

**STAFF REPORT
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Lease 5378.1
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J. Holt

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**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE,
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE
STRUCTURE USE**

LESSEE:

Donald Thad Clark, Trustee of the Donald Thad Clark Trust, dated June 12, 2009

APPLICANT:

Cara A. Pellegrini, Trustee of the Cara A. Pellegrini Living Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 208 1st Street, Isleton, Sacramento County.

AUTHORIZED USE:

Use and maintenance of two existing boat docks, one debris deflector, four pilings, and ramp previously authorized by the Commission, and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning December 2, 2018.

CONSIDERATION:

Two boat docks, one debris deflector, four pilings, and ramp: \$191 per year, with an annual Consumer Price Index adjustment.

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.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

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- 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, 6321, 6321.2, 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 December 2, 2013, the Commission authorized a 10-year General Lease – Recreational Use to Donald Thad Clark, Trustee of the Donald Thad Clark Trust, dated June 12, 2009 ([Item C45, December 2, 2013](#)). That lease will expire on December 1, 2023. On August 17, 2018, the upland was deeded to Cara A. Pellegrini, Trustee of the Cara A. Pellegrini Living Trust. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of two existing boat docks, one debris deflector, four pilings, and ramp previously authorized by the Commission, and bank protection not previously authorized by the Commission.

Staff recommends termination of the existing lease, Lease No. PRC 5378.1, based on the Lessee's abandonment of the lease area. The title transfer occurred without a lease quitclaim deed and notification to staff. The rent was paid through December 1, 2018. Staff also recommends that the Commission issue a new lease to the Applicant, effective December 2, 2018.

The proposed lease area contains similar facilities as the current lease, with minor modifications. At some point, one debris deflector was removed from the lease premises. The facilities were designed for recreational boating and shoreline protection. 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 bank protection enhances the integrity of the river channel and protects Public Trust resources for future use.

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

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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 in the Sacramento River within a region identified as tidally influenced and vulnerable to flooding at current sea levels.

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 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

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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 boat docks, ramp, and debris deflector 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 the facilities. The fixed pilings and bank protection may need reinforcement to withstand higher levels of flood exposure and more frequent storm 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, Commission staff believes the issuance of this lease is consistent with the Public Trust Doctrine and is in the best interests of the State.

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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 required to remove the two existing boat docks, one debris deflector, four pilings, ramp, and bank protection, 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 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 issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a

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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 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, 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:

1. Authorize termination of Lease No. PRC 5378.1, a General Lease – Recreational Use, issued to Donald Thad Clark, Trustee of the Donald Thad Clark Trust, dated June 12, 2009, effective December 1, 2018.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning December 2, 2018, for a term of 10 years, for the use and maintenance of two existing boat docks, one debris deflector, four pilings, and ramp, 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, one debris deflector, four pilings, and ramp: \$191 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

LEASE 5378.1

LAND DESCRIPTION

Six parcels of tide and submerged lands situated in the bed of the Sacramento River adjacent to Swamp and Overflowed Survey 651, patented August 8, 1874, County of Sacramento, State of California, more particularly described as follows:

PARCEL 1 - DOCKS

All those lands underlying an existing ramp, and two docks lying adjacent to Parcel 1A as described in Grant Deed recorded August 17, 2018 as Document Number 201808170515 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 lying adjacent to said parcel.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

PARCELS 2 thru 5 – PILINGS

Four parcels of land underlying four existing pilings lying adjacent to Parcel 1A as described in Grant Deed recorded August 17, 2018 as Document Number 201808170515 in Official Records of said County.

PARCEL 6 – DEBRIS DEFLECTOR

All those lands underlying an existing debris deflector lying adjacent to Parcel 1A as described in Grant Deed recorded August 17, 2018 as Document Number 201808170515 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared 1/23/2020 by the California State Lands Commission Boundary Unit.





