

**STAFF REPORT
C29**

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04/19/18
PRC 8029.9
M. Schroeder

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Elkhorn Fire Protection District

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land within Assessor's Parcel Number 042-310-004 adjacent to the Sacramento River at 19759 Old River Road, city of West Sacramento, Yolo County.

AUTHORIZED USE:

Continued use and maintenance of a land area of approximately 1.03 acres with an existing storage building for firefighting vehicles, one storage container for fire and flood fighting equipment, and a perimeter fence previously authorized by the Commission and one existing storage container for additional storage of fire and flood fighting equipment, and two restrooms not previously authorized by the Commission.

LEASE TERM:

20 years, beginning May 1, 2018.

CONSIDERATION:

The public health, safety, use, and benefit, including fire prevention and maintenance services on the leased land and adjacent sovereign land known as the Kachituli parcel, 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:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

On January 3, 1991, the Commission authorized a Title Settlement Agreement with Lighthouse Marina and Riverbend Development conveying to the Commission two parcels of land known as the Kachituli Oxbow Mitigation Site referenced as Assessor's Parcel Numbers (APN) 042-310-004 and 042-310-014 ([Item C2, January 3, 1991](#)).

On June 19, 1998, the Commission authorized a General Lease – Public Agency Use to the Elkhorn Fire Protection District for the proposed construction and maintenance of a building for storage of firefighting vehicles on APN 042-310-004 ([Item C52, June 19, 1998](#)). On December 16, 2002, the Commission authorized an amendment of the lease for the proposed expansion of the lease area, placement of a 10-foot by 20-foot container and installation of a fence around the lease area ([Item C11, December 16, 2002](#)). The lease will expire on April 30, 2018. The Applicant is applying for a new lease for the continued use and maintenance of the land area of approximately 1.03 acres with an existing storage building for firefighting vehicles, one storage container for fire and flood fighting equipment, and a perimeter fence previously authorized by the Commission, and one existing storage container for additional storage of fire and flood fighting equipment and two restrooms not previously authorized by the Commission.

The second storage container and the two restrooms have been in place for many years but were not previously included in the lease. Staff recently became aware of the existence of the second storage container and the two restrooms.

The leased land is located on APN 042-310-004, which is the parcel waterward of the levee and is an approximately 24-acre site. The lease area makes up a relatively small section of this parcel. The other parcel, APN 042-310-014, is an approximately 100-acre site and is known as the Kachituli parcel. Historically, the land was used for agriculture and a portion of the Kachituli parcel continues as agricultural use with a walnut orchard. The parcels, with the exception of the walnut orchard, have since been restored to a self-supporting wildlife habitat site. The Title Settlement Agreement resulted in the parcels taking on the legal character of State sovereign land.

As part of the settlement, Lighthouse Marina and Riverbend Development was required by U.S. Army Corps of Engineers under its Permit 0951 to revegetate the parcels and maintain them for 5 years. In 1997, the mitigation was deemed successful and in compliance with the terms of the

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U.S. Army Corps of Engineers permit. The restoration of the parcels has been considered a success in the rehabilitation of land for habitat purposes and is visited frequently by college environmental classes as an educational example of habitat restoration. The Applicant provides fire prevention, suppression, maintenance, flood fighting, emergency response services, and security to both parcels. The storage building, storage containers, and fence on the lease premises keep equipment used in providing the above-mentioned services. In addition, the walnut orchard is maintained by the Applicant as part of services to the parcels. On-site training of fire and flood fighting is provided to the volunteer firefighters. In addition, the public receives free CPR training at facilities on the leased parcel. College professors, their students, and researchers who visit the parcels have use of the amenities the facilities provide, such as picnic tables and restrooms.

The lease promotes Public Trust needs. The facilities benefit Public Trust resources by protecting wildlife habitat and allowing the public to observe a successful habitat restoration site. Storage of fire and flood protection equipment within the facilities allows the Applicant to provide continual maintenance and security of the parcels. The firefighting, flood fighting, maintenance, and security of the parcels provided by the Applicant protect and preserve the parcels for the public at no cost to the State. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, 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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

Climate Change Analysis

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 upland of the Sacramento River within a region identified as tidally-influenced. The facilities associated with this lease area include existing storage buildings and containers, restrooms, and a perimeter fence.

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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. 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, fire, drought, extreme heat, 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 increase the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel.

