

**STAFF REPORT
C52**

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06/21/18
PRC 8007.1
J. Holt

GENERAL LEASE – OTHER

APPLICANT:

Walnut Grove Homeowners and Merchants Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to River Road, city of Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating 253-foot-long accommodation dock, access lift, landing with stairs, and gangway.

LEASE TERM:

20 years, beginning February 20, 2018.

CONSIDERATION:

\$150 per year, with an annual Consumer Price Index Adjustment and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided for in the lease

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Surety bond or other security in the amount of \$5,000.
3. 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 February 27, 1998, the Commission authorized a 20-year General Lease – Commercial Use to Walnut Grove Homeowners and Merchants Association ([Item C06, February 27, 1998](#)). That lease expired on February 19, 2018. In early February 2018, the Applicant submitted an application for a new lease. On May 4, 2018, Commission staff conducted a site visit and measured structures in the lease area. The improvements appeared clean and well maintained. A handicap access lift was observed in the lease area, as reported by the Applicant. The access lift was installed to accommodate diverse groups and meet Americans with Disabilities Act (ADA) compliance. The Applicant is now applying for a new General Lease – Other, for the continued use and maintenance of the existing floating 253-foot-long accommodation dock, access lift, landing with stairs, and gangway in the Sacramento River. The bank protection at this location is under a separate lease (Lease No. PRC 7203) with the Central Valley Flood Protection Board.

According to the Applicant, the dock is a public accommodation dock that provides convenient waterside access for potential customers and clients frequenting the businesses located within the special redevelopment target area east of the dock area. The dock is open and available to public access 24 hours a day. The dock is free to use from 6 a.m. to 9 p.m. daily and overnight or extended use permits are available for a nominal fee.

This dock is a key element of the revitalization effort currently underway in this portion of east Walnut Grove and is intended to enhance the viability of the desired growth and redevelopment activity. Currently, the closest dockside access is downstream from the Walnut Grove Bridge and is privately owned, with restricted access. This dock is fully compliant with the ADA.

The proposed lease area contains facilities similar to the prior lease with exception of the access lift, previously unauthorized by the Commission. The lease 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

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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 20-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 proposed 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 this lease area include an existing floating accommodation dock, access lift, landing with stairs, and gangway.

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. 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 can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can 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

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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 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; potentially lead 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 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. However, these impacts may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed pilings may need to be reinforced to withstand higher levels of flood exposure. Regular maintenance of the existing structures, 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 are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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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 and Strategy 1.3 to protect, expand, and enhance public use and access to Public Trust resources.

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
- C. Best Management Practices for Guest Dock Users and Boaters

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:

Authorize issuance of a General Lease – Other to Applicant beginning February 20, 2018, for a term of 20 years, for the continued use and maintenance of an existing floating 253-foot-long accommodation dock, access lift, landing with stairs, and gangway, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this

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reference made a part hereof; consideration in the amount of \$150 per year with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on or after the 10th anniversary, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence; and surety in an amount no less than \$5,000.

EXHIBIT A

PRC 8007.1

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the Sacramento River, lying adjacent to Lot 2 of fractional Section 35, Township 5 North, Range 4 East, MDM, as shown on Official Government Township Plat approved June 18, 1859, County of Sacramento, State of California and being more particularly described as follows:

BEGINNING at a point on the northwest line of Lot B as shown on the "Plat of Walnut Grove Homeowners' and Merchants Subdivision" filed for record in Book 165 of Maps, Map No. 16, Sacramento County Records, said point of beginning bearing N 35°06'50" E, 265 feet from the southwest corner of said Lot B; thence into the bed of the Sacramento River the following three courses:

- 1) N 51°12'05" W, 108.98 feet;
- 2) N 38°47'55" E, 287.86 feet;
- 3) S 51°12'05" E, 119.48 feet to a point on the northwest line of Lot A of said subdivision; thence along the northwest lines of said Lots A and B the following four courses:

- 1) S 45°37'40" W, 97.36 feet;
- 2) S 44°14'00" W, 56.67 feet;
- 3) S 40°10'20" W, 25.21 feet;
- 4) S 35°06'50" W, 110.13 feet to the POINT OF BEGINNING

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

BASIS OF BEARING is said Subdivision Map filed 9/26/1985 in Book 165 of Maps, Map No. 16, Sacramento County.

