

**STAFF REPORT
26**

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Lease 4621.1
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G. Asimakopoulos

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE
OF A GENERAL LEASE – RECREATIONAL AND
PROTECTIVE STRUCTURE USE**

LESSEE:

Britt Lee Johnson, Trustee of The Britt Lee Johnson Revocable Trust dated
December 12, 2006

APPLICANT:

Mark Jungkeit and Karen Jungkeit

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 7105 Garden
Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, gangway, stairs,
anchor cables, and bank protection.

LEASE TERM:

10 years, beginning February 28, 2020.

CONSIDERATION:

Boat Dock, Gangway, Stairs, and Anchor Cables: \$140 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:

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

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2. 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 June 23, 2011, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Britt Lee Johnson, Trustee of The Britt Lee Johnson Revocable Trust dated December 12, 2006, for the continued use and maintenance of an existing uncovered floating boat dock, gangway stairs, anchor cables, and bank protection ([Item C58, June 23, 2011](#)). That lease will expire on June 22, 2021. On April 11, 2019, the upland parcel was deeded to the Applicant. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the continued use and maintenance of the existing boat dock, gangway, stairs, anchor cables, and bank protection.

The Lessee has executed a lease quitclaim deed releasing their interest in the lease to the State. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease to the Applicant, beginning February 28, 2020. Staff also recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$123 for the period beginning April 11, 2019, the day the upland parcel was deeded to the Applicant, through February 27, 2020, the day preceding issuance of the proposed new lease.

The existing boat dock and appurtenant facilities have existed at this location for many years, and are located directly adjacent to the Applicant's upland property. The existing boat dock and appurtenant facilities are privately owned and maintained and are for the docking and mooring of recreational boats. 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 bank protection will maintain and improve the integrity of the river channel, which will help preserve the Public Trust resources of the Sacramento River for recreational and navigational use by the public.

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The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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 consist of a boat dock, gangway, stairs, anchor cables, and bank protection.

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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Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events, and 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 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 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 of dock facilities. The bank is vegetated, which provides additional stability and could partially 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. Exposed portions of the protective structure could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required to protect the anchoring points of the other lease area structures and reduce flood impacts to the upland

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parcel. 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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed 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 required to remove the existing boat dock, gangway, stairs, anchor cables, 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. Acceptance of a lease quitclaim deed 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).

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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 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 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:

1. Authorize acceptance of a lease quitclaim deed from the Lessee, effective April 10, 2019, of Lease No. PRC 4621.9, a General Lease – Recreational and Protective Structure Use, issued to Britt Lee Johnson, Trustee of The Britt Lee Johnson Revocable Trust dated December 12, 2006.
2. Authorize acceptance of compensation from the Applicant in the amount of \$123 for the unauthorized occupation of State land for the period beginning April 11, 2019, through February 27, 2020.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning February 28, 2020, for a term of 10 years, for the continued use and maintenance of an existing boat dock, gangway, stairs, anchor cables, and bank protection; as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration for the boat dock, gangway, stairs, and

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anchor cables: \$140 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 4621.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 141, patented on July 2, 1858, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing dock, gangway, two cables, and stairs lying adjacent to that parcel as described in that Grant Deed recorded April 11, 2019, in Document Number 201904111274, of 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 29, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

