

# Staff Report 32

## **APPLICANT:**

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James Thorpe White and Jennie Darsie White, Trustee of The River House Trust dated July 2, 2009

## **PROPOSED ACTION:**

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Issuance of General Lease – Recreational and Protective Structure Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the San Joaquin River, adjacent to 18650 Sherman Island East Levee Road, Rio Vista, Sacramento County.

## **AUTHORIZED USE:**

Continued use and maintenance of an existing boat dock with slip, gangway, electrical and water conduits, six pilings, and bank protection.

## **TERM:**

10 years, beginning December 10, 2020.

## **CONSIDERATION:**

\$307 per year, with an annual Consumer Price Index adjustment.

## **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:**

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### **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:**

On December 10, 2010, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to James Thorpe White and Jennie Darsie White, Trustee of The River House Trust dated July 2, 2009 ([Item C14, December 10, 2010](#)). That lease will expire on December 9, 2020. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of the existing boat dock with slip, gangway, electrical and water conduits, six pilings, and bank protection in the San Joaquin River.

The Applicant owns the upland adjoining the lease premises. The subject facilities have existed at this location for many years. The facilities are used for the docking and mooring of boats. 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 bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources for recreational and navigational use by the public.

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 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 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 lease area is located on the San Joaquin River,

which is a tidally influenced site vulnerable to flooding at current sea levels. The facilities associated with this lease area include an uncovered boat dock with slip, gangway, six pilings, electrical and water conduits, 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,” and “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 Francisco**

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: Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the San Joaquin 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, creeks, 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. The uncovered boat dock (with electrical and water conduits) with slip, and gangway 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 function during and after storm seasons and to avoid dislodgement. The fixed

structures like the pilings, and electrical and water conduits on the uncovered boat dock may need frequent maintenance and reinforcement to withstand higher levels of flood exposure. The electrical conduits need to be monitored closely during storms or floods, so they do not become a public safety hazard.

The vegetation on the bank protection provides stability and reduces the amount of erosion and scour pressure it may experience during future events because of the underground root system created from the vegetation and trees on the bank but remains at risk of accelerated deterioration from currents and floods. 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 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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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 boat dock with slip, gangway, electrical and water conduits, six pilings, and bank protection 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. 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:**

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

## **RECOMMENDED ACTION:**

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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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the 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 December 10, 2020, for a term of 10 years, for the continued use and maintenance of an existing boat dock with slip, gangway, electrical and water conduits, six pilings, and 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; annual rent in the amount of \$307, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 8907**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the San Joaquin River, lying adjacent to Swamp and Overflow Lands Survey 544, patented November 9, 1870, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing boat dock with slip, gangway, six pilings, and electrical water conduit adjacent to that parcel described in Exhibit A of Grant Deed recorded July 9, 2009 in Book 20090709, Page 0671, Official Records of Sacramento County.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH any portion lying immediately beneath any bank protection structure lying adjacent to said deed.

