

STAFF REPORT

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ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Kit H. Kinne and Lisa Mack Kinne

APPLICANT/ASSIGNEE:

Brian and Catherine Mulholland

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 7257 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, gangway, piling, two-pile dolphin, and bank protection.

LEASE TERM:

10 years, beginning May 6, 2016.

CONSIDERATION:

Boat dock, gangway, piling, and two-pile dolphin: \$125 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.

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Public Trust and the State's Best Interests Analysis:

On October 13, 2016, the Commission authorized a General Lease – Recreational and Protective Structure Use to JaniCo, LLC ([Staff Report 34, October 13, 2016](#)). On June 22, 2017, the Commission authorized an assignment of the lease to Kit H. Kinne and Lisa Mack Kinne ([Staff Report 43, June 22, 2017](#)). The lease will expire on May 5, 2026.

On July 11, 2019, interest in the upland parcel was deeded to Brian and Catherine Mulholland. The Applicant is now requesting an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, July 11, 2019. The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources. In its original lease approval in 2016, the Commission found that the use was consistent with the common law Public Trust Doctrine.

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 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.

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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 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. 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 ramp 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 pilings may need reinforcement to withstand higher levels of flood exposure.

Regular maintenance as required by the terms of the lease, will help reduce the likelihood of severe structural degradation, dislodgement, or hazards from the electrical conduits. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2026 and would be based on projected sea-level rise scenarios at that time.

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Conclusion:

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment 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 for assignment 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. 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 activity 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. Assignment of lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the 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.

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AUTHORIZATION:

Authorize the assignment of Lease No. PRC 5865.1, a General Lease – Recreational and Protective Structure Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Kit H. Kinne and Lisa Mack Kinne to Brian and Catherine Mulholland, effective July 11, 2019.

EXHIBIT A

LEASE 5865.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 924 patented August 24, 1870, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing boat dock, two-pile dolphin, one piling and gangway, lying adjacent to those parcels as described in that Grant Deed recorded July 11, 2019, in Document 201907111367 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

ALSO 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 Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 31, 2019 by the California State Lands Commission Boundary Unit.



