

STAFF REPORT

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06/23/20
PRC 5720.1
A2547
J. Holt

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ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Darren William Brock, as Trustee of the DAWB Trust, dated May 17, 2004

APPLICANT/ASSIGNEE:

Janelle M. Hopps, as Trustee of the Vitznau Trust, and Ryan A. Baily

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 3505 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, gangway, three pilings, and a two-pile dolphin.

LEASE TERM:

10 years, beginning August 5, 2011.

CONSIDERATION:

\$335 per year with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 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 January 26, 2012, the Commission authorized a 10-year General Lease - Recreational Use to Darlene A. Brock, as Trustee of the DAWB Trust, dated May 17, 2004 ([Item C04, January 26, 2012](#)). That lease will expire on August 4, 2021. On May 31, 2018, Darlene A. Brock (trustee)

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died. Darren William Brock assumed the role of successor trustee. On June 12, 2019, the upland was deeded to Janelle Hopps, Trustee of the Vitznau Trust. On August 23, 2019, the upland was transferred to Janelle M. Hopps, as Trustee of the Vitznau Trust, and Ryan A. Baily. The Applicant is now requesting an assignment of the lease. 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 from the Assignor to the Assignee. If approved, the assignment will be effective as of the date of the initial upland transfer, June 12, 2019.

Because the proposed action is an assignment of an existing trust consistent use, there is no impact to the Public Trust, and it remains a trust consistent use. The boat dock and appurtenant facilities have existed at this location for many years. 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 proposed assignment does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a specific term; does not grant the lessee exclusive rights to the lease premises; and reserves an easement to the public for Public Trust-consistent uses.

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 area is located on the Sacramento River, which at this location is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area would be at a higher risk of flood exposure given future projection 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.

This effect could increase 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.

Climate change could have a number of impacts for this region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This potential outcome is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. 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 coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability.

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The lease is a 10-year General Lease – Recreational Use that began on August 5, 2011 and may be subject to the climate change effects of the projected scenario of 0.8 feet of sea-level rise (from year 2000 levels) by 2030 as shown above. Regular maintenance as required by the terms of the lease will help reduce the likelihood of severe structural degradation, dislodgement, or hazards from the existing facilities. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2021 if a new lease application 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, but will accurately reflect the new upland owner. 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 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 Lessee may be required to remove the existing boat dock, gangway, three pilings, and a two-pile dolphin, 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. 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).

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EXHIBITS:

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

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 assignment of Lease No. PRC 5720.1, a General Lease – Recreational 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 Darren William Brock, as Trustee of the DAWB Trust, dated May 17, 2004, to Janelle M. Hopps, as Trustee of the Vitznau Trust, and Ryan A. Baily.

EXHIBIT A

PRC 5720.1

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 178 patented June 10, 1869, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, three pilings and one 2-pile dolphin lying adjacent to that parcel as described in Deed of Trust, recorded June 12, 2019 in Document Number 201906121958 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/11/2020 by the California State Lands Commission Boundary Unit



