

**STAFF REPORT
C50**

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02/27/18
PRC 8766.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Philip B. Benson and Stacy A. Benson, Trustees of the Benson Trust Under Agreement Dated 7-29-96

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 13830 State Highway 160, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock with single berth, five pilings, gangway, and electrical conduit for lighting.

LEASE TERM:

10 years, beginning October 30, 2017.

CONSIDERATION:

\$433 per year, with an annual Consumer Price Index adjustment.

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 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.

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Public Trust and State's Best Interests Analysis:

On October 30, 2007, the Commission authorized a 10-year Recreational Pier Lease to Philip B. Benson and Stacy A. Benson, Trustees of the Benson Trust Under Agreement Dated 7-29-96 ([Item C07, October 30, 2007](#)). That lease expired on October 29, 2017. The Applicant is now applying for a new General Lease – Recreational Use, for the continued use and maintenance of an existing floating boat dock in the Sacramento River with single berth, five pilings, gangway, and electrical conduit for lighting.

The proposed lease includes the same facilities as the prior lease. These facilities are used for recreational boating and fishing purposes. They have existed at this location for many years. Recreational boating and fishing are water-dependent activities, 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.

Climate Change:

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures within the 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 with the lease area include an existing floating boat dock with single berth, five pilings, gangway, and electrical conduit for lighting.

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

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(National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. Rising sea levels could 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 floating dock, electrical conduit and 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 five pilings may need to be reinforced to withstand higher levels of flood exposure. The vegetated bank provides stability and reduces the amount of erosion and scour pressure it may experience during future events because of the underground root system created from the vegetation and trees on the bank, but remains at 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.

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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 and is 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 level of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The Commission authorized the State Reclamation Board to place and maintain bank protection at this location under Lease No. PRC 7203.9.
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 this 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).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not 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 common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Applicant beginning October 30, 2017, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock with single berth, five pilings, gangway, and electrical conduit for lighting, 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 floating boat dock with single berth, five pilings, gangway, and electrical conduit for lighting: \$433 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8766.1

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 305 patented November 24, 1871, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, five (5) pilings, gangway and appurtenant structures lying adjacent to the right bank of said river and being adjacent to that parcel as described in Grant Deed, recorded January 12th, 1999 in Document Number 199901121255 in Official Records of said County.

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

TOGETHER WITH any applicable impact area(s).

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 10/12/17 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



**ELECTRICAL CONDUIT
FOR LIGHTING



SACRAMENTO RIVER

28' x 60' DOCK

48' x 4' GANGWAY

**

9' IMPACT AREA

STAIRS & LANDING

14" DIA. PILINGS (5)

APPROX. SHORELINE

HIGHWAY 160

APN: 142-0080-119

*ALL STRUCTURES
SHOWN ARE EXISTING

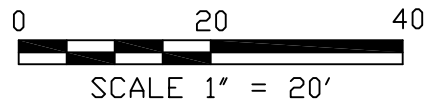


EXHIBIT A

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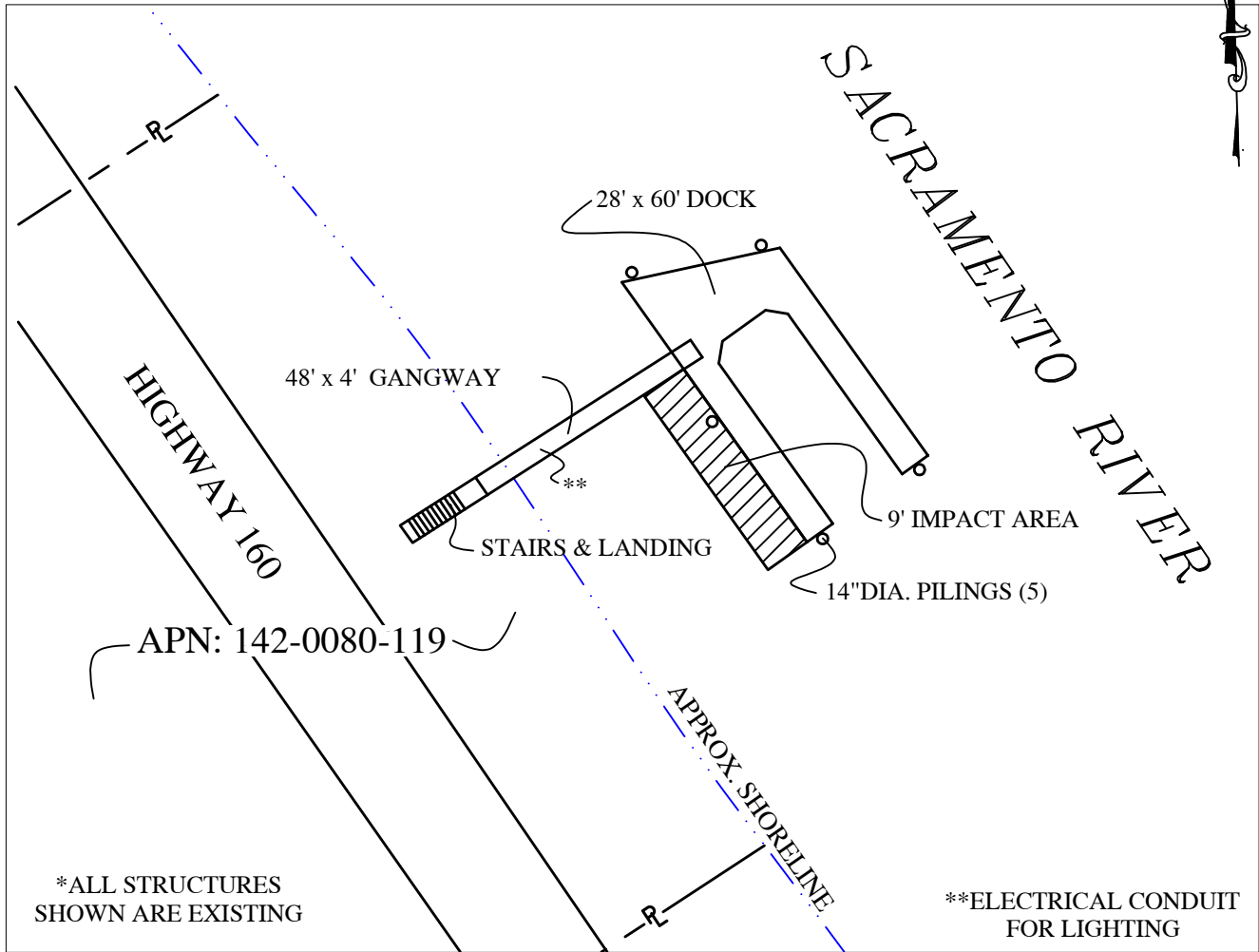
LAND DESCRIPTION PLAT
PRC 8766.1, BENSON TRUST
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



13830 State Highway 160, Walnut Grove

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8766.1
 BENSON TRUST
 APN: 142-0080-119
 GENERAL LEASE -
 RECREATIONAL 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.