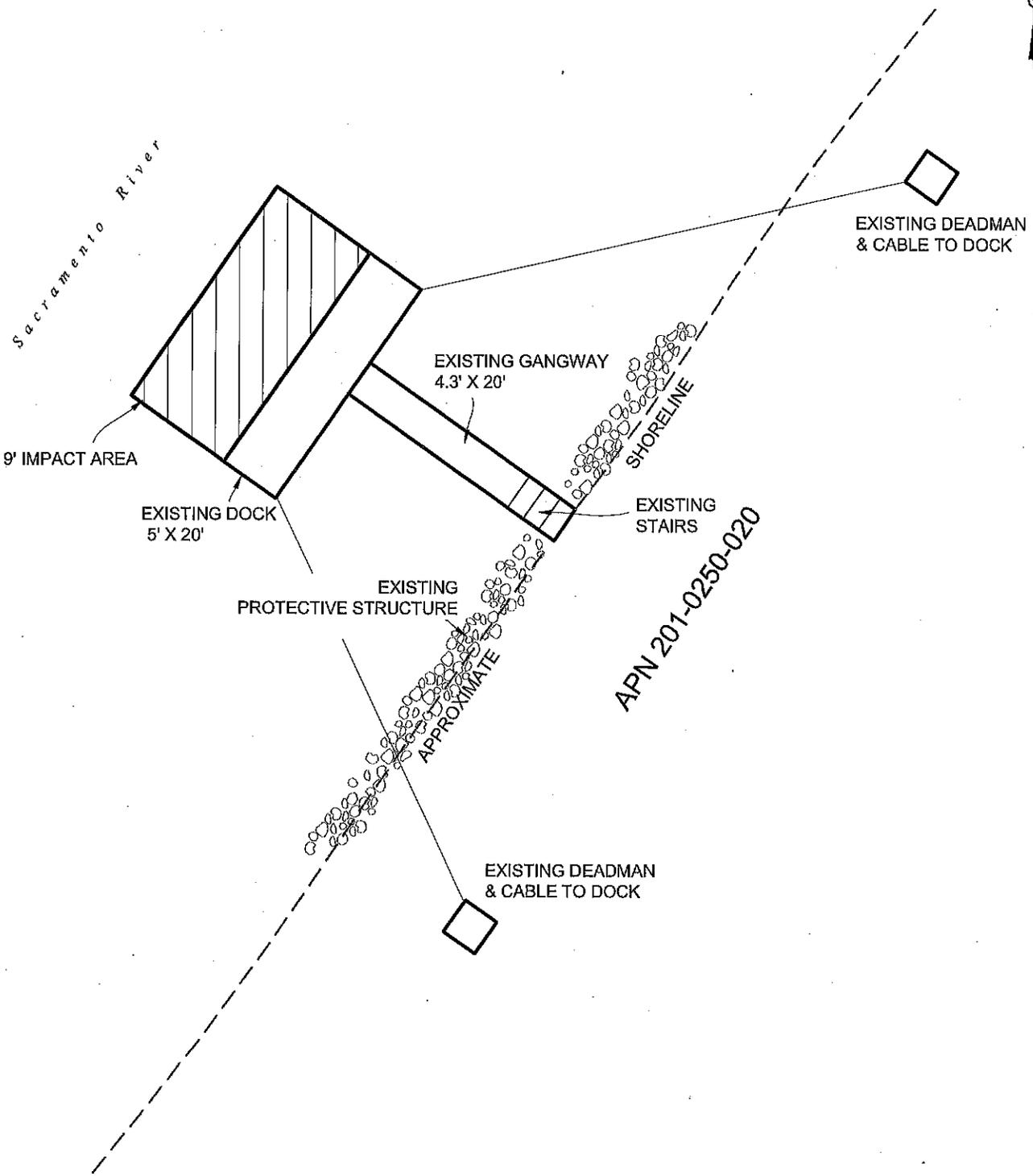


EXHIBIT A

MJJ 10/24/19

LAND DESCRIPTION PLAT
 LEASE 4621.1, JUNGKEIT
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



