

Staff Report 29

General Lease – Protective Structure Use

APPLICANT:

OLS Holding, LLC

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in the Sacramento River, adjacent to 5311 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of existing bank protection.

TERM:

10 years, beginning August 20, 2020.

CONSIDERATION:

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:

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

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 28, 2007, the Commission authorized a 10-year General Lease - Recreational and Protective Structure Use to Kim Thoa Duong, Trustee, or her successors in Trust, under the Duong Family Trust "B" dated November 21, 1990 ([Item C25, June 28, 2007](#)). That lease expired on May 9, 2017. Sometime during the lease term, the boat dock and walkway were removed from the lease premises. On March 13, 2017, the upland parcel was deeded to the Applicant. The Applicant is now applying for a General Lease – Protective Structure Use, for the use and maintenance of existing bank protection in the Sacramento River. The Applicant does not plan to replace the boat dock and walkway.

The Applicant owns the upland adjoining the lease premises. The proposed lease contains existing riprap bank protection, referenced in the prior lease. The bank protection will maintain and improve the integrity of the river channel, at no cost to the public. It may reduce erosion of the natural shoreline which in turn, may help protect Public Trust resources in and around the Sacramento River. Additionally, the bank protection will assist with flood protection of the upland parcel (not within the lease area).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

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 consideration to the people of the State for the occupation of the public land involved, which will be public use and benefit.

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.

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.

The bank protection 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 impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; 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 bank protection and restore the premises to their original condition. If the lease is issued, on expiration or prior termination of the lease, the lessee also will have 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 interfere with public rights to navigation and fishing or with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning August 20, 2020, for a term of 10 years, for the use and maintenance of existing bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: 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 4655

LAND DESCRIPTION

One parcel of tide and submerged land situated in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Lands survey 404 Sutter County patented January 6, 1869, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying that existing bank protection lying adjacent to that parcel described in Grant Deed recorded March 13, 2017 as Document Number 20170313 at Page 1206 in Official Records of Sacramento County.

EXCEPTING THEREFROM any portion 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 06/15/2020 by the California State Lands Commission Boundary Unit.