← SACRAMENTO RIVER ←

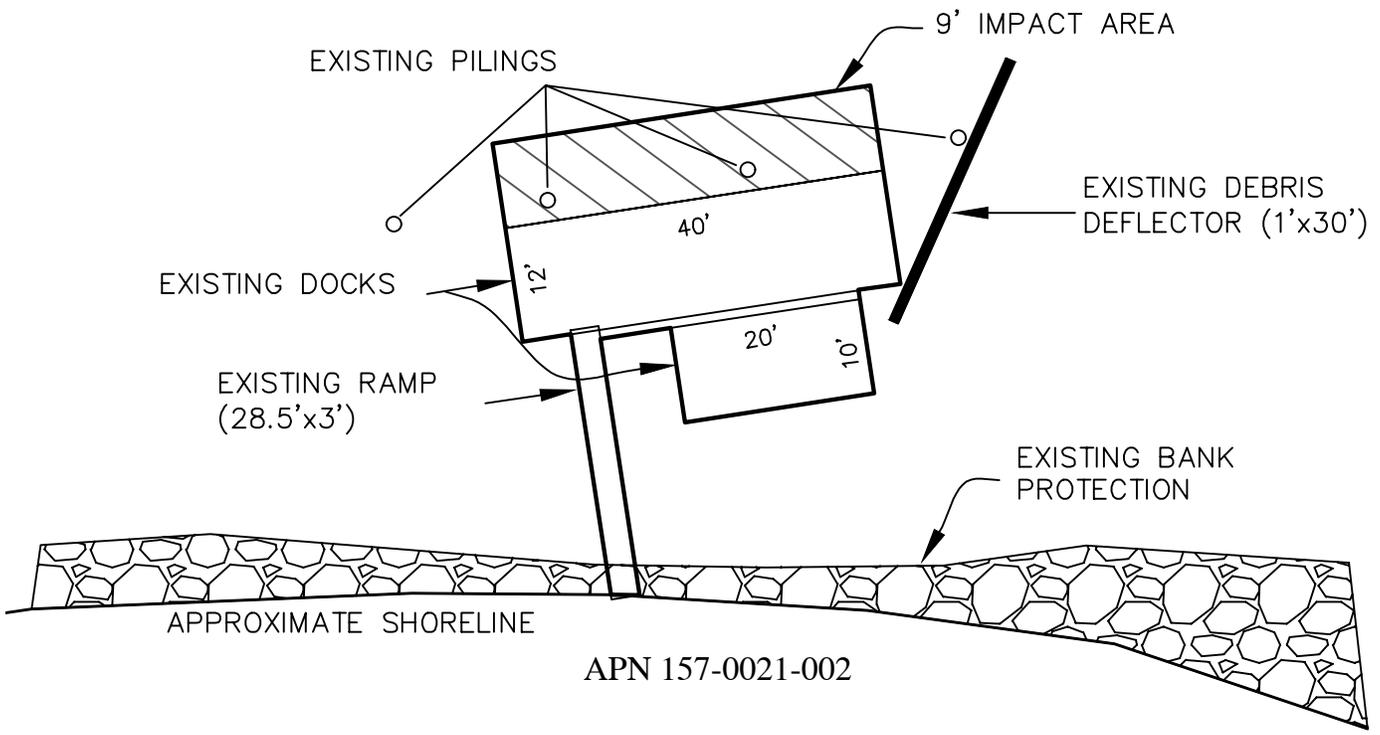


EXHIBIT A

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LAND DESCRIPTION PLAT
 LEASE 5378.1, PELLEGRINI
 SACRAMENTO COUNTY

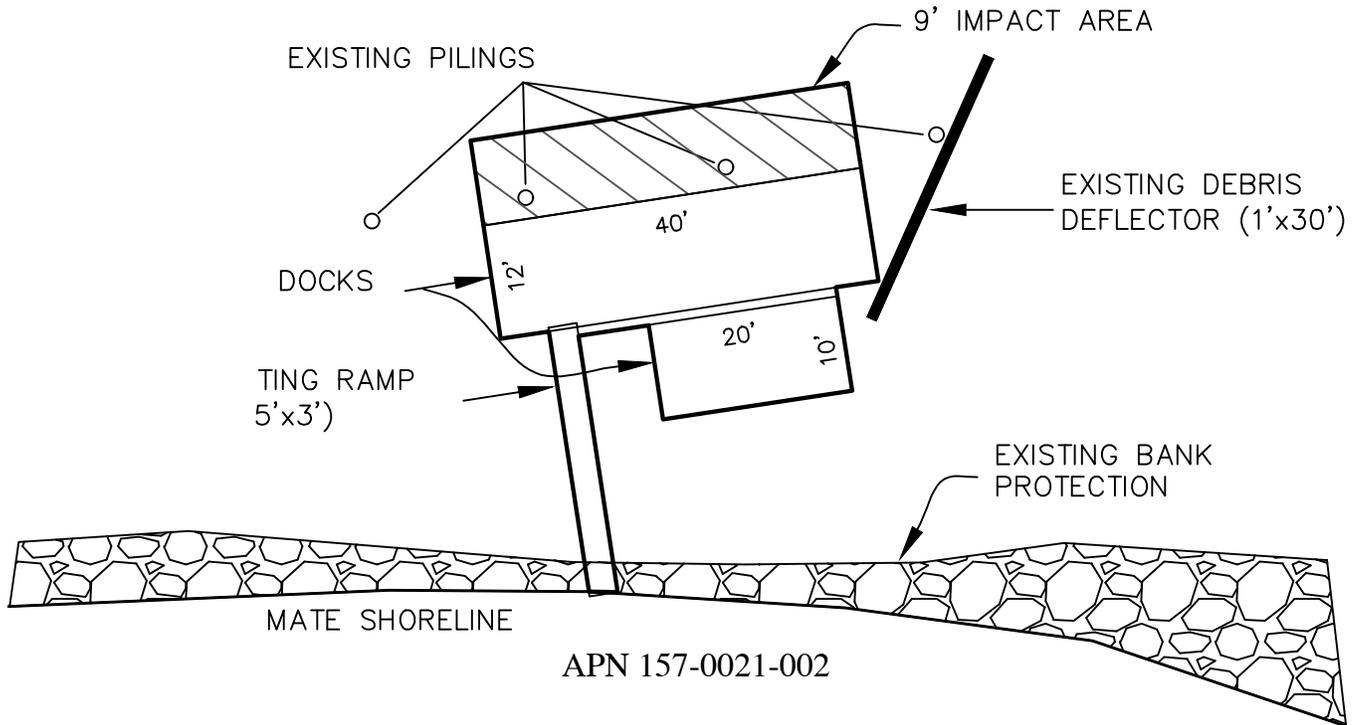
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

