

**STAFF REPORT
C54**

A 7
S 6

06/21/18
PRC 5382.1
D. Tutov

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Mohammad Reza Zamiri and Azar Ghafouri Zamiri

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 1957 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of two existing boat docks, ramp, deck, and nine pilings, previously authorized by the Commission, and bank protection, not previously authorized by the Commission.

LEASE TERM:

10 years, beginning November 30, 2017.

CONSIDERATION:

Two boat docks, ramp, deck, and nine pilings: \$1,091 per year, with an annual Consumer Price Index adjustment.

Bank protection: 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:

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, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. **C54** (CONT'D)

Public Trust and State's Best Interests Analysis:

On October 30, 2007, the Commission authorized a 10-year General Lease – Recreational Use to Joyce Berger, as Trustee of the Berger Family Trust dated March 16, 1999 ([Item C17, October 30, 2007](#)). That lease expired on October 29, 2017. On November 30, 2017 the upland was deeded to Mohammad Reza Zamiri and Azar Ghafouri Zamiri. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the existing improvements. The subject improvements are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The floating boat docks and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and 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). Although the existing deck is not associated with traditional Public Trust uses, it does not interfere with the public's right of navigation or access. The bank protection was not previously authorized by the Commission but has existed at this location for many years. The bank protection maintains and improves the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes by the public.

The lease does not alienate the State's fee simple interest and does not permanently impair public rights. 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. 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.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased storm events and flooding. The lease area is located along the Sacramento River within a tidally influenced region and vulnerable to flooding at current sea levels. The facilities associated with this lease area include: two existing floating boat

STAFF REPORT NO. **C54** (CONT'D)

docks, pilings, a deck, a ramp, and a bank stabilization structure. In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

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). The effects 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 projection 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 potentially leading to increased wear-and-tear on the pilings and dock, reduce navigability of the channel, thereby increasing hazards, and impacting the function and utility of the lease area structures.

The floating docks and ramp are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing

STAFF REPORT NO. **C54** (CONT'D)

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 vegetated, which provides additional stability and will reduce 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 currents and floods. Exposed portions of the protective structure could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to protect the anchoring points of the other lease premise structures and reduce flood impacts to the upland parcel. 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 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 at this location, at this time, and for the foreseeable term of the proposed lease; 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).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

STAFF REPORT NO. **C54** (CONT'D)

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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Mohammad Reza Zamiri and Azar Ghafouri Zamiri; beginning November 30, 2017, for a term of 10 years, for the continued use and maintenance of two existing boat docks, ramp, deck, and nine pilings, previously authorized by the Commission, and bank protection, not previously authorized by the Commission, 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 two boat docks, ramp, deck, and pilings: \$1,091 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 5382.1

LAND DESCRIPTION

One parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 264 patented February 1, 1858, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing deck, two ramps, two floating boat docks and nine pilings, lying adjacent to that parcel as described in Exhibit "A" of that Grant Deed recorded November 30, 2017, in Document 201711300091 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

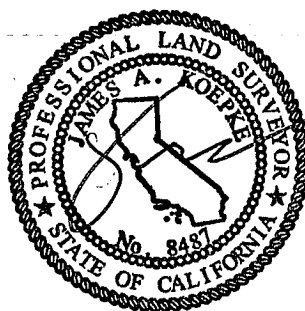
ALSO TOGETHER WITH any land lying immediately beneath any bank protection structure adjacent to said parcel.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 8, 2018 by the California State Lands Commission Boundary Unit.