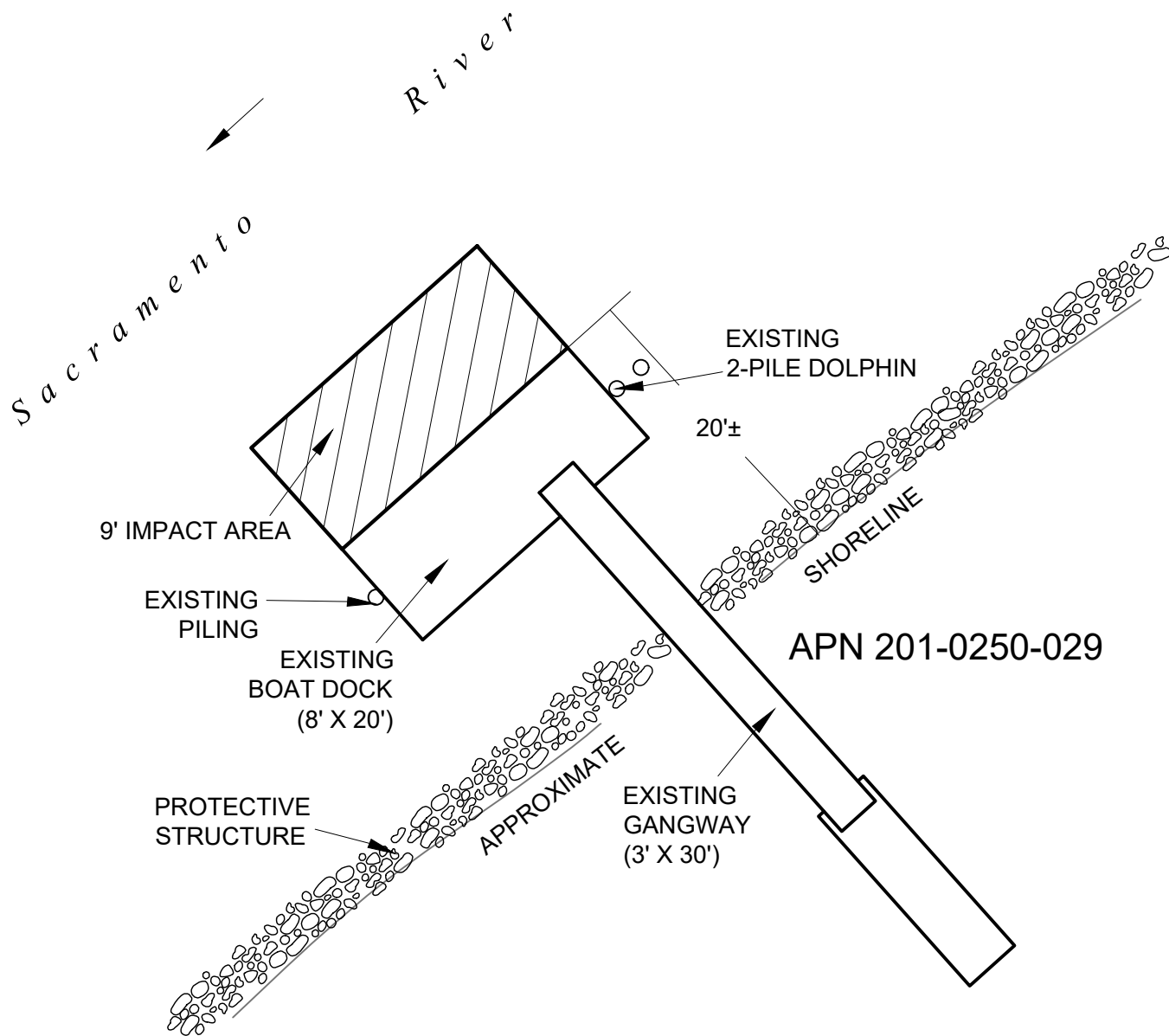


EXHIBIT A

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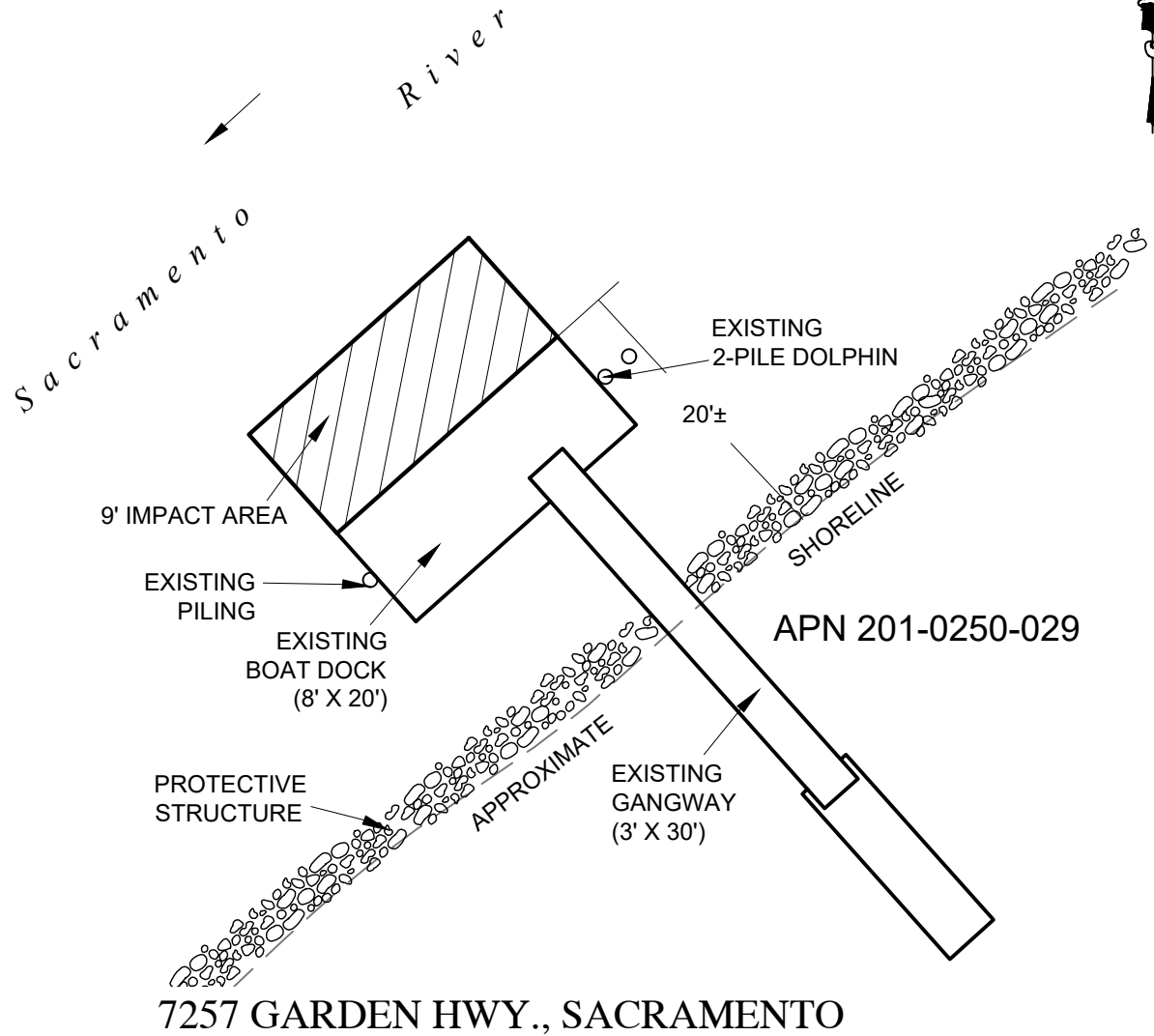
LAND DESCRIPTION PLAT
LEASE 5865.1, MULHOLLAND
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