SACRAMENTO RIVER



208 1st STREET, ISLETON

NO SCALE

LOCATION

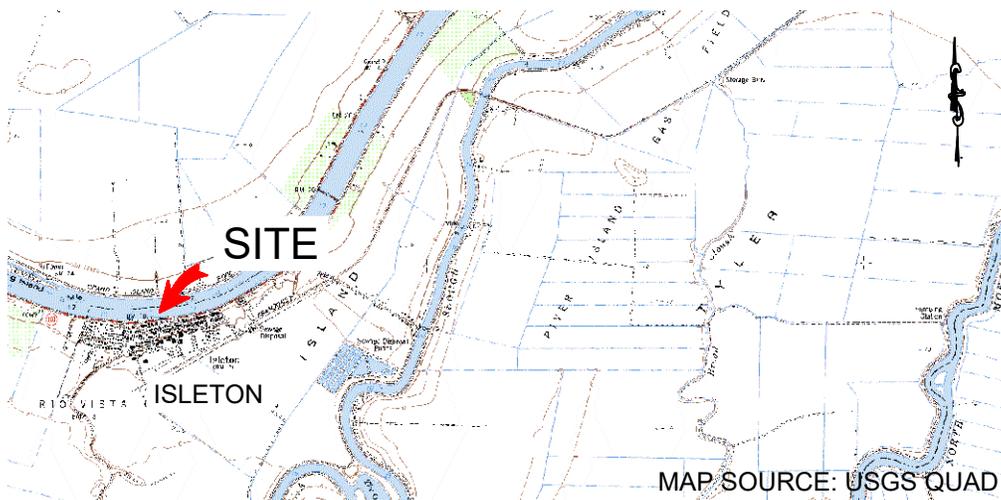


EXHIBIT B

LEASE 5378.1
 PELLEGRINI
 APN 157-0021-002
 GENERAL LEASE -
 RECREATIONAL AND
 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.

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