

**STAFF REPORT
C44**

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06/21/18
PRC 5841.1
G. Asimakopoulos

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Patricia E. Nealon and Delbert Wright

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 5629 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, gangway, a two-pile dolphin, and one piling.

LEASE TERM:

10 years, beginning June 21, 2018.

CONSIDERATION:

\$135 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, 6503, and 6503.5;
California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. C44 (CONT'D)

Public Trust and State's Best Interests Analysis:

On December 14, 2006, the Commission authorized a 10-year Recreational Pier Lease to Patricia E. Nealon and Delbert Wright, for the continued use and maintenance of an existing uncovered floating boat dock and ramp gangway ([Item C01, December 14, 2006](#)). That lease expired on February 13, 2016. The Applicant is now applying for a General Lease – Recreational Use. During the application review process staff determined that the existing configuration of the dock facilities was different than that approved in 2006. Staff recommends issuance of a new lease beginning June 21, 2018, for the continued use and maintenance of an existing floating boat dock, gangway, a two-pile dolphin, and one piling. Staff also recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$317 for the period beginning February 14, 2016, the day after the prior lease expired, through June 20, 2018.

The subject dock and appurtenant facilities are privately owned and maintained and are for the docking and mooring of boats. These facilities are used for recreational boating. 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, and are located directly adjacent to the Applicant's upland property.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The facilities will not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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.

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Climate Change:

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The lease area is located along the Sacramento River within a tidally influenced region vulnerable to flooding at current sea levels. In the foreseeable future, this area will be at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated with this lease area include a floating boat dock, pilings, and a gangway.

By 2030, this region 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. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings and dock.

STAFF REPORT NO. C44 (CONT'D)

Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating dock 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 functionality, during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features may need reinforcement to withstand higher levels of flood exposure.

The bank is also heavily vegetated, which provides additional stability and reduces the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system but remains at risk of accelerated deterioration from future currents and floods. 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 and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

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, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; 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 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 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).

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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.

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 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$317 for unauthorized occupation of State land for the period beginning February 14, 2016, through June 20, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 21, 2018, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, gangway, a two-pile dolphin, and one piling, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount \$135, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5841.1

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 404 patented January 6, 1869 (filed in Sutter County), County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, two-pile dolphin and one piling lying adjacent to that parcel described in Grant Deed, recorded April 20, 2007 in Book 20070420 at Page 0606 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/09/18 by the California State Lands Commission Boundary Unit



NO SCALE



APPROXIMATE SHORELINE

APN 201-0330-022

EXISTING GANGWAY
2' WIDE

EXISTING
2-PILE
DOLPHIN

EXISTING
PILING

EXISTING
FLOATING
BOAT DOCK

9' IMPACT
AREA

SACRAMENTO RIVER

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5841.1, NEALON & WRIGHT
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

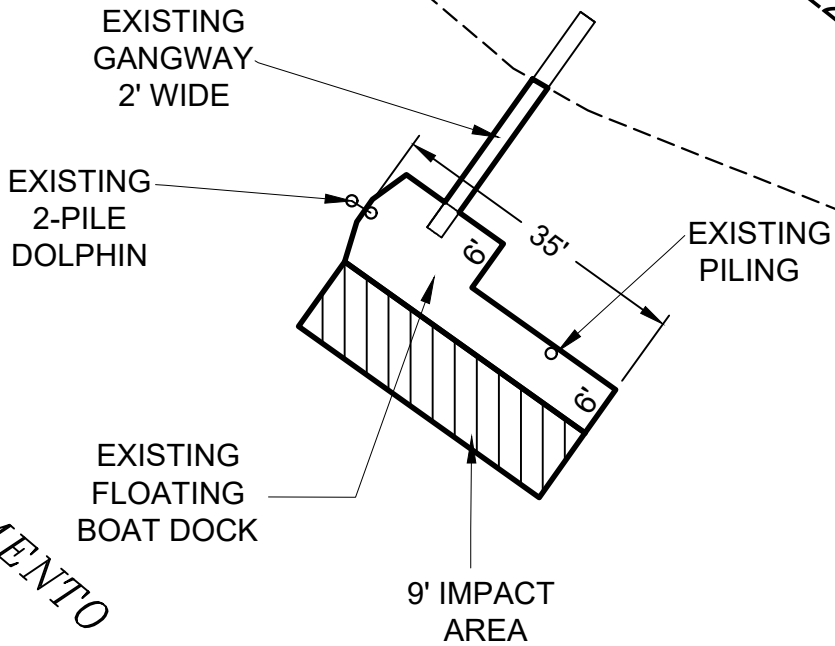


NO SCALE

SITE

APPROXIMATE
SHORELINE

APN 201-0330-022

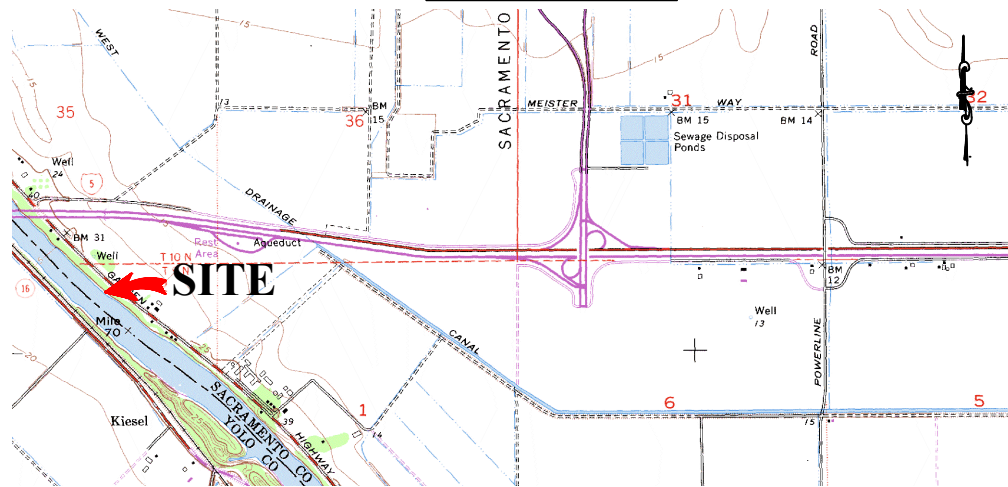


SACRAMENTO RIVER

5629 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5841.1
NEALON & WRIGHT
APN 201-0330-022
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.