

**STAFF REPORT
24**

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Lease 5800.1
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J. Holt

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Michelle Barnes and David Barnes

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Georgiana Slough, adjacent to 17191 Terminous Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, hydro lift, gangway, four pilings, shed, two electrical outlets, and personal watercraft lift.

LEASE TERM:

10 years, beginning June 1, 2019.

CONSIDERATION:

\$279 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 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.

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Public Trust and State's Best Interests Analysis:

On June 1, 2009, the Commission authorized a General Lease – Recreational Use to Daryl E. Bucciarelli ([Item C05, June 1, 2009](#)). That lease expired on May 31, 2019. On August 3, 2015, the upland was deeded to Michelle Barnes and David Barnes. The title transfer occurred without a lease quitclaim deed, resulting in abandonment of the lease premises. Staff did not receive notification of the title transfer. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing boat dock, hydro lift, gangway, four pilings, shed, two electrical outlets, and personal watercraft lift in Georgiana Slough.

The proposed lease area contains facilities previously authorized by the Commission; however, the berth cover proposed in 2009 was never installed. The current application does not include a berth cover. The subject facilities are designed for recreational boating and fishing purposes. 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 shed provides storage for recreational boating supplies, water sports equipment, and life vests. Additionally, the lease area contains bank protection, authorized under Lease No. PRC 7203.9.

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 the 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, are not limited to the open coast and may involve increased storm events and flooding. The lease area is located along Georgiana Slough within a region identified as tidally influenced and vulnerable to flooding at current sea levels.

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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 Georgiana Slough’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 floating boat 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, such as the pilings and lifts may need reinforcement to withstand higher levels of flood exposure and more frequent storm events. The riprap bank protection (under Lease No. PRC 7203.9) provides additional stability and will reduce the amount of erosion and scour pressure experienced during future events but remains at risk of accelerated deterioration from currents and floods, and exposed portions of the protective structure could be vulnerable to future events. 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, 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. Approval of the lease application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the existing boat dock, hydro lift, gangway, four pilings, shed, two electrical outlets, and personal watercraft lift, and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

3. Staff recommends that the Commission finds 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 issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with 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 June 1, 2019, for a term of 10 years, for the use and maintenance of an existing boat dock, hydro lift, gangway, four pilings, shed, two electrical outlets, and personal watercraft lift, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$279, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5800.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Georgiana Slough lying adjacent to Swamp and Overflow Survey 943 patented April 14, 1873 Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing single berth boat dock hydro lift, gangway, 4 pilings, shed, 2 electrical outlets, and personal watercraft lift lying adjacent to a parcel as described in that Grant Deed recorded August 3, 2015, in Book 0150803 Page 1051 in Official Records of said County.

TOGETHER WITH that 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 left bank of the Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared August 12, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

