

STAFF REPORT

28

A 11

10/24/19
Lease 5910.1
A2111
J. Holt

S 3

**TERMINATION AND ISSUANCE OF
A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Cynthia Caulk

APPLICANT:

Mary Margaret McNally

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Steamboat Slough, adjacent to 13962 Grand Island Road, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock and a proposed boat dock and slip, three pilings, gangway, ramp, and concrete boat-launch ramp.

LEASE TERM:

10 years, beginning July 11, 2019.

CONSIDERATION:

\$163 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.

STAFF REPORT NO. **28** (CONT'D)

Public Trust and State's Best Interests Analysis:

On December 9, 2004, the Commission authorized a 10-year General Lease – Recreational Use to Cynthia Caulk ([Item C24, December 9, 2004](#)). The lease area contained an existing boat dock with slip and appurtenant facilities. That lease expired on July 10, 2012. During a winter storm, a portion of the dock was damaged and subsequently floated away. The Lessee decided not to rebuild this portion, which enclosed the mooring slip. On October 19, 2012, the Commission authorized a 10-year General Lease – Recreational Use to Cynthia Caulk ([Item C23, October 19, 2012](#)). That lease will expire on July 10, 2022. On May 17, 2018, the upland was deeded to Mary Margaret McNally. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing boat dock and a proposed boat dock and slip, three pilings, gangway, ramp, and concrete boat-launch ramp in Steamboat Slough.

Staff recommends termination of the existing lease, Lease No. PRC 5910.1, based on the Lessee's abandonment of the lease area. The title transfer occurred without a lease quitclaim deed or notification to staff. The Commission's accounting records indicate that rent has been paid through July 10, 2019.

The proposed lease area contains facilities previously authorized by the Commission. The Applicant confirms the absence of galvanized cable(s), referenced in prior lease exhibits. The Applicant has requested authorization for the slip portion of the dock, previously authorized by the Commission on December 9, 2004, but not included in the subsequent 2012 lease. The boat dock and appurtenant facilities are designed for recreational boating and fishing purposes. Recreational boating and fishing are water-dependent activities and are 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 concrete boat-launch ramp enhances access to the river channel.

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.

STAFF REPORT NO. **28** (CONT'D)

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 Steamboat Slough, 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 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.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events, and could increase the Steamboat Slough's inundation levels within the lease area over the term of the lease. 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 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,

STAFF REPORT NO. 28 (CONT'D)

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. 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 associated structures 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. The fixed features may need reinforcement to withstand higher levels of flood exposure.

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. Approval or denial of the 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

STAFF REPORT NO. 28 (CONT'D)

required to remove the existing boat dock, three pilings, gangway, ramp, and concrete boat-launch ramp 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 protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the termination of a lease and 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,

STAFF REPORT NO. 28 (CONT'D)

at this time, and for the foreseeable term of the lease; is consistent with the Public Trust; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination of Lease No. PRC 5910.1, a General Lease – Recreational Use, issued to Cynthia Caulk, effective July 10, 2019.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning July 11, 2019, for a term of 10 years, for the use and maintenance of an existing boat dock and a proposed boat dock and slip, three pilings, gangway, ramp, and concrete boat-launch ramp; 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 \$163, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5910.1

LAND DESCRIPTION

Two Parcels of tide and submerged land situate on the left bank of the Steamboat Slough, lying adjacent to Swamp and Overflow Survey 494, patented February 28, 1871, County of Sacramento, State of California and more particularly described as follows:

PARCEL 1 – BOAT DOCK

All those lands underlying an existing boat dock and a proposed boat dock and slip, three (3) pilings, gangway, and ramp adjacent to Parcel 1 as described in that Grant Deed recorded October 5, 1978 in Book 7810-05 at Page 641, in Official Records of said County.

PARCEL 2 – CONCRETE BOAT LAUNCH RAMP

All those lands underlying an existing Concrete Boat Launch Ramp adjacent to said Parcel 1.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Steamboat Slough.

Accompanying plat is hereby made a part of this description.

This description is based on Applicant provided design plan found in the Application for Lease of State Lands for an existing gangway, ramp, boat dock, and a proposed boat dock and slip together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

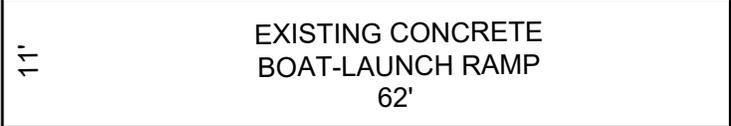
END OF DESCRIPTION

Prepared September 25, 2019, by
the California State Lands Commission Boundary Unit.

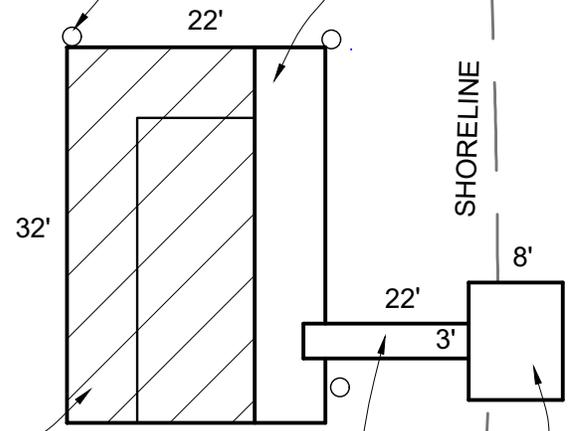


S l o u g h

S t e a m b o a t



3 EXISTING PILINGS
EXISTING BOAT DOCK



PROPOSED
BOAT DOCK WITH
SLIP

EXISTING
RAMP

EXISTING
GANGWAY

APPROXIMATE

APN 142-0160-010



EXHIBIT A

Page 2 of 2

MJJ 09/23/19

LAND DESCRIPTION PLAT
LEASE 5910.1 McNALLY
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

