

STAFF REPORT

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04/29/20

PRC 7769.1

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G. Asimakopoulos

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Steven Jack Lininger, as Trustee of the Jack A. Lininger Trust Dated January 4, 2008

APPLICANT/ASSIGNEE:

Alan S. Lowe and Julie K. Lowe, Trustees of The Alan S. and Julie K. Lowe Family Trust Dated October 10, 1996

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, at Long Island, adjacent to 17412 Grand Island Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock, three-pile dolphin, steel ramp, and bank protection.

LEASE TERM:

10 years, beginning June 28, 2019.

CONSIDERATION:

Boat Dock, Three-Pile Dolphin and Steel Ramp: \$125 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.
2. Lessee agrees and acknowledges that the 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 June 28, 2019, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Steven Jack Lininger, as Trustee of The Jack A. Lininger Trust Dated January 4, 2008 ([Item C36, June 28, 2019](#)). That lease will expire on June 27, 2029.

On August 7, 2019, interest in the upland parcel was transferred to Alan S. Lowe and Julie K. Lowe, Trustees of the Alan S. and Julie K. Lowe Family Trust Dated October 10, 1996. The Lessee and Applicant are now requesting an assignment of the lease, and the Applicant agrees to perform and be bound by the terms, conditions, covenants, and agreements contained within the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel. The assignment will be effective as of the date of the upland property transfer, August 7, 2019.

The proposed assignment of lease will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

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 lease facilities are located on the Sacramento River, in a tidally influenced site that is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of a floating boat dock, a three-pile dolphin, steel ramp, 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

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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 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. In rivers and tidally influenced waterways, 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 lease is a 10-year General Lease – Recreational and Protective Structure Use that began on June 28, 2019 and may be subject to the

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climate change effects of the projected sea-level rise scenario provided above. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2029 if an application for a new lease is submitted and would be based on projected sea-level rise scenarios at that time.

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 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 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. Assignment of the 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, sections 15378, subdivision (b)(5).

EXHIBITS:

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

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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.

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 7769.1, 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 Steven Jack Lininger, as Trustee of The Jack A. Lininger Trust Dated January 4, 2008, to Alan S. Lowe And Julie K. Lowe, Trustees of The Alan S. And Julie K. Lowe Family Trust Dated October 10, 1996; effective August 7, 2019.

EXHIBIT A

PRC 7769.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 957, patented October 4, 1871, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing single-berth floating boat dock, steel ramp, and three-pile dolphin lying adjacent to that parcel, as described in Grant Deed, recorded November 26, 1997 in Document Number 1997-11260753 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 deed.