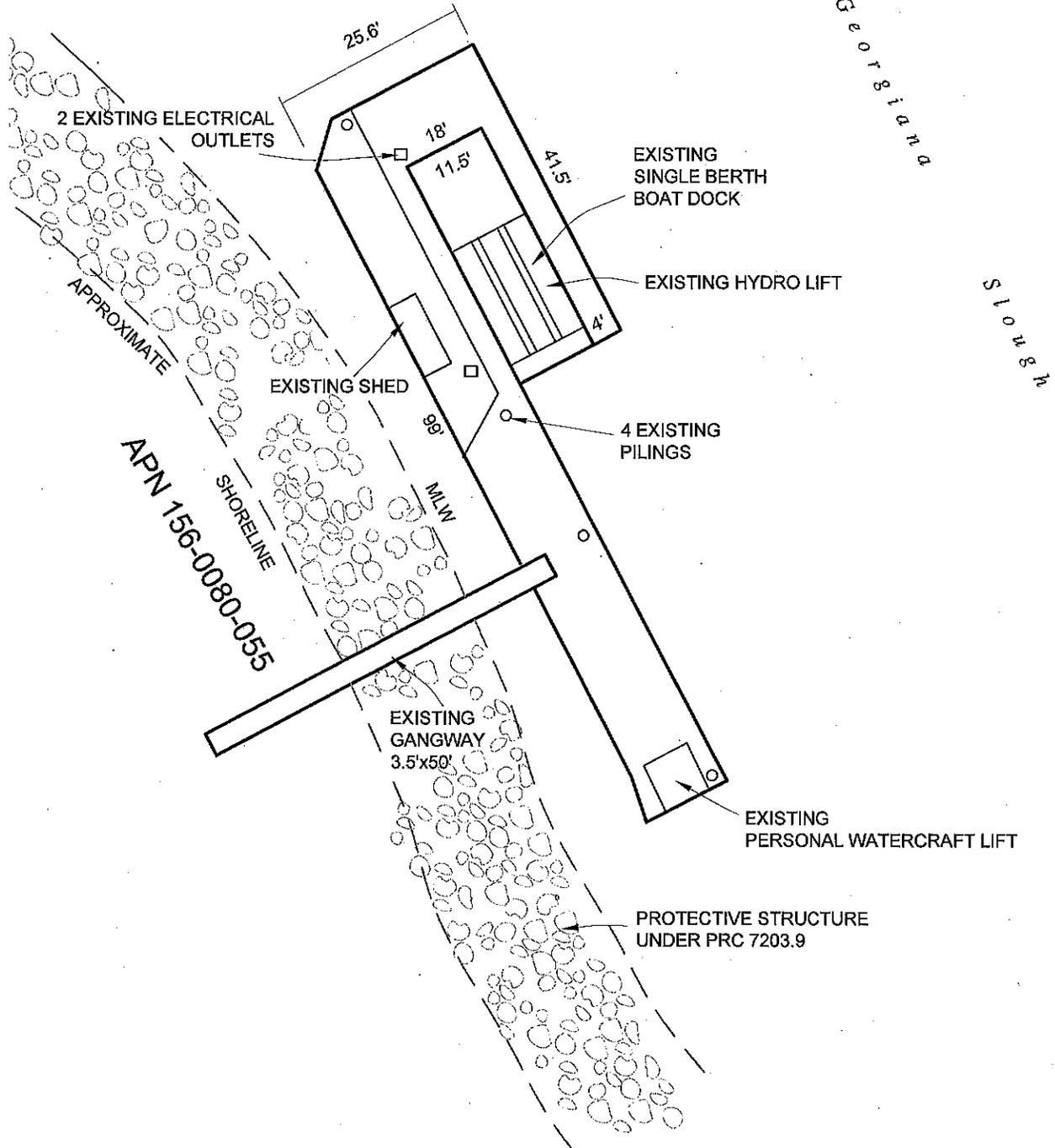


EXHIBIT A

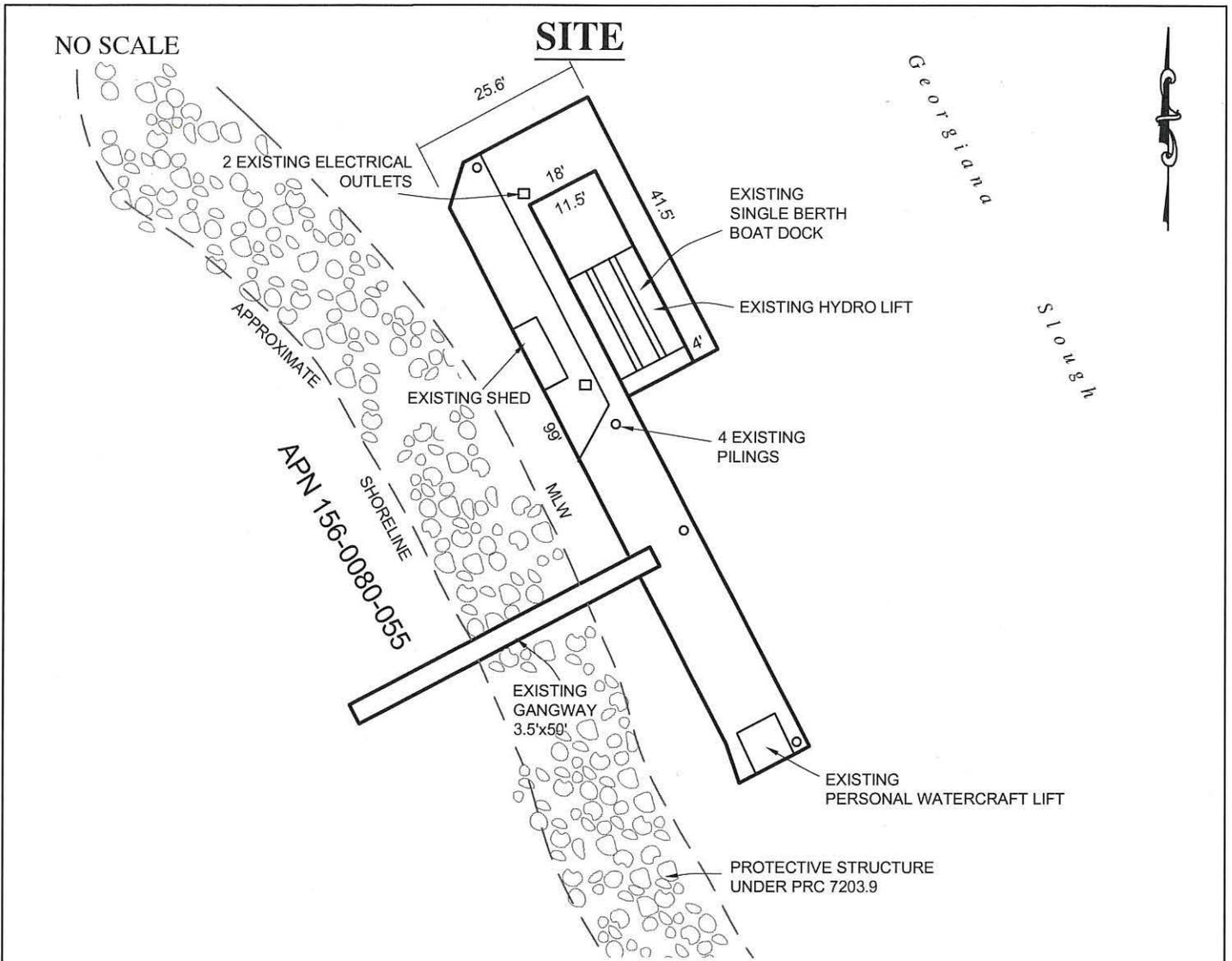
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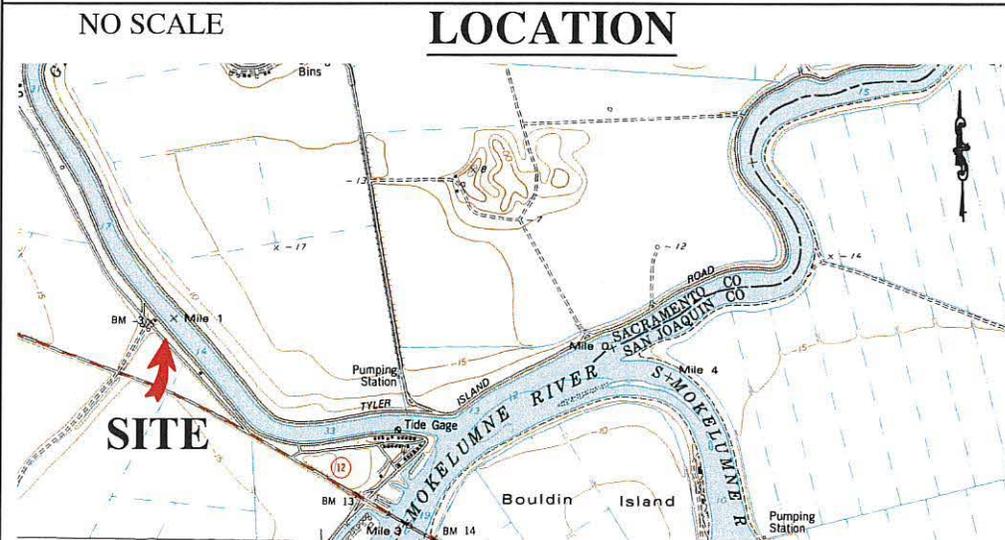
LAND DESCRIPTION PLAT
 LEASE 5800.1, BARNES
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





17191 TERMINOUS ROAD, NEAR ISLETON



MAP SOURCE: USGS QUAD

Exhibit B
 LEASE 5800.1
 BARNES
 APN 156-0080-055
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



MJJ 9/12/19

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.