

**STAFF REPORT
C46**

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02/04/19
PRC 8799.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Steven Schule

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 6029 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing covered floating boat dock with slip, boat lift, three pilings, gangway, personal watercraft float, and debris deflector.

LEASE TERM:

10 years, beginning October 16, 2018.

CONSIDERATION:

\$395 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that the 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.

Public Trust and State's Best Interests Analysis:

On October 16, 2008, the Commission authorized issuance of a Recreational Pier Lease to Thomas D. Klauer, Jr., Trustee of the Thomas D. Klauer Revocable Trust, established May 24, 2006 ([Item C01, October](#)

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[16, 2008](#)). On November 14, 2014, the upland was deeded to Steven Schule. On February 20, 2015, the Commission authorized an assignment of Lease No. PRC 8799.9, a Recreational Pier Lease, from Thomas D. Klauer, Jr., Trustee of the Thomas D. Klauer Revocable Trust, established May 24, 2006, to Steven Schule ([Item C49, February 20, 2015](#)). That lease expired on October 15, 2018. The Applicant is now applying for a General Lease – Recreational Use, for the continued use and maintenance of an existing covered floating boat dock with slip, boat lift, three pilings, gangway, personal watercraft float, and debris deflector.

The proposed lease area contains the same facilities as the prior lease. The lease facilities are designed for recreational boating and fishing purposes. The covered floating boat dock with slip and appurtenant facilities have existed at this location for many years. 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 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, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises contain a covered floating boat dock with slip, boat lift, three pilings, gangway, personal watercraft float, and debris deflector.

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The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update.

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Sacramento River’s inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), 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). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. 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 riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access 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.

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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 covered floating boat dock and adjustable 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 or replacement to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. For example, the pilings appear to be at a sufficient height to withstand projected changes in water levels, but additional fortification may be needed, because the pilings help anchor the mechanized boat lift and damage to these pilings could lead to a public safety hazard. 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. 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, staff believes the issuance of this 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 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 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 the Applicant beginning October 16, 2018, for a term of 10 years, for the continued use and maintenance of an existing covered floating boat dock with slip, boat lift, three pilings, gangway, personal watercraft float, and debris deflector, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration in the amount of \$395 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 8799.1

LAND DESCRIPTION

One parcel of tide and submerged land situated in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Lands survey 898, patented January 24, 1868, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing covered floating boat dock with slip, boat lift, three pilings, gangway, personal watercraft float, and debris deflector lying adjacent to that parcel described in Grant Deed recorded November 14, 2014 as Document Number 20141114 at Page 813 in Official Records of Sacramento County.

TOGETHER WITH any applicable impact area.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/27/2018 by the California State Lands Commission Boundary Unit.





*ALL STRUCTURES ARE EXISTING

APN 201-0280-008

TOP OF BANK

DEBRIS DEFLECTOR

2.25'

18'

24'

48'

48'

ALUMINUM GANGWAY 3'x36'

APPROX. SHORELINE

EXISTING COVERED FLOATING BOAT DOCK WITH SLIP

PILINGS (3)

BOAT LIFT

9' x 30' IMPACT AREA

PERSONAL WATERCRAFT FLOAT 5'x5'

SACRAMENTO RIVER

EXHIBIT A



NO SCALE

SITE

*ALL STRUCTURES ARE EXISTING

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SACRAMENTO RIVER

9' x 30' IMPACT AREA

PERSONAL WATERCRAFT FLOAT 5'x5'

6029 GARDEN HIGHWAY, SACRAMENTO, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8799.1

SCHULE

APN 201-0280-008

GENERAL LEASE -
RECREATIONAL USE
SACRAMENTO COUNTY



RGB 11/27/18

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.