

**STAFF REPORT
28**

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		Lease 6200.1
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**CONSIDER DELEGATION OF AUTHORITY TO THE EXECUTIVE OFFICER
FOR CONSIDERATION OF AN APPLICATION FOR A
GENERAL LEASE – COMMERCIAL USE**

APPLICANT:

John R. Areias

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

A 0.43 acre parcel, more or less, of sovereign land in the Sacramento River, adjacent to 14031 River Road (Highway 160), Walnut Grove, Sacramento County.

AUTHORIZED USE:

The redevelopment and repair of an existing commercial marina, known as Landing 63, which is currently derelict and not commercially viable, consisting of two covered berths, 11 uncovered berths, gangway, ramp, security vessel, bulkhead, finger dock with three two-pile dolphins, one three-pile dolphin, eight pilings and a 256-foot-long dock with 20 pilings.

LEASE TERM:

2 years; beginning January 1, 2020.

CONSIDERATION:

\$1,724 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

Surety:

\$25,000 Bond.

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Other:

The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encouraging implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On April 5, 2019, the Commission authorized termination of Lease No. PRC 6200.1 ([Item C36, April 5, 2019](#)) held by Sandra L. Oman, Trustee of the Paup Marital Trust, for an existing commercial marina, known as Landing 63, consisting of two covered berths, 11 uncovered berths, gangway, ramp, and bulkhead. As a result of the Commission's termination of the lease, all vessels (except a vessel known as *Vamanos*) were removed from the marina. On August 23, 2019, the Commission authorized staff to remove and dispose of the abandoned vessel *Vamanos* ([Item C71, August 23, 2019](#)). On September 23, 2019, the Commission took title to the *Vamanos*; thereafter, the vessel was removed and destroyed. The marina berths are vacant and the floating docks are in need of replacement.

The Applicant has applied for a new short-term lease. The purpose of this proposed short-term lease is to allow the Applicant the chance to remediate derelict infrastructure on State-owned sovereign land and restore the marina, and associated uplands, for the beneficial use by recreational boaters and the public. If the Applicant succeeds in restoring the marina and the upland marina building, staff expects an application for a long-term lease.

The Applicant expressed an interest in operating the marina and contacted the upland owner, Todd Speer, the heir to the estate of the prior lessee, Sandra L. Oman, who had recently died. The Applicant and Mr. Speer have entered into an option-to-buy agreement and commercial lease agreement for the private upland that includes the marina building. The option agreement and lease agreement are short-term, from January

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1, 2020, through December 31, 2021. The Applicant plans to replace the floating docks and to turn the building on the upland into an event center.

Landing 63 is a small commercial marina covering almost half an acre. The marina is vulnerable to theft and property destruction and in the past has experienced vandalism and other on-the-water problems, requiring immediate action for the overall safety and security of the facility and the public. The marina is vacant and has become more susceptible to vandalism. There is a need for a limited and controlled presence of one navigable vessel to be occupied on a 24-hour basis for security purposes. Staff is recommending one navigable vessel be allowed for security purposes. This vessel will be located in a strategically designated slip subject to the approval of staff. The security vessel will be required to leave the marina waters at least once every 90 days for a minimum of 6 hours, and the Applicant is required to maintain an annual log to be made available to staff upon request.

The subject commercial marina, once repaired, directly promotes Public Trust uses. The marina facilities may once again accommodate, promote, and foster the public's need for maritime services and the public's enjoyment of the State's waterways. Recreational boating is a water-dependent use that 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 land (Pub. Resources Code, § 6503.5). The adjacent upland is privately owned and developed as a commercial marina. The remediation and repair of the marina facilities will not substantially interfere with the Public Trust needs at this location because the proposed lease is only two years, the underlying fee remains with the State, and the Commission is receiving fair rental value for the use of the property during the repair process. Additionally, the repair project is a necessary step to abate an outstanding health and safety concern that the marina poses in its current state.

Staff reviewed environmental justice data that indicated significant pollution burdens to the surrounding communities. These burdens may result in impacts to health such as asthma, low birth weight, and cardiovascular disease. In addition, the same data showed high burdens to drinking water. Staff believes that the lease for the continued use, operation, and maintenance of the marina will result in possible future benefits to the nearby communities by promoting public access to and recreation on the Sacramento River. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in Sacramento County providing notification of the proposed lease. The

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letter sent to several environmental justice organizations included a brief description of the lease and named a staff person as a point of contact. No comments on the proposed lease were received as a result of the outreach.

The proposed lease includes certain provisions and Best Management Practices protecting the public use of the proposed lease area, including a limited lease term of 2 years. The facilities have existed for many years at this location; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair 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.