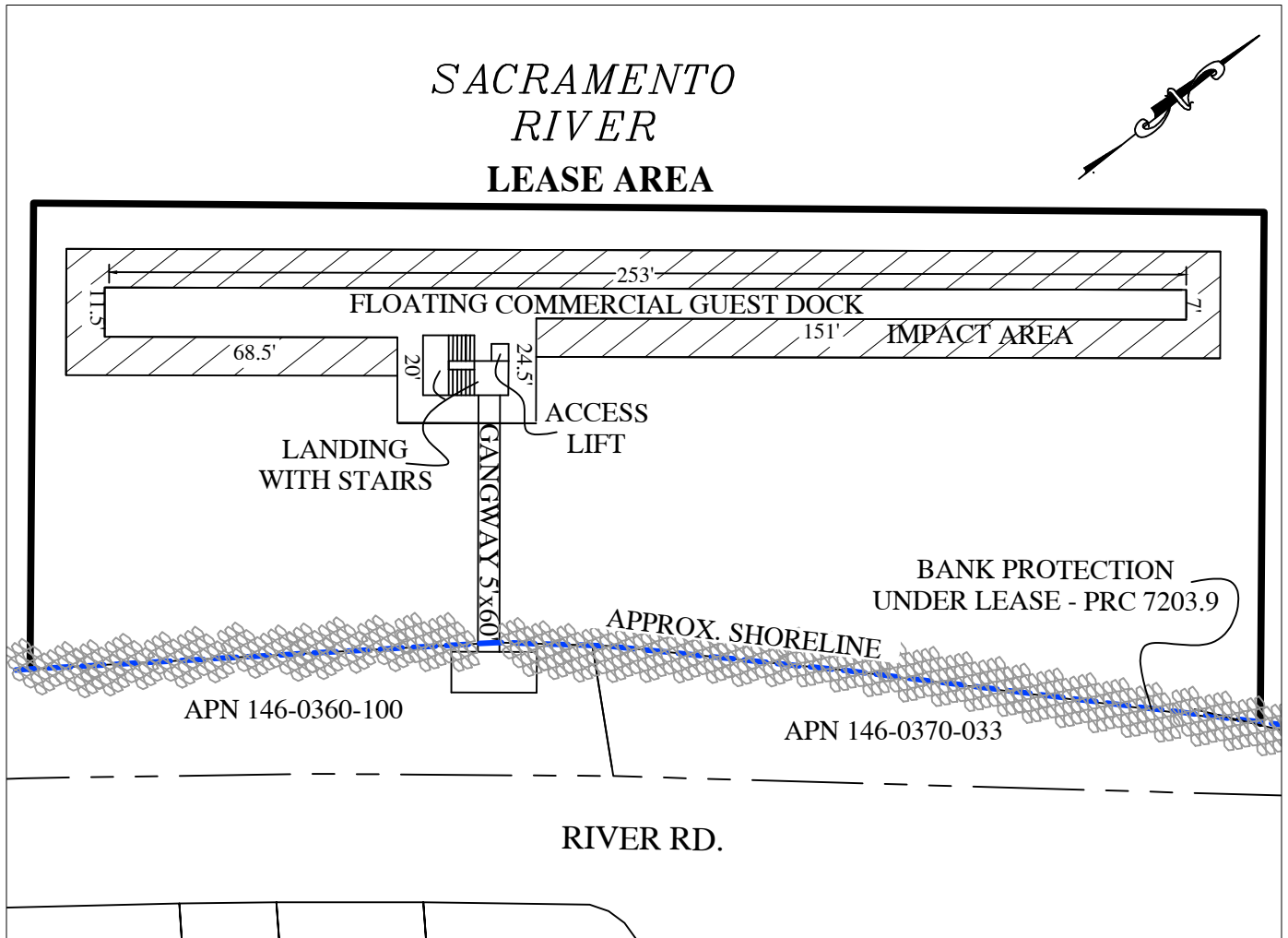
END OF DESCRIPTION

PREPARED 4/25/18 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

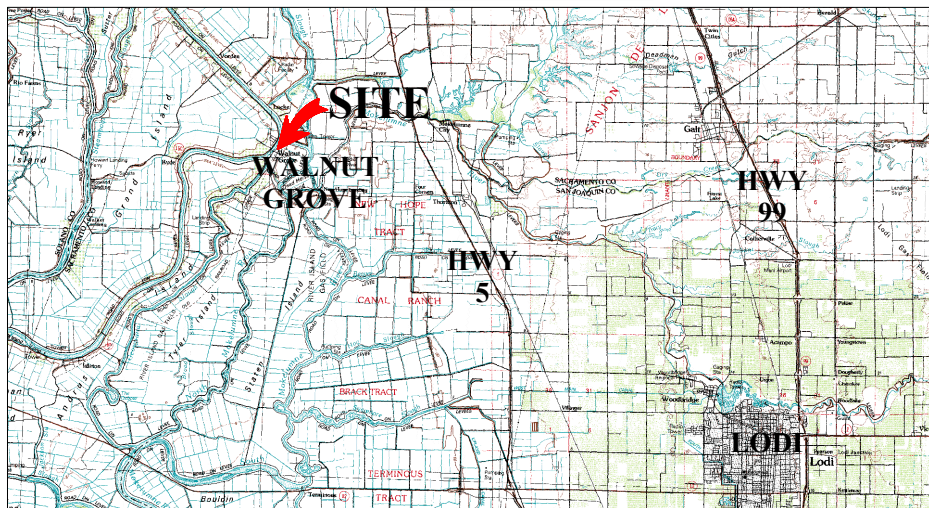
SITE



River Road near Walnut Grove Bridge, Sacramento River

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8007.1
 WALNUT GROVE H.O.A.
 APN: 146-0360-100
 & APN: 146-0370-033
 GENERAL LEASE -
 OTHER
 SACRAMENTO COUNTY



MJF 6/05/18

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.

EXHIBIT C

BEST MANAGEMENT PRACTICES FOR GUEST DOCK USERS AND BOATERS

Bilge Water Management

Keep bilge area as dry as possible

Regularly check fittings, fluid lines, engine seals, and gaskets

Fix all oil and fuel leaks in a timely manner

Do not drain oil into the bilge

Fit a drain pan, if feasible, underneath the engine to collect drips and leaks

Consider the use oil-absorbent pads, even in small boats.

If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pump out service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.

Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.

Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.

Avoid overfilling fuel tanks and attend the fuel nozzle at all times.

Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.

Use petroleum absorption pads while fueling to catch splash back and the any drops when the nozzle is transferred back from the boat to the fuel dock.

Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent, check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

Schedule regular hull cleaning and maintenance to reduce the build up of hard marine growth and eliminate the need for hard scrubbing.

Regularly scheduled gentle cleaning will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles and other approved containers to dispose of garbage and other waste.