

Staff Report 26

APPLICANT:

Ruth Sarahi Awan and Hatif Kaiyoom Awan

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Calaveras River, adjacent to 2955 Calariva Drive, Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, ramp, and landing.

TERM:

10 years; beginning December 17, 2020.

CONSIDERATION:

\$152 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:

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:

On October 22, 2009, the Commission authorized a 10-year Recreational Pier Lease to Ernesto Ferraro and Aaron Erskin Sapp ([Item C03, October 22, 2009](#)). That lease expired on October 21, 2019. On June 22, 2011, the upland was transferred to David Sokotowski. This transaction occurred without a lease quitclaim deed, assignment of lease, and notification to staff. On May 24, 2018, the upland was deeded to Ruth Sarahi Awan and Hatif Kaiyoom Awan. The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of an existing boat dock, ramp, and landing in the Calaveras River.

Staff recommends compensation from the Applicant in the amount of \$394, for the unauthorized occupation of State land during the period of May 24, 2018, through December 16, 2020, the day preceding issuance of the proposed new lease.

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 recreational boating purposes. 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 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 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 Calaveras River, which is a tidally influenced site vulnerable to flooding at current sea levels. The facilities associated with this lease area are an existing boat dock, ramp, and landing.

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 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
Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Calaveras 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 boat dock, ramp, and 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 function during and after storm seasons and to

avoid dislodgement. The fixed structures like the piling may need frequent maintenance and reinforcement to withstand higher levels of flood exposure.

The vegetation on the bank (not under Commission's jurisdiction) 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 that 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 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 Applicant and prior lessee may be required to remove the existing boat dock, ramp, and landing, 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 this activity 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 impair the public rights to navigation and fishing or 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$394 for the unauthorized occupation of State land during the period of May 24, 2018 through December 16, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 2020, for a term of 10 years, for the continued use and maintenance of an existing boat dock, ramp, and landing, 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 \$152, with an

annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5562

LAND DESCRIPTION

A parcel of submerged land situate in the bed of the Calaveras River, lying adjacent to Swamp and Overflowed Land Survey 924 patented April 19, 1876, County of San Joaquin, State of California and more particularly described as follows:

All those lands underlying an existing dock, ramp, and landing lying adjacent to the left bank of said river and being adjacent to and northwesterly of that parcel of land as described in that Grant Deed, recorded May 24, 2018 in Document Number 2018-057513 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 11/19/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



CALAVERAS
RIVER

9' IMPACT AREA

10'

20'
DOCK

6'

RAMP
3.5'x12'

LANDING
3.5'x3.5'

STAIRS NOT A
PART OF LEASE

APPROX. SHORELINE

APN 109-28-460

NO SCALE

EXHIBIT A

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