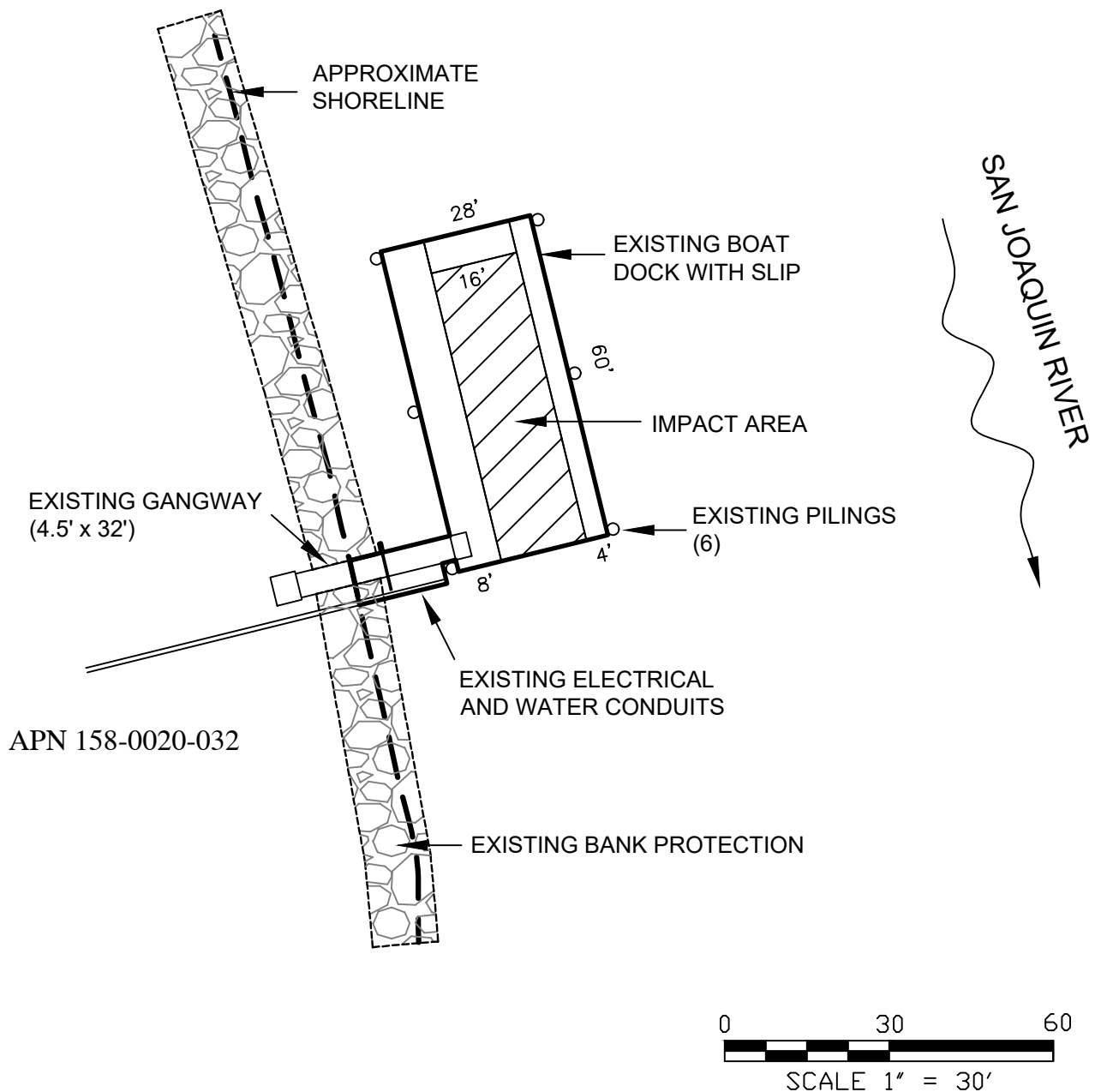
EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the San Joaquin River.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