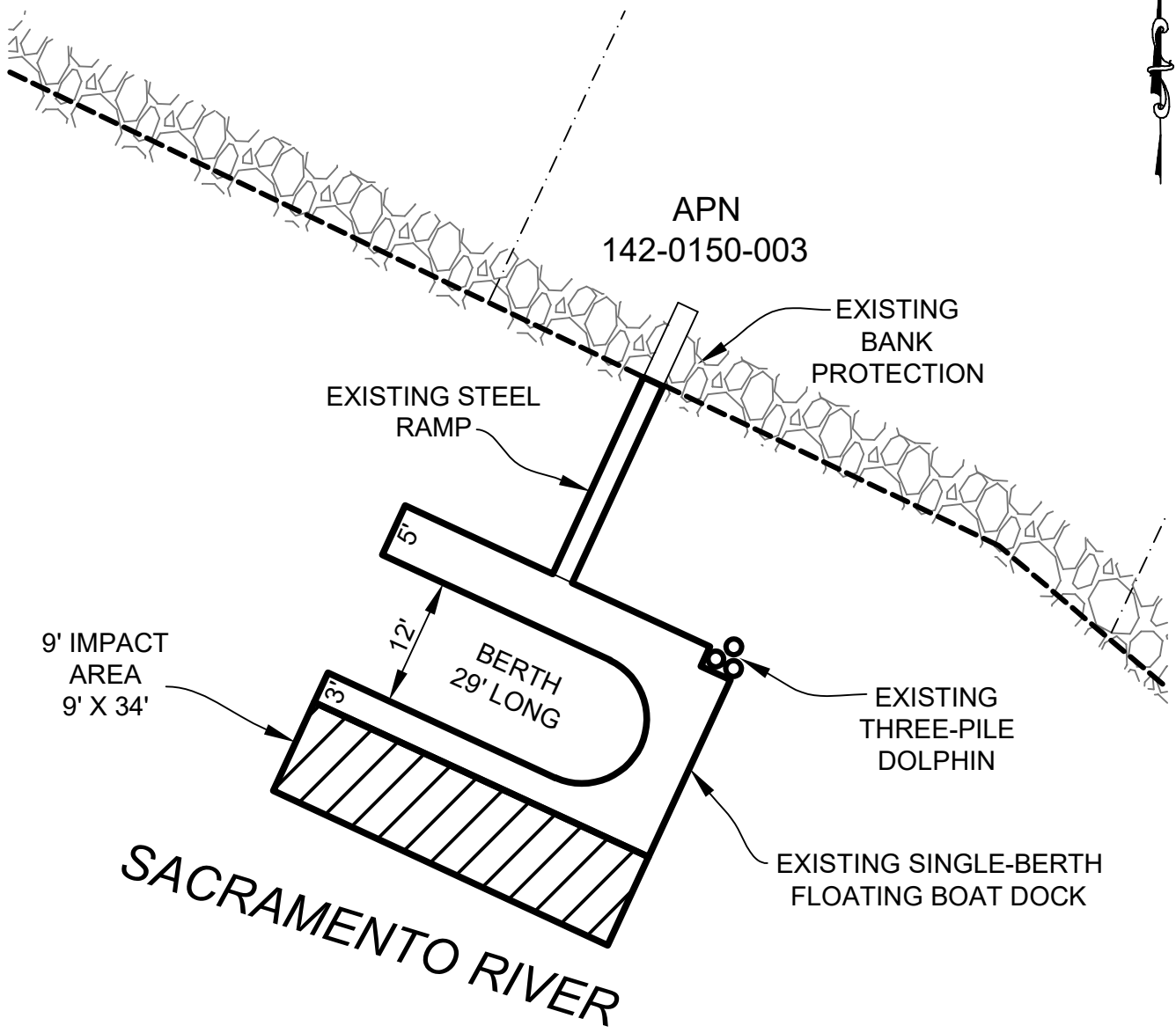
EXCEPTING THEREFROM any portion lying landward of the MHTL of the right bank of said river as per Sacramento Superior Court Case No. 78345 and shown on "Record of Survey of Compromise Title Settlement Agreement, Boundary Line Agreement No. 241 at Long Island, Vicinity of Isleton in Projected Section 27, T4N, R3E, MDM" and filed in Book 38 of Surveys at page 40 Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 3/20/2020 by the California State Lands Commission Boundary Unit.





APN
142-0150-003

EXISTING
BANK
PROTECTION

EXISTING STEEL
RAMP

9' IMPACT
AREA
9' X 34'

5
12'
BERTH
29' LONG
3

EXISTING
THREE-PILE
DOLPHIN

EXISTING SINGLE-BERTH
FLOATING BOAT DOCK

SACRAMENTO RIVER

NO SCALE

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 7769.1 LOWE FAMILY TRUST
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN
142-0150-003

EXISTING
BANK
PROTECTION

EXISTING STEEL
RAMP

9' IMPACT
AREA
9' X 34'

5'
12'
BERTH
29' LONG

EXISTING
THREE-PILE
DOLPHIN

EXISTING SINGLE-BERTH
FLOATING BOAT DOCK

SACRAMENTO RIVER

17412 GRAND ISLAND ROAD, NEAR ISLETON

NO SCALE

LOCATION



EXHIBIT B

PRC 7769.1

LOWE FAMILY TRUST

APN 142-0150-003

GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
SACRAMENTO COUNTY



MJF 3/20/2020

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.