NO SCALE



APN 225-0260-006

SACRAMENTO RIVER

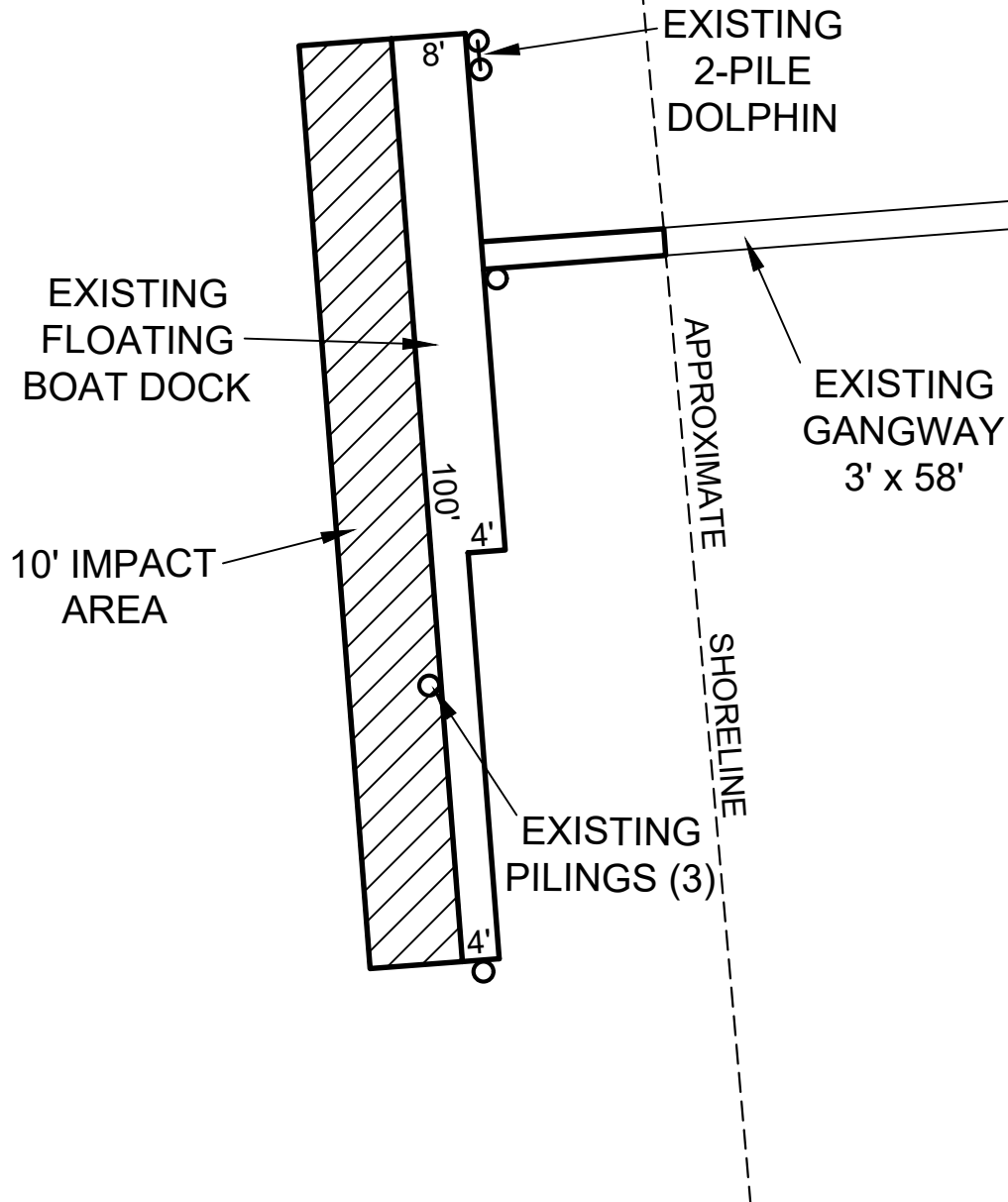


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5720.1, VITZNAU TRUST & BAILY
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

SACRAMENTO RIVER

EXISTING
FLOATING
BOAT DOCK

10' IMPACT
AREA

8'

100'

4'

4'

EXISTING
PILINGS (3)

EXISTING
2-PILE
DOLPHIN

APPROXIMATE
SHORELINE

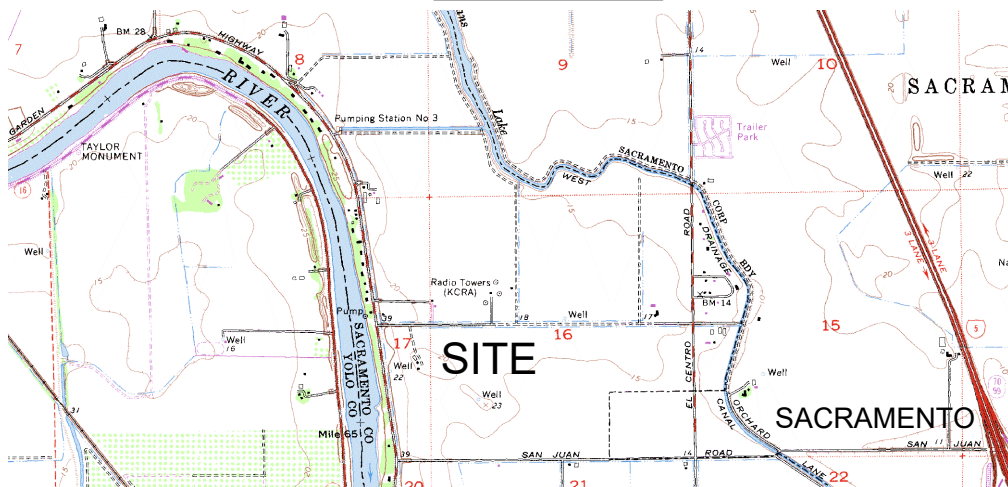
EXISTING
GANGWAY
3' x 58'

APN 225-0260-006

3505 GARDEN HIGHWAY, SACRAMENTO

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

PRC 5720.1

VITZNAU TRUST & BAILY

APN 225-0260-006

GENERAL LEASE-

RECREATIONAL USE

SACRAMENTO COUNTY



TS 05/11/2020