APN 201-0330-027

APPROX. SHORELINE

EXISTING
BANK
PROTECTION

SACRAMENTO RIVER

EXHIBIT A

PAGE 2 OF 2

RGB 6/15/20

LAND DESCRIPTION PLAT
LEASE 4655, OLS HOLDING, LLC
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

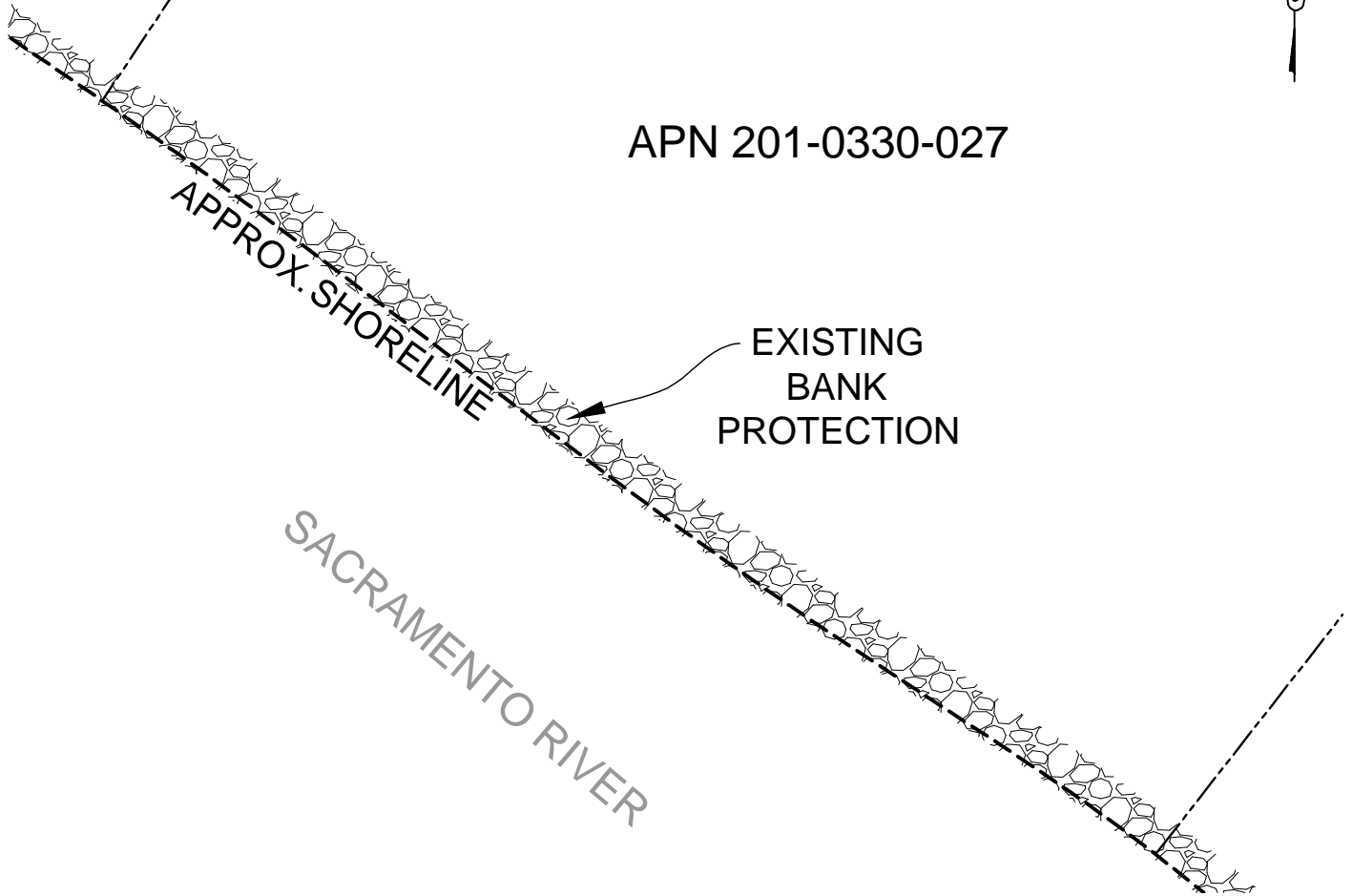


NO SCALE

SITE



APN 201-0330-027



5311 GARDEN HWY, NEAR SACRAMENTO

NO SCALE

LOCATION

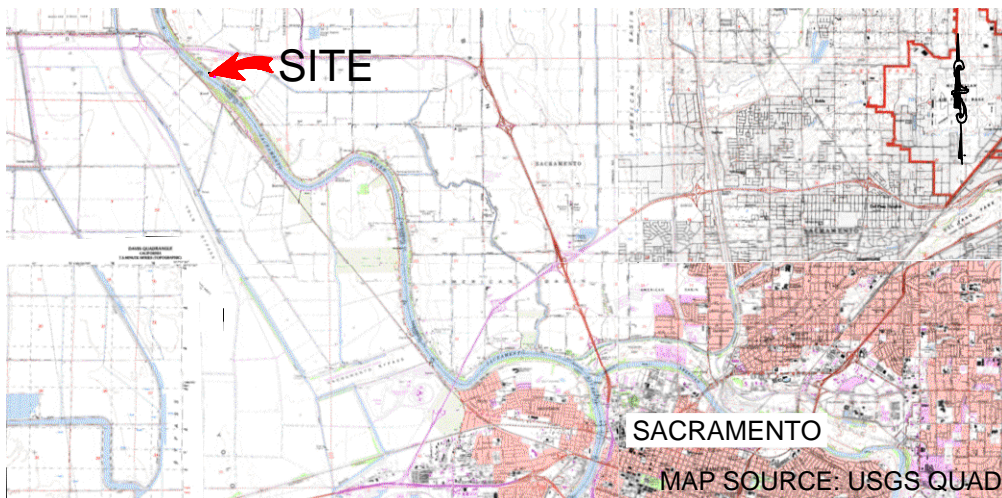


EXHIBIT B

LEASE 4655
 OLS HOLDING, LLC
 APN 201-0330-027
 GENERAL LEASE -
 PROTECTIVE STRUCTURE USE
 SACRAMENTO COUNTY



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.

RGB 6/15/20