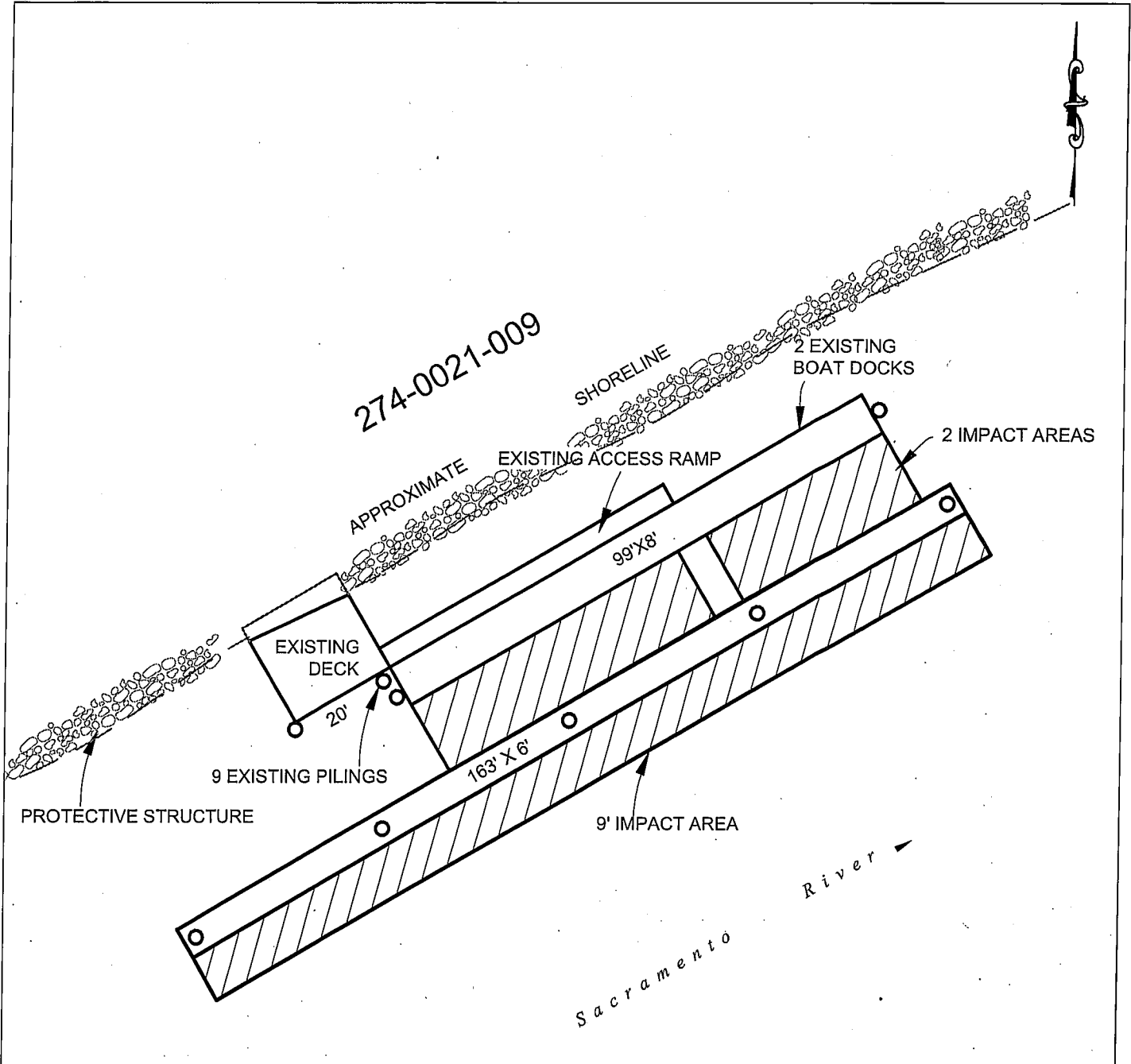


EXHIBIT A

Page 2 of 2

MJJ 3/08/17

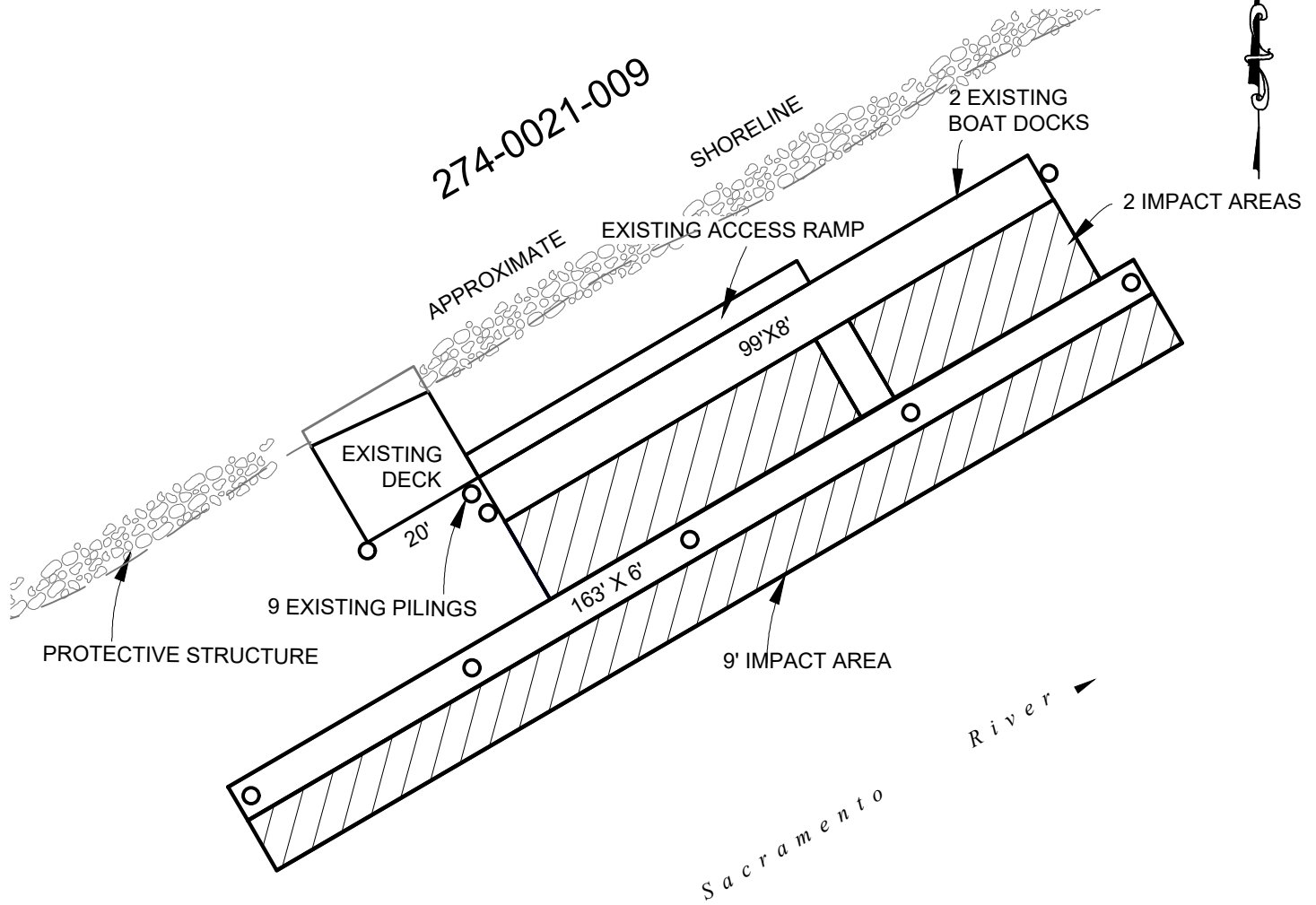
LAND DESCRIPTION PLAT
 PRC 5382.1, ZAMIRI
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