Furthermore, the lease requires that the lessee 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 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.

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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 Sacramento River'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, 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 gangway as part of the boat landing 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

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functionality during and after storm seasons and to avoid dislodgement. The fixed pilings may need reinforcement to withstand higher levels of flood exposure.

The proposed lease is for a short-term (2 years) and is less likely to be subject to the sea-level rise projections provided above. When the Applicant has remediation the marina facilities and submits an application for a longer-term lease, further climate change analyses on the leased facilities will be assessed based on projected sea-level rise scenarios at that time.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

STAFF RECOMMENDATION:

Commissioner Kounalakis has identified a conflict of interest which requires her disqualification from participating in the decision on this proposed lease pursuant to Government Code section 84308. She has reported the receipt of campaign contributions in an amount greater than \$250 from the Applicant's spouse, Julie Noel Sandino.

Chair Yee has identified the likelihood of an appearance of a financial conflict of interest. She has reported that the Applicant's spouse, Julie Noel Sandino, is her political fundraiser to whom Controller Yee's campaign committee occasionally makes payments for services.

Due to the existence or appearance of conflicts of interest identified above, staff understands that both Chair Yee and Commissioner Kounalakis intend to abstain from consideration of this lease application. Therefore, the Commission will be unable to form a quorum to make a decision on this application and proposed lease. Accordingly, staff recommends delegating the authority to approve or deny this proposed lease to the Executive Officer, subject to making the required CEQA finding, and making the required findings that 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; that the proposed lease is consistent with the common law Public Trust Doctrine; and that the proposed lease is in the State's best interests.

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OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Any time the Commission, or its delegate, approves or rejects a use of sovereign land, the decision-maker 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 will not be allowed to enter into a lease for the existing commercial marina, known as Landing 63, consisting of two covered berths, 11 uncovered berths, gangway, ramp, security vessel, bulkhead, finger dock with three two-pile dolphins, one three-pile dolphin, eight pilings and a 256-foot-long dock with 20 pilings. 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. The delegation of authority to the Executive Officer 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 Executive Officer find pursuant to this delegation of authority that the pending application 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
- C. Best Management Practices for Marina Owners/Operators
- D. Best Management Practices for Berth Holders/Guest Dock Users/Boaters

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RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

Delegate to the Executive Officer the authority to approve or deny issuance of a General Lease – Commercial Use to the Applicant beginning January 1, 2020, for a term of 2 years, for the redevelopment and repair of an existing commercial marina, known as Landing 63, which is currently derelict and not commercially viable, consisting of two covered berths, 11 uncovered berths, gangway, ramp, security vessel, bulkhead, finger dock with three two-pile dolphins, one three-pile dolphin, eight pilings and a 256-foot-long dock with 20 pilings, 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 \$1,724, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$25,000; subject to making the required CEQA finding, and making the required findings that 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; that the proposed lease is consistent with the common law Public Trust Doctrine; and that the proposed lease is in the State's best interests.

EXHIBIT A
LEASE 6200.1
LAND DESCRIPTION

A parcel of tide and submerged land lying within the bed of the Sacramento River, situate adjacent to Section 35, T5N, R4E, MDM as shown on Official U.S. Government Township Plat, approved June 18, 1859, Sacramento County, State of California, being more particularly described as follows:

COMMENCING at the southeast corner of Lot 106, as shown upon the official "Plat of Clampett Tract, located in S.L.S. 306 – Grand Island, Sacramento County, Calif." filed in the office of the County Recorder of Sacramento County, December 24, 1924 in Book 18 of Maps, Map No. 22 and 23; thence N 30°07'16" E, 110.15 feet to the right bank of the Sacramento River and the POINT OF BEGINNING; thence along said bank N 30°07'00" E, 162.87 feet; thence N 18°03'19" E, 97.20 feet; thence leaving said bank S 68°33'16" E, 75.63 feet; thence S 25°19'10" W, 274.26; thence N 56°57'00" W, 77.49 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said river.

