

STAFF REPORT

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02/28/20

Lease 4361.1

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G. Asimakopoulos

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Fred E. Weibel, Jr. and Judith L. Weibel, as Trustees of the Weibel 1996 Living Trust dated 10/15/96

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Calaveras River, adjacent to 4151 Yacht Harbor Drive, near Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse with a boat lift, ramp, walkway, 28 pilings, and bulkhead protection.

LEASE TERM:

10 years, beginning November 19, 2019.

CONSIDERATION:

Boathouse with a Boat Lift, Ramp, Walkway, and 28 Pilings: \$495 per year, with an annual Consumer Price Index adjustment.

Bulkhead 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.
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

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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 September 1, 2011, the Commission authorized a General Lease – Recreational and Protective Structure Use to Fred E. Weibel, Jr. and Judith L. Weibel, as Trustees of the Weibel 1996 Living Trust Dated 10/15/96, for an existing boathouse with a boat lift, ramp, walkway, bulkhead, and 28 pilings ([Item C33, September 1, 2011](#)). That lease expired on November 18, 2019. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the continued use and maintenance of the existing boathouse with a boat lift, ramp, walkway, 28 pilings, and bulkhead protection. Staff recommends issuance of a new lease beginning November 19, 2019.

The subject dock and appurtenant facilities are for the docking and mooring of boats. These facilities are used for recreational boating and shoreline protection. Recreational boating is water-dependent 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 floating 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 bulkhead protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes by the public.

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

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compensate the people of the State for the occupation of the public land involved.

Climate Change Analysis:

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 Calaveras 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 lease area 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 Calaveras River’s inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. 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. Although the banks within the lease area are vegetated, flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

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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 related to the lease area structures.

The boathouse with boat lift and ramp will be 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 or to avoid dislodgement. The fixed walkway, pilings, and bulkhead may need reinforcement and possibly replacement 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 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 boathouse with a boat lift, ramp, walkway, 28 pilings, and bulkhead protection and restore the premises to their

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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. Staff recommends that the Commission find that 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 the issuance of 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:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant, beginning November 19, 2019, for a term of 10 years, for the continued use and maintenance of an existing

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boathouse with a boat lift, ramp, walkway, 28 pilings, and bulkhead 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 existing boathouse with a boat lift, ramp, walkway, and 28 pilings: \$495 per year, with an annual Consumer Price Index adjustment; consideration for the bulkhead 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 4361.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Calaveras River (formerly the bed of the San Joaquin River), County of San Joaquin, State of California, lying adjacent to Lot 41, as shown on "Tract No. 308 Subdivisions of San Joaquin County Riviera Cliffs" dated May 1952 and filed in Book 13, Page 124 of Maps and Plats of San Joaquin County Records and more particularly described as follows:

Said parcel being bounded on the northwest by the northeasterly prolongation of the northwest line of said Lot 41; bounded on the southeast by the northeasterly prolongation of the southeast line of said lot; bounded on the southwest by the Ordinary High Water Mark of said river; bounded on the northeast by a line running parallel with and 62 feet perpendicular to said Ordinary High Water Mark.