The Elkhorn Fire Protection District's existing facilities are located on the upland at a similar elevation to the adjacent levee, which could protect the structures from many climate change-related impacts and reduce the risk of contamination from any oil or gasoline leaks associated with the fire-fighting vehicles stored in the structures or sanitary wastes in the two restrooms reaching the Sacramento River. However, the fixed features still may need future reinforcement to withstand higher levels of flood exposure. The bank is somewhat vegetated, which provides additional stability and reduces the amount of erosion and scour pressure experienced during future events because of the vegetation's underground

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root system; but remains at risk of accelerated deterioration from currents and floods. Due to the steep slope and exposed portions of the protective structure, the bank could be particularly vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to protect lease premise structures. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change.

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.
2. 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 the 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).

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 the Public Trust needs and values at this location, at this time, and for the foreseeable term of the

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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 – Public Agency Use, to the Elkhorn Fire Protection District beginning May 1, 2018, for a term of 20 years, for the continued use and maintenance of a land area of approximately 1.03 acres with an existing storage building for firefighting vehicles, one storage container for fire and flood fighting equipment, and a perimeter fence previously authorized by the Commission; and one existing storage container for additional storage of fire and flood fighting equipment and two restrooms not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B-1 and Exhibit B-2 (for reference purposes only) attached and by this reference made a part hereof; consideration being the public health, safety, use, and benefit, including fire prevention and maintenance services on the leased land and adjacent sovereign land known as the Kachituli parcel, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests; liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8029.9

LAND DESCRIPTION

A parcel of sovereign land lying adjacent to the Sacramento River, being a portion of Swamp and Overflowed Land Survey 825, patented March 2, 1868, also being a portion of that certain Record of Survey recorded in Book 5 of Maps and Surveys, Page 48, Yolo County Recorders, County of Yolo, State of California and more particularly described as follows:

BEGINNING at a point on the southwesterly line of that 24.38 Acres Parcel as shown on said Record of Survey, which bears North 38° 03' 15" West 358.54 feet from the most southerly corner of said Parcel; thence leaving said line the following seven (7) courses:

1. North 63° 50' 20" East 202.28 feet;
2. North 30° 54' 33" West 145.60 feet;
3. North 38° 58' 23" West 55.93 feet;
4. South 58° 11' 18" West 203.81 feet;
5. South 52° 35' 28" West 38.43 feet;
6. South 36° 16' 32" East 174.78 feet;
7. North 63° 50' 20" East 31.99 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within that certain strip of land 150 feet in width as described in that Deed recorded on November 24, 1911 in Book 78 of Deeds, at Page 139 in the office of the Recorder of Yolo County.