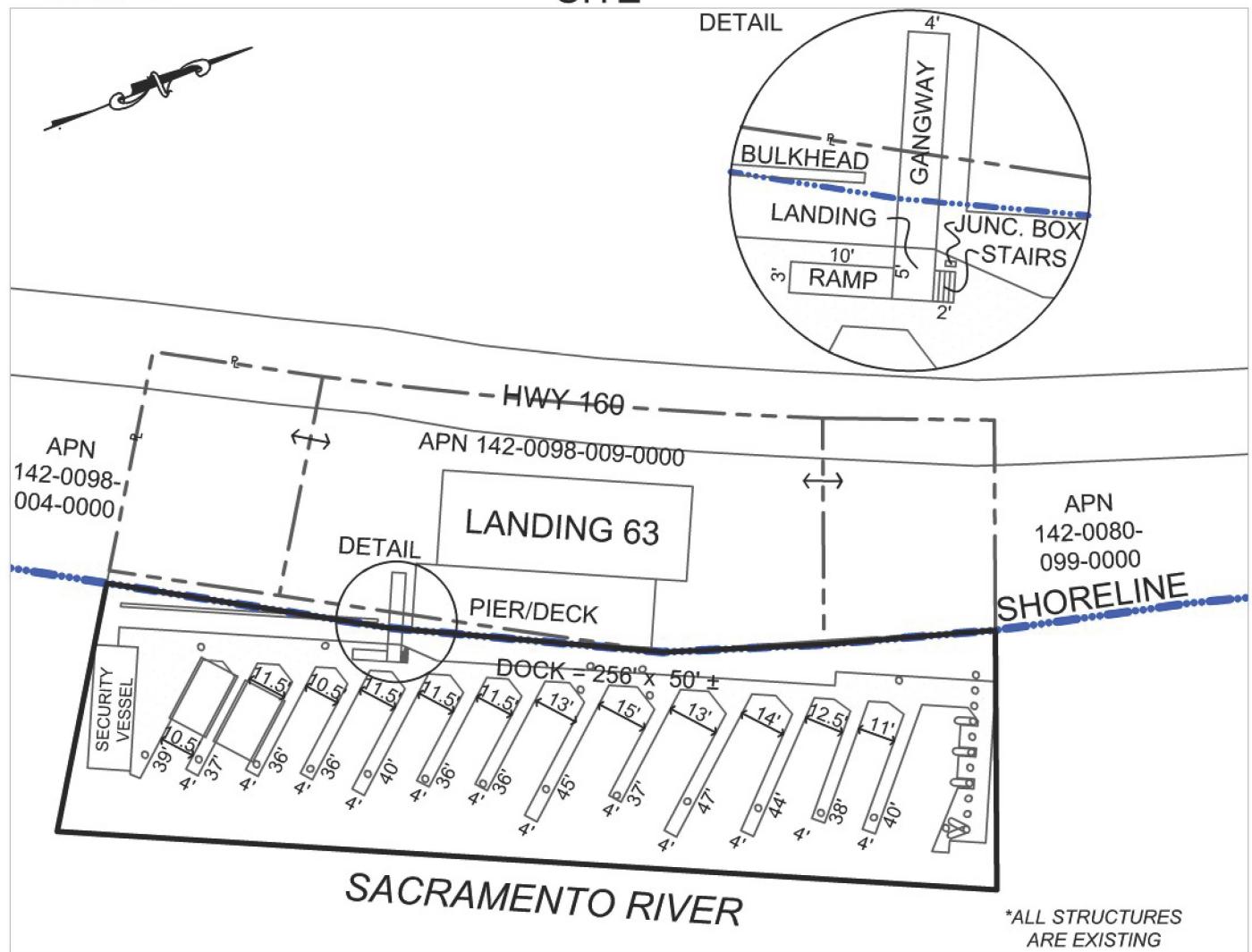
END OF DESCRIPTION

PREPARED 3/18/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

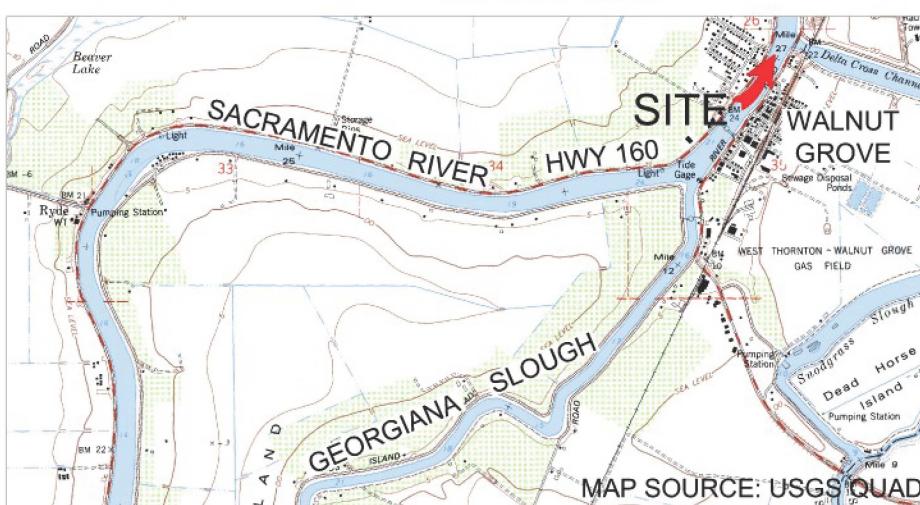
SITE



LANDING 63 - 14031 RIVER ROAD (HWY 160), WALNUT GROVE

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 6200.1
AREIAS
APN 142-0098-009-0000
GENERAL LEASE -
COMMERCIAL USE
SACRAMENTO COUNTY