1957 GARDEN HWY., SACRAMENTO

NO SCALE

LOCATION

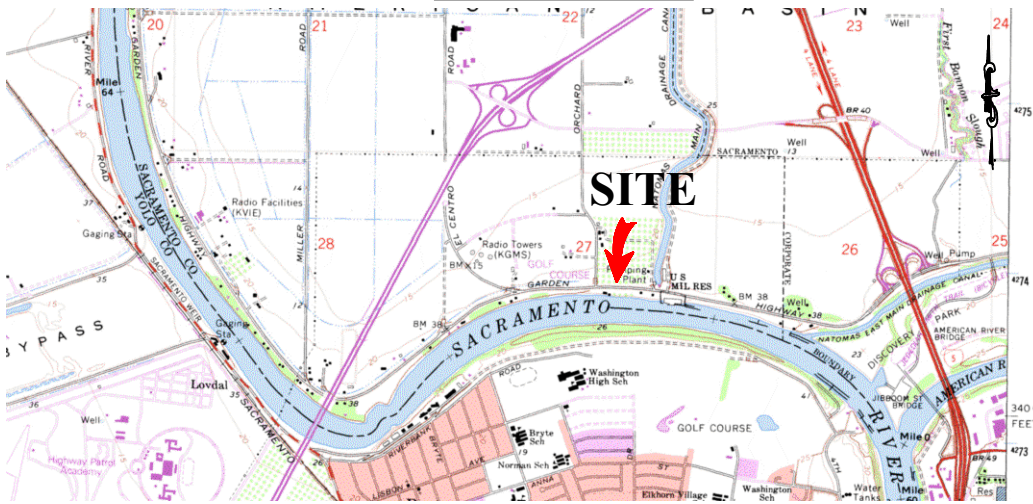


Exhibit B

PRC 5382.1
 ZAMIRI
 APN 274-0021-009
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE 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.