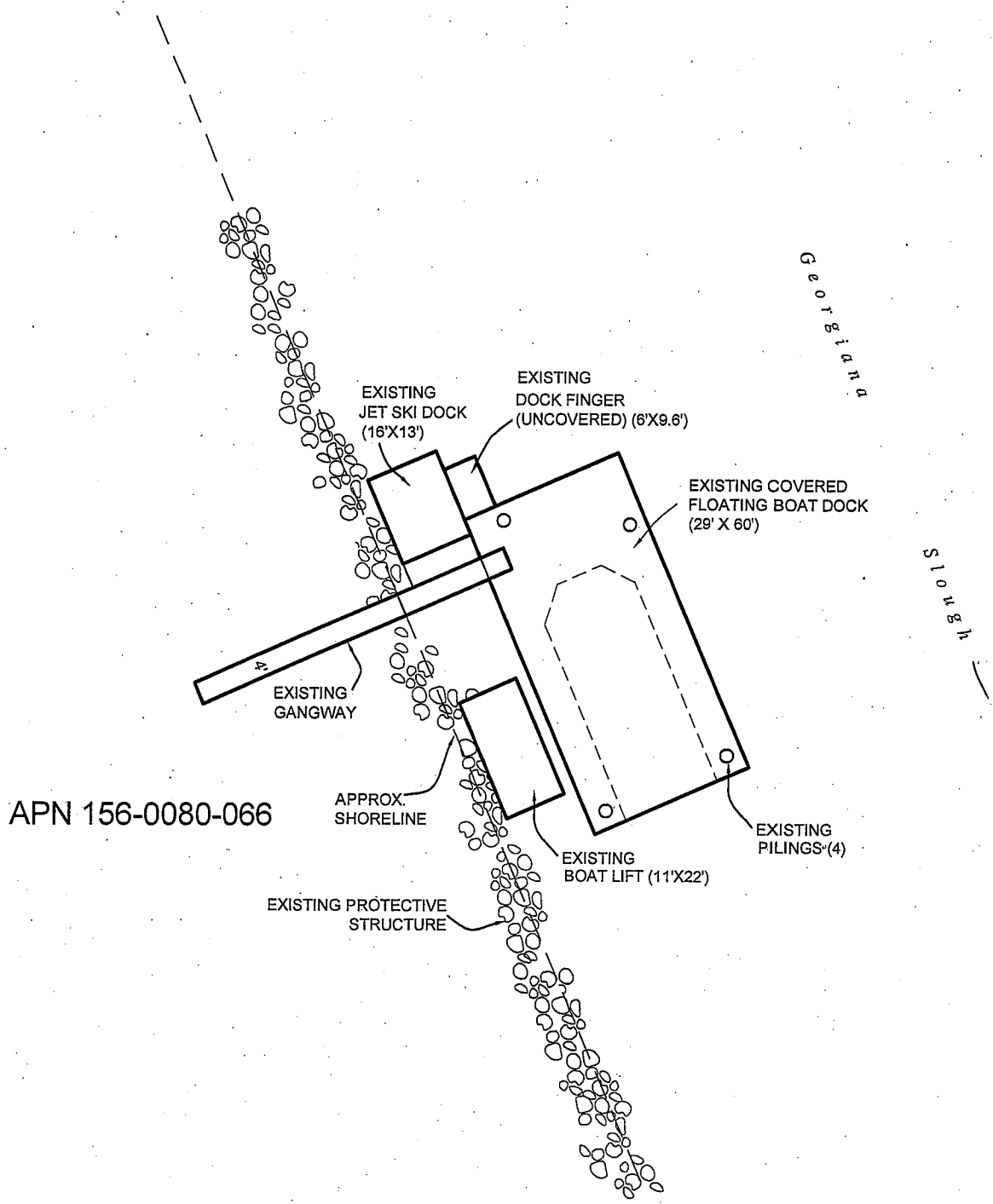
TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

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

END OF DESCRIPTION

Prepared July 11, 2017 by the California State Lands Commission Boundary Unit.