END OF DESCRIPTION

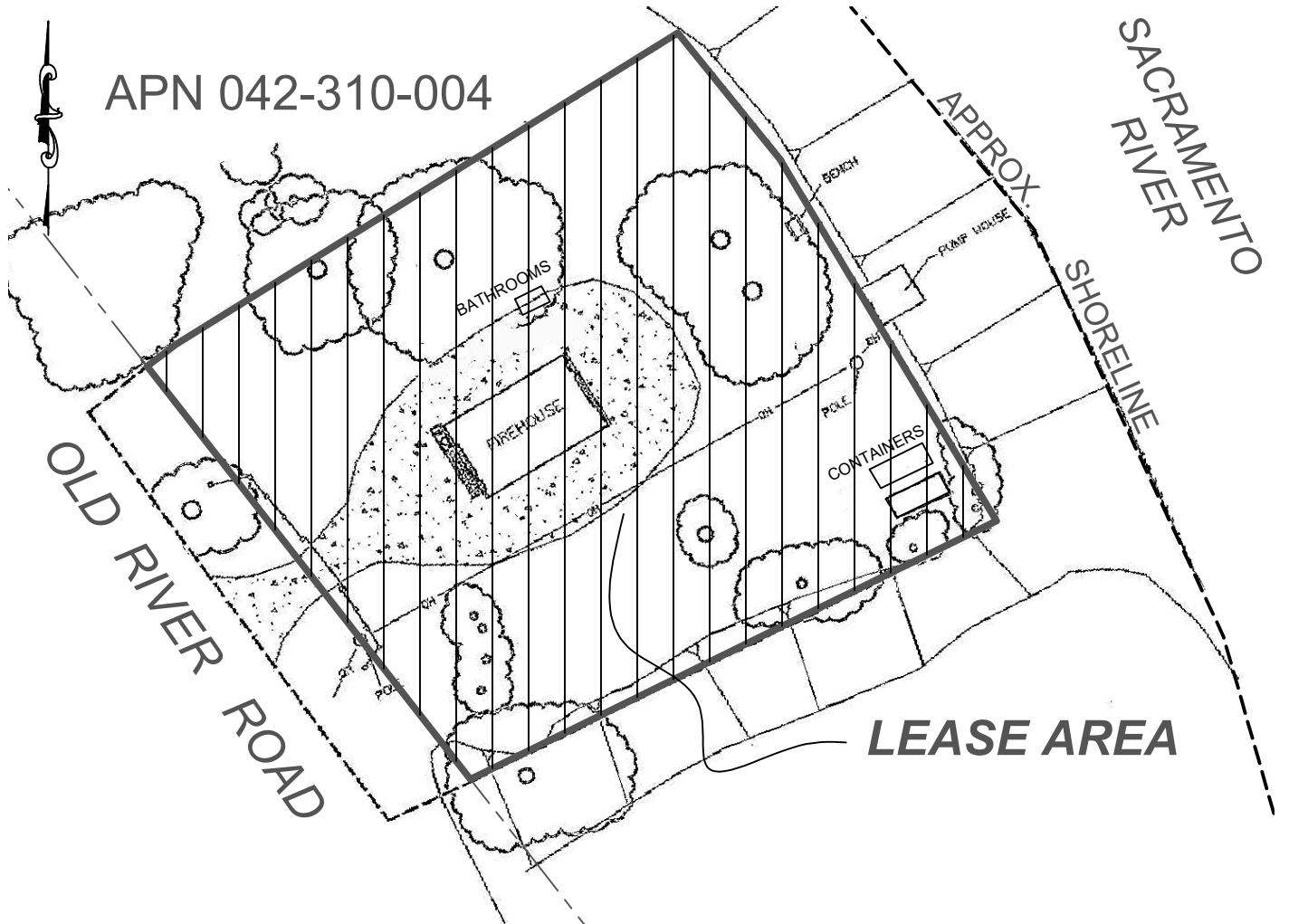
Prepared 12/18/17 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

APN 042-310-004

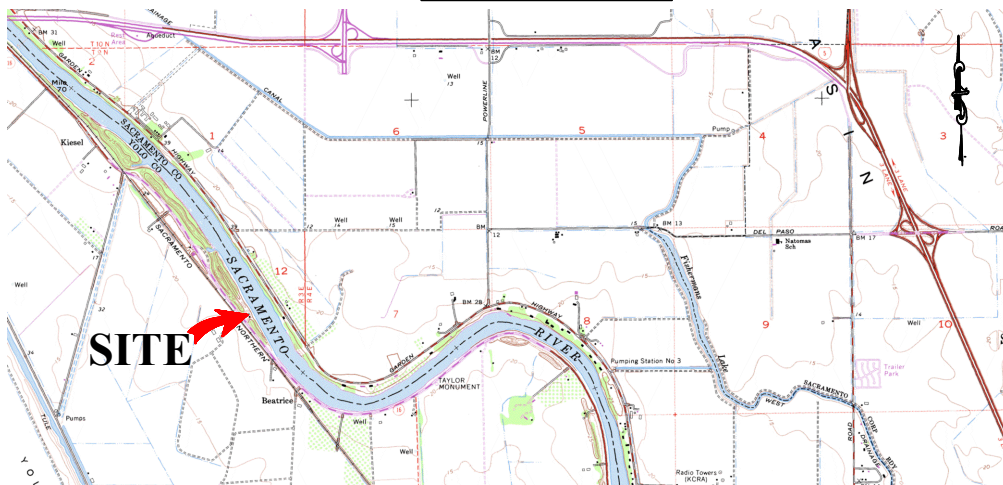


LEASE AREA

19756 & 19759 OLD RIVER ROAD, WEST SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-1

PRC 8029.9
 ELKHORN FIRE
 PROTECTION DISTRICT
 APN 042-310-004
 GENERAL LEASE -
 PUBLIC AGENCY USE
 YOLO 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.



KACHITULI
PARCEL
APN 042-310-014

Exhibit B-2
PRC 8029.9
ELKHORN FIRE
PROTECTION DISTRICT
APN 042-310-004
GENERAL LEASE -
PUBLIC AGENCY USE
YOLO COUNTY



19756 & 19759 OLD RIVER ROAD
WEST SACRAMENTO