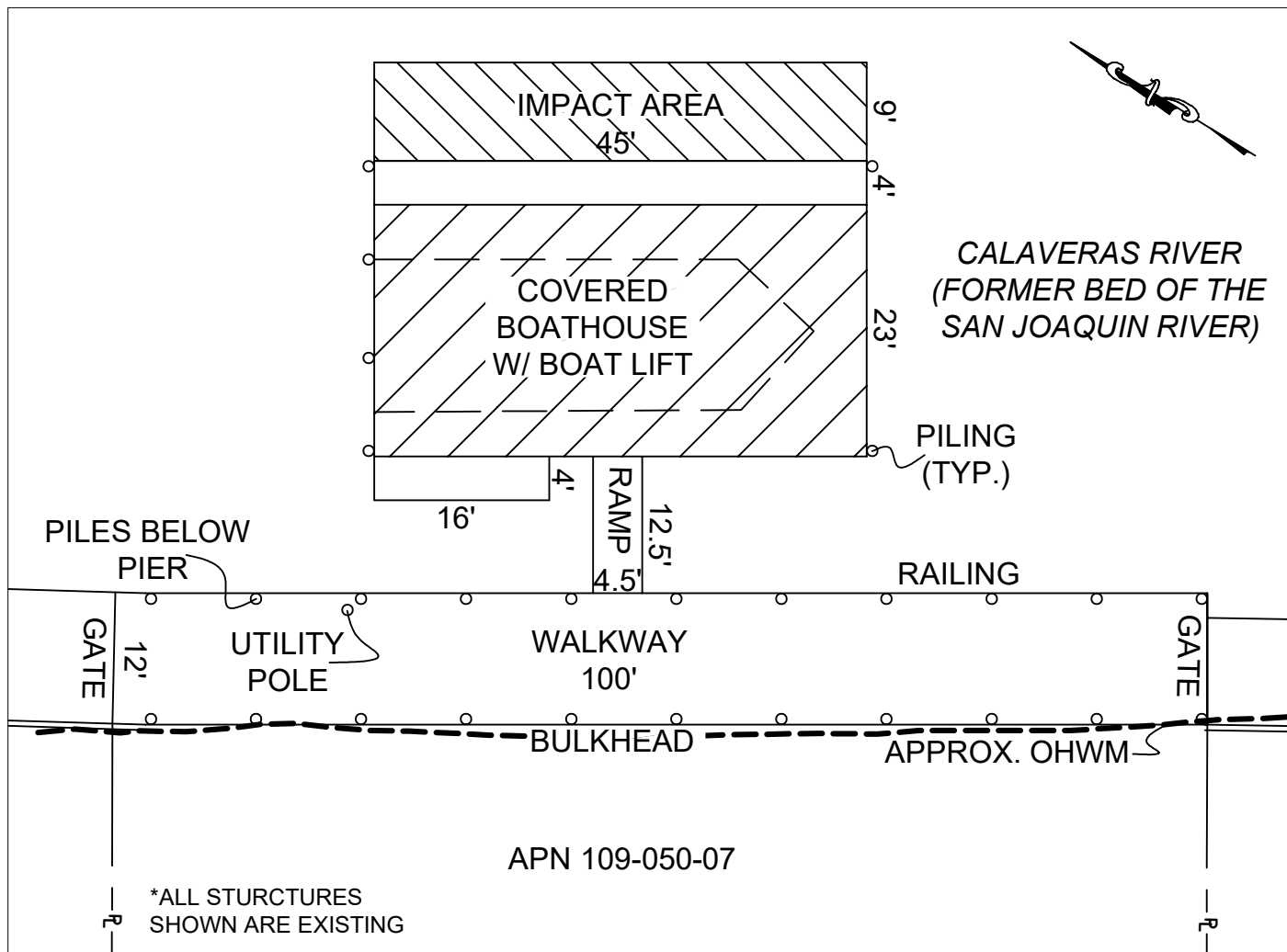
END OF DESCRIPTION

PREPARED 12/24/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

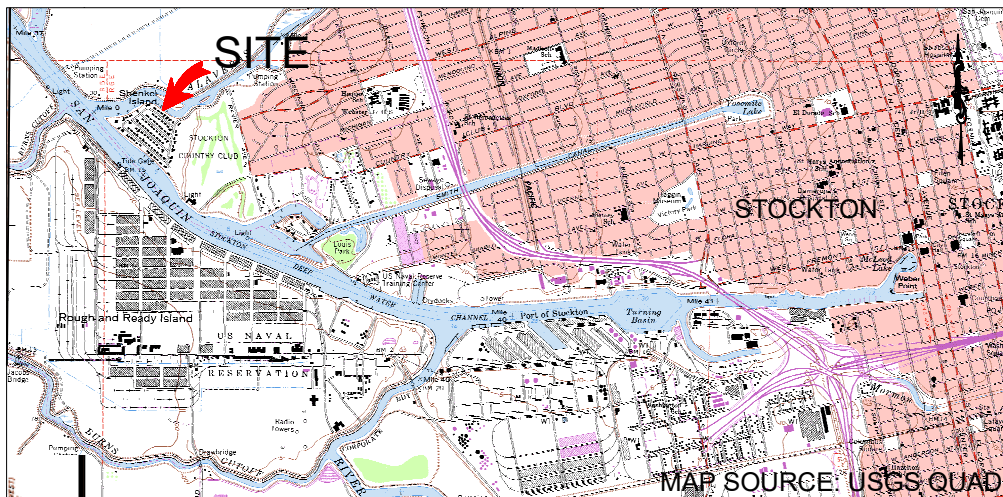
SITE



4151 YACHT HARBOR DRIVE - CALAVERAS RIVER, STOCKTON

NO SCALE

LOCATION



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.

EXHIBIT B

LEASE 4361.1
WEIBEL 1996 LIVING TRUST
APN 109-050-07
GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
SAN JOAQUIN COUNTY



MJF 12/24/19