Prepared 7/1/2020 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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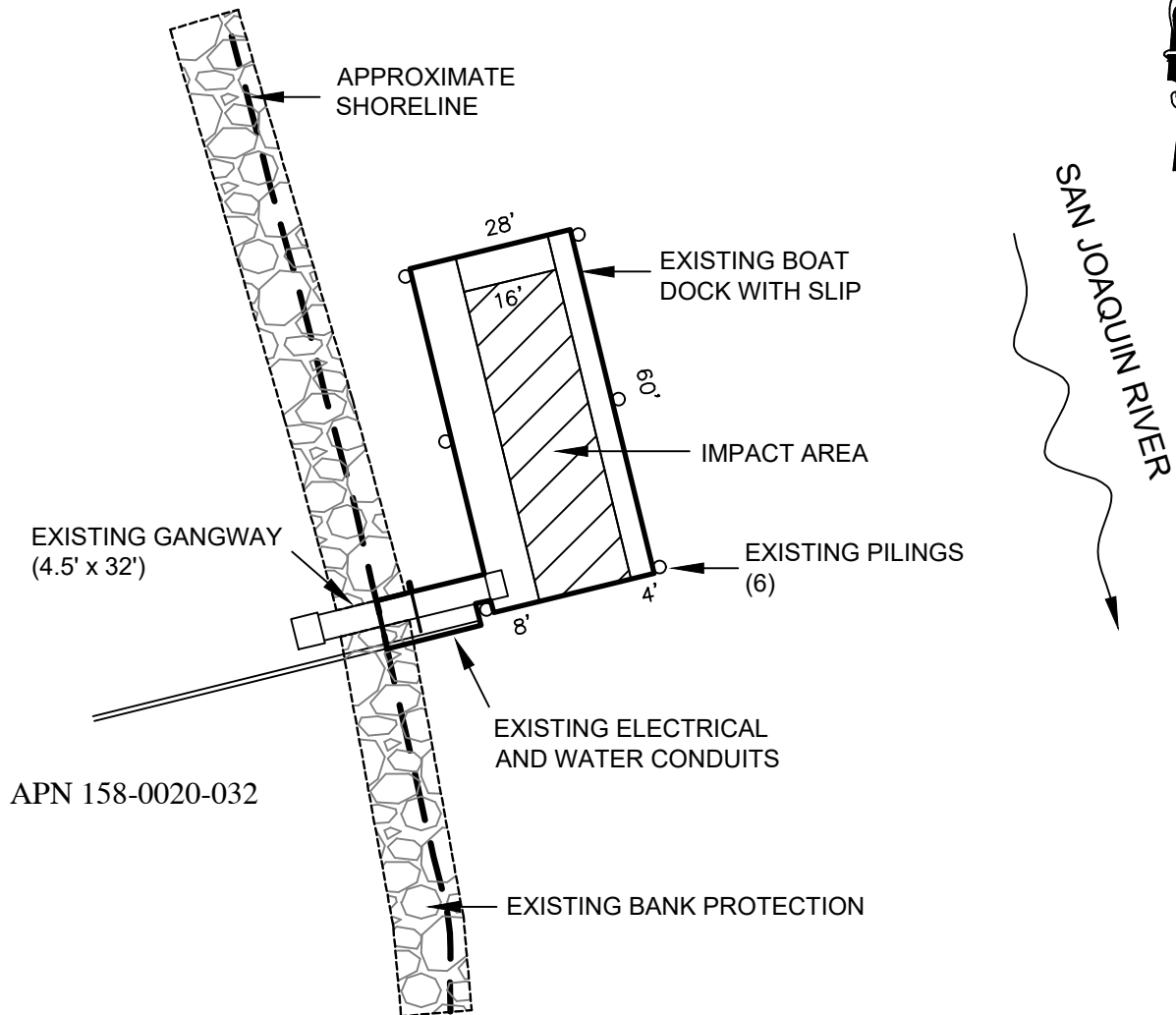
LAND DESCRIPTION PLAT  
LEASE 8907, RIVER HOUSE TRUST  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

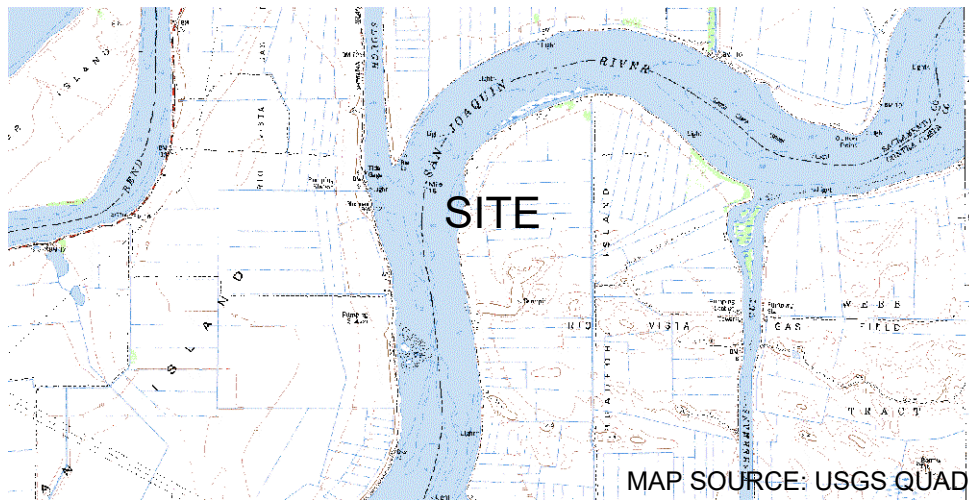
## SITE



18650 SHERMAN ISLAND EAST LEVEE ROAD, RIO VISTA

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 8907  
RIVER HOUSE TRUST  
APN 158-0020-032  
GENERAL LEASE -  
RECREATIONAL & PROTECTIVE  
STRUCTURE USE  
SACRAMENTO COUNTY



DJF 7/10/2020