MJF 3/18/2020

EXHIBIT C

BEST MANAGEMENT PRACTICES FOR MARINA OWNERS / OPERATORS

Petroleum Management

Instruct staff not to use detergents or emulsifiers on a fuel or oil spill.

Post emergency telephone numbers to report oil or chemical spills in prominent locations at the marina.

Recommend the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.

Provide a collection site for used oily pads and used oil or provide information on how and where to dispose of them.

Hazardous Wastes

Have a marina policy to manage hazardous wastes and hazardous materials.

Post a prohibition on the disposal of used oil, antifreeze, paint, solvents, varnishes, and batteries into the dumpster or general collection waste receptacles.

If you provide for hazardous waste collection, manage the wastes in a proper fashion through the use of structurally sound, non-leaking containers, in accordance with all local, state, and federal laws.

In the event of a spill or leak, clean up and dispose of materials promptly and properly and report the spill to all appropriate entities.

If operating a collection facility is not feasible, provide information to your tenants on how and where to dispose their wastes.

Encourage the use of alternative products to hazardous household chemicals. There are many non-toxic or less-toxic products that can be used as alternatives.

Emergencies

Have an updated map of important shut off valves and make sure all employees know the locations.

Keep your list of Emergency Phone Numbers and contact persons updated.

Be sure that all employees are trained in emergency procedures and that they know their responsibilities for each situation as designed in an Emergency Response Plan.

Underwater Boat Hull Cleaning

Require the use of legal hull paints to reduce the possibility of contamination when performing hull cleaning.

Boat Sewage Discharge

If your marina operates a pumpout facility, install adequate signs to identify the station, its location, and hours of operation.

Provide the service at convenient times and at a reasonable cost.

Make the pumpout station user friendly.

Develop and adhere to a regular inspection and maintenance schedule for the pumpout station.

Provide educational information about the pumpout station to boaters.

Inform berth holders of existing local, state, and federal regulations pertaining to the use of Marine Sanitation Devices and the illegal discharge of boat sewage.

Post a list of local pumpout locations in a conspicuous location such as the entrances to the docks.

Solid Waste

Keep litter picked up.

Place trash receptacles and dumpsters in convenient locations for boaters and guests.

Use covered dumpsters and trashcans so they do not fill up with rainwater and do not blow away in heavy winds.

Keep trash enclosures clean and free of debris.

Keep cleanup equipment and materials available.

Inspect trash storage areas regularly.

Dispose of all solid wastes in accordance with local, state, and federal laws and regulations.

Liquid Waste

Train marina employees in oil spill response procedures.

Keep adequate spill response equipment and materials in strategic locations.

Storm Water Runoff

Maintain a Storm Water Pollution Prevention Plan.

Report spills that have entered or have a potential to enter a water body to appropriate agencies.

Provide signage adjacent to any storm drain inlet to discourage illegal dumping of pollutants.

Provide signs adjacent to parking lots that prohibit littering, dumping, and vehicle servicing or washing.

Develop and implement a regular sweeping / cleaning program for hard surface areas.

Reduce or eliminate landscaping and irrigation runoff into the waterway.

EXHIBIT D

BEST MANAGEMENT PRACTICES FOR BERTH HOLDERS / GUEST DOCK USERS / BOATERS

Bilge Water Management

- Keep bilge area as dry as possible.
- Regularly check fittings, fluid lines, engine seals, and gaskets.
- Fix all oil and fuel leaks in a timely manner.
- Do not drain oil into the bilge.
- Fit a drain pan, if feasible, underneath the engine to collect drips and leaks.
- Consider the use of oil-absorbent pads, even in small boats.
- If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pumpout service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.
- Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.
- Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

- Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.
- Avoid overfilling fuel tanks and attend the fuel nozzle at all times.
- Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.
- Use petroleum absorption pads while fueling to catch splash back and any drops when the nozzle is transferred back from the boat to the fuel dock.
- Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris, and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints, and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent; check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

Schedule regular hull cleaning and maintenance to reduce the build up of hard marine growth and eliminate the need for hard scrubbing.

Regularly scheduled gentle cleaning will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles, and other approved containers to dispose of garbage and other waste.