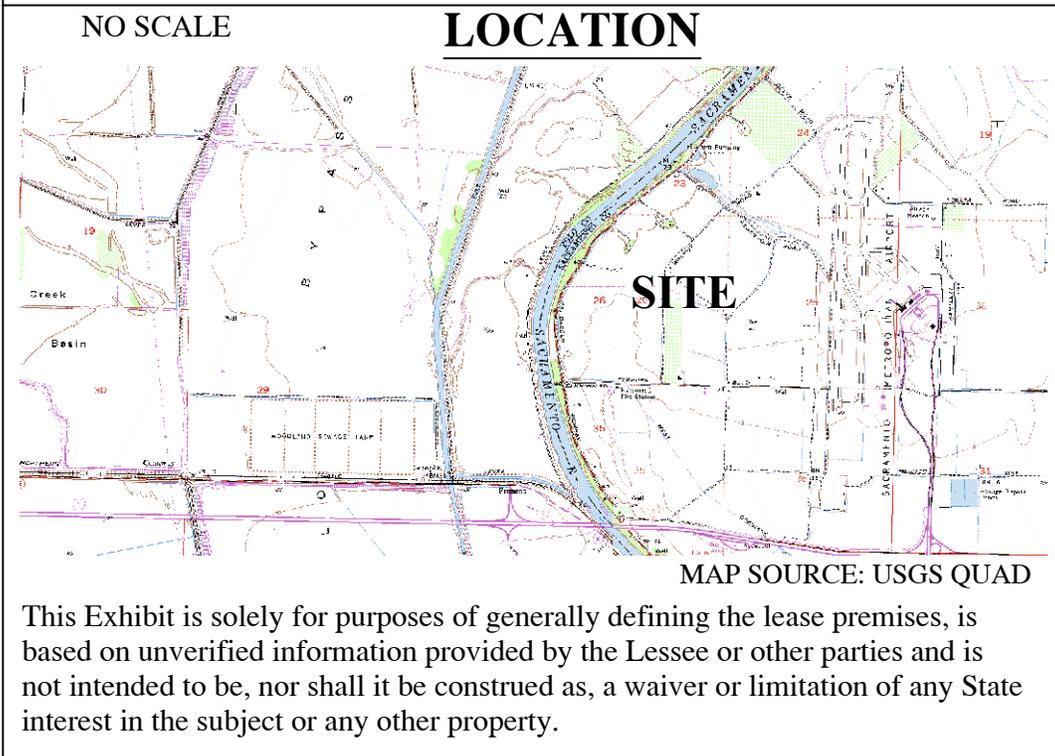
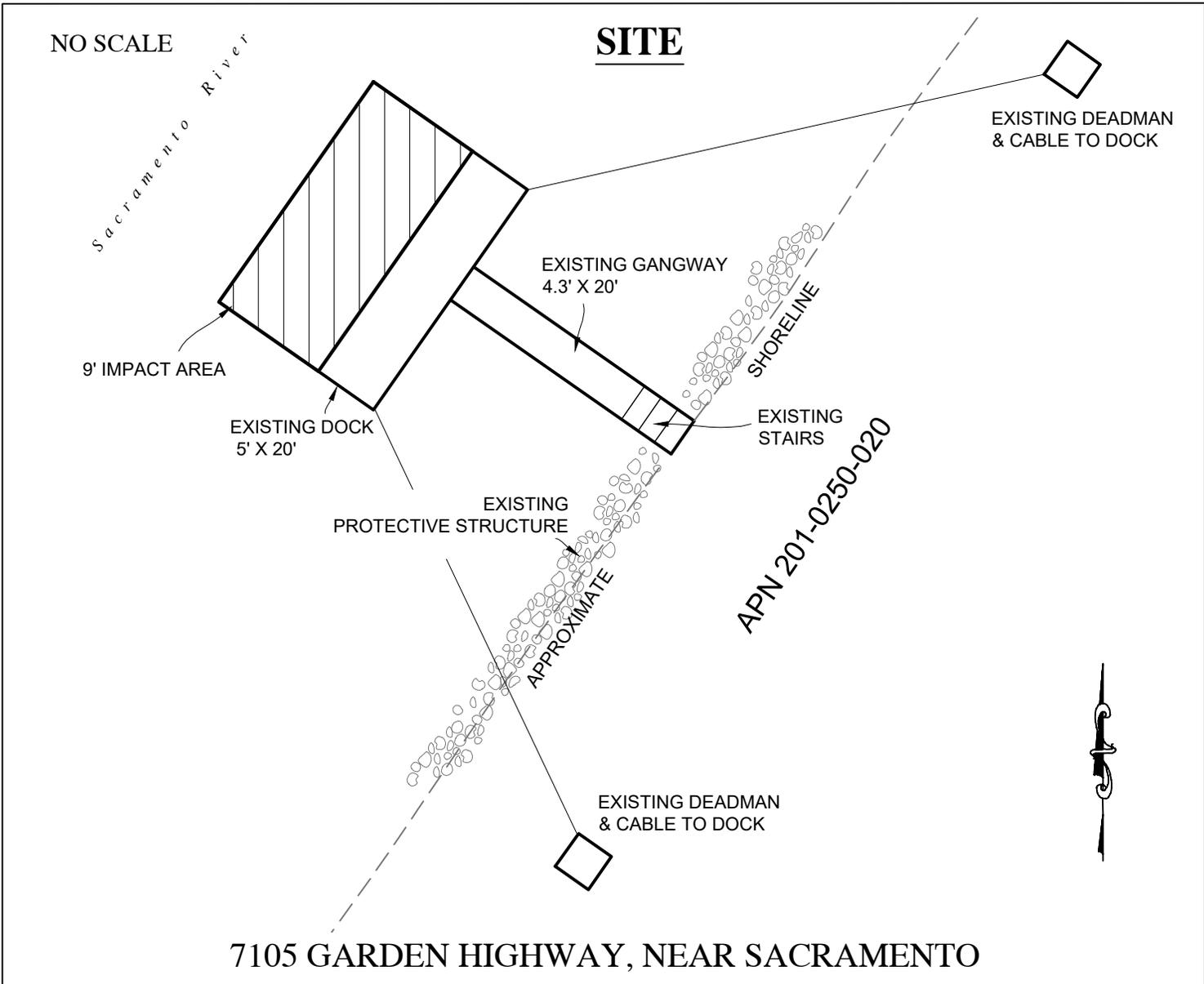


Exhibit B

LEASE 4621.1
JUNGKEIT
APN 201-0250-020
GENERAL LEASE -
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SACRAMENTO COUNTY

SITE

MJJ 10/30/19