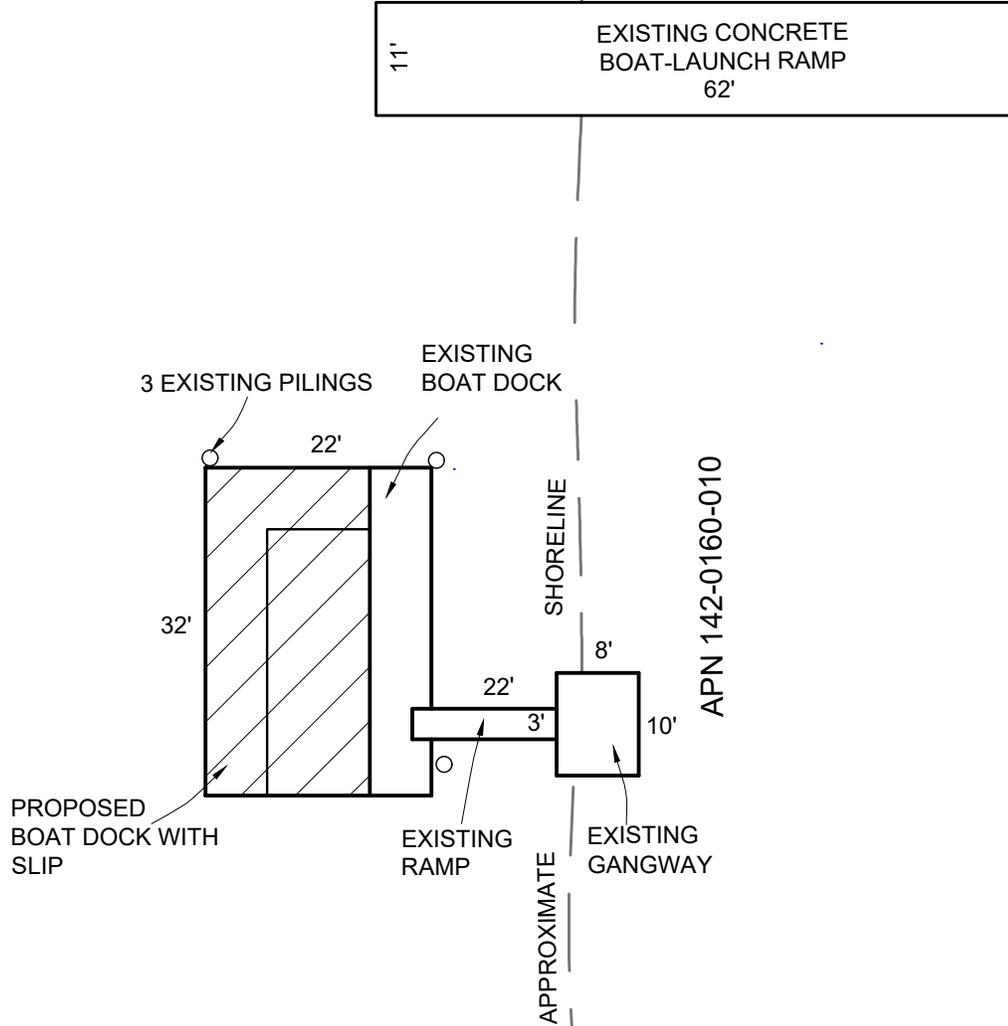


NO SCALE

SITE

Slough

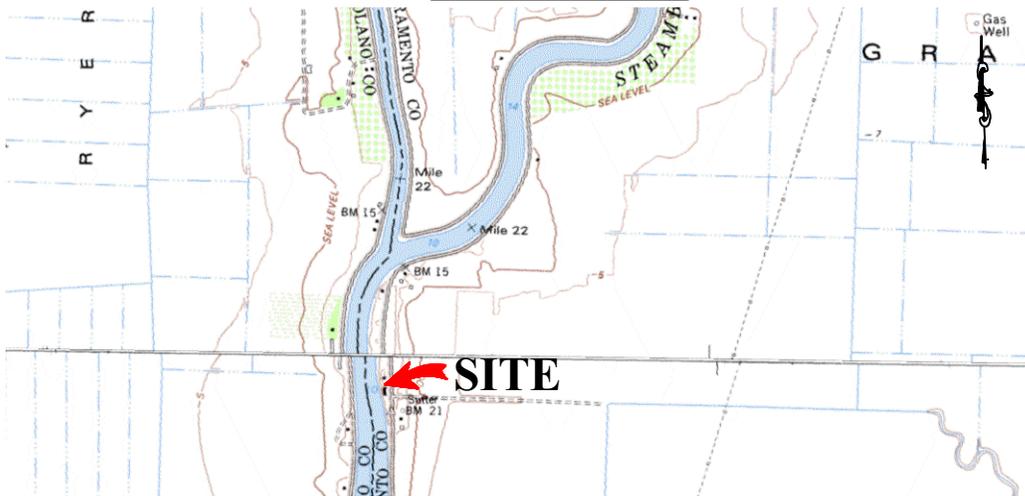
Steamboat



13962 GRAND ISLAND ROAD, NEAR WALNUT GROVE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 5910.1
 McNALLY
 APN 142-0160-010
 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.

MJJ 09/23/19