APN 156-0080-066

EXHIBIT A

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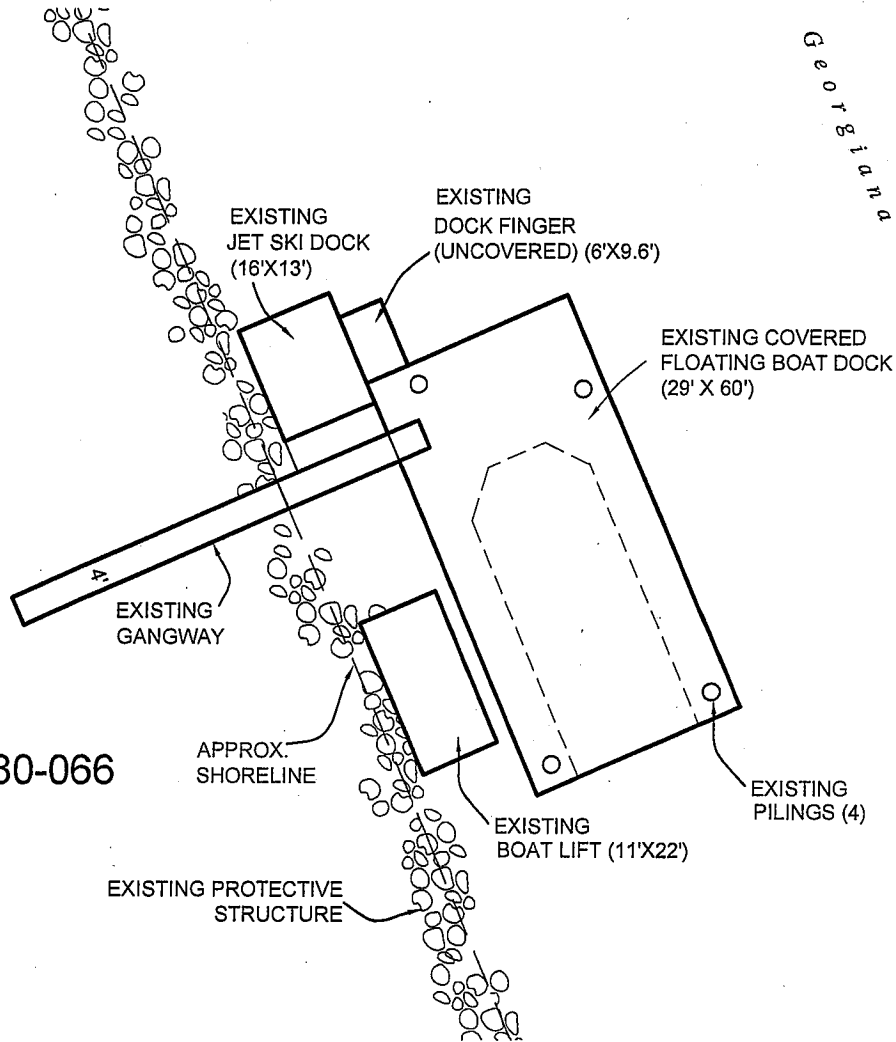
LAND DESCRIPTION PLAT
 PRC 8760.1, KEARNS JR. TRUSTEE
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

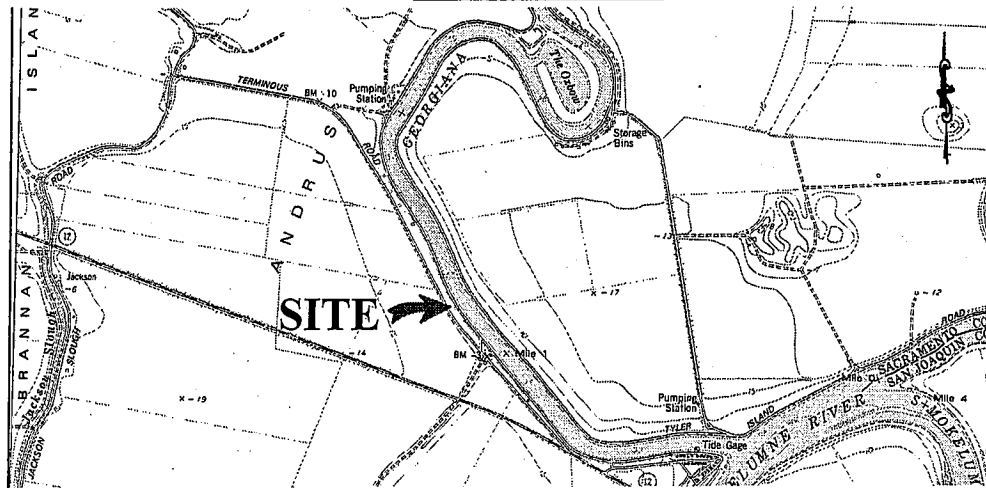


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17075 TERMINOUS ROAD, NEAR ISLETON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8760.1
 KEARNS JR. TRUSTEE
 APN 156-0080-066
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SACRAMENTO COUNTY



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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.