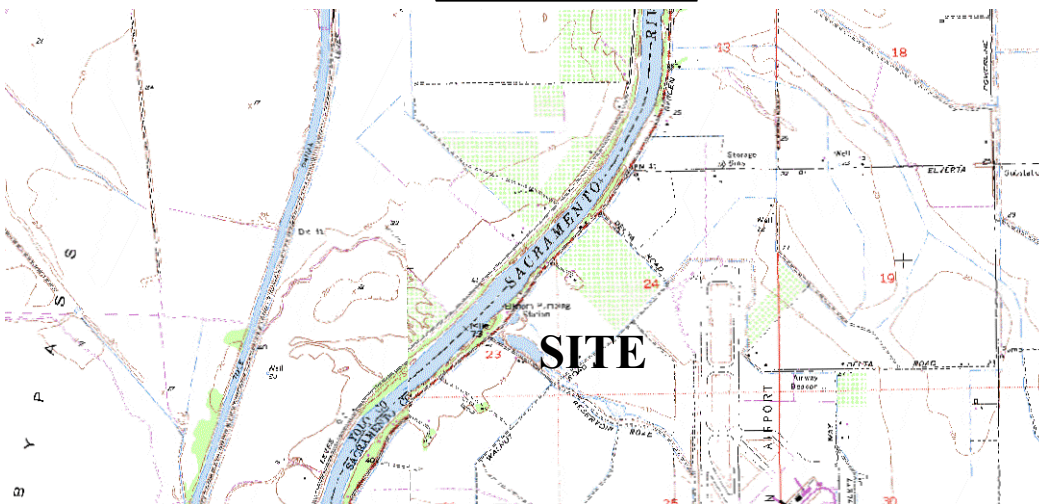
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 5865.1
MULHOLLAND
APN 201-0250-029
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.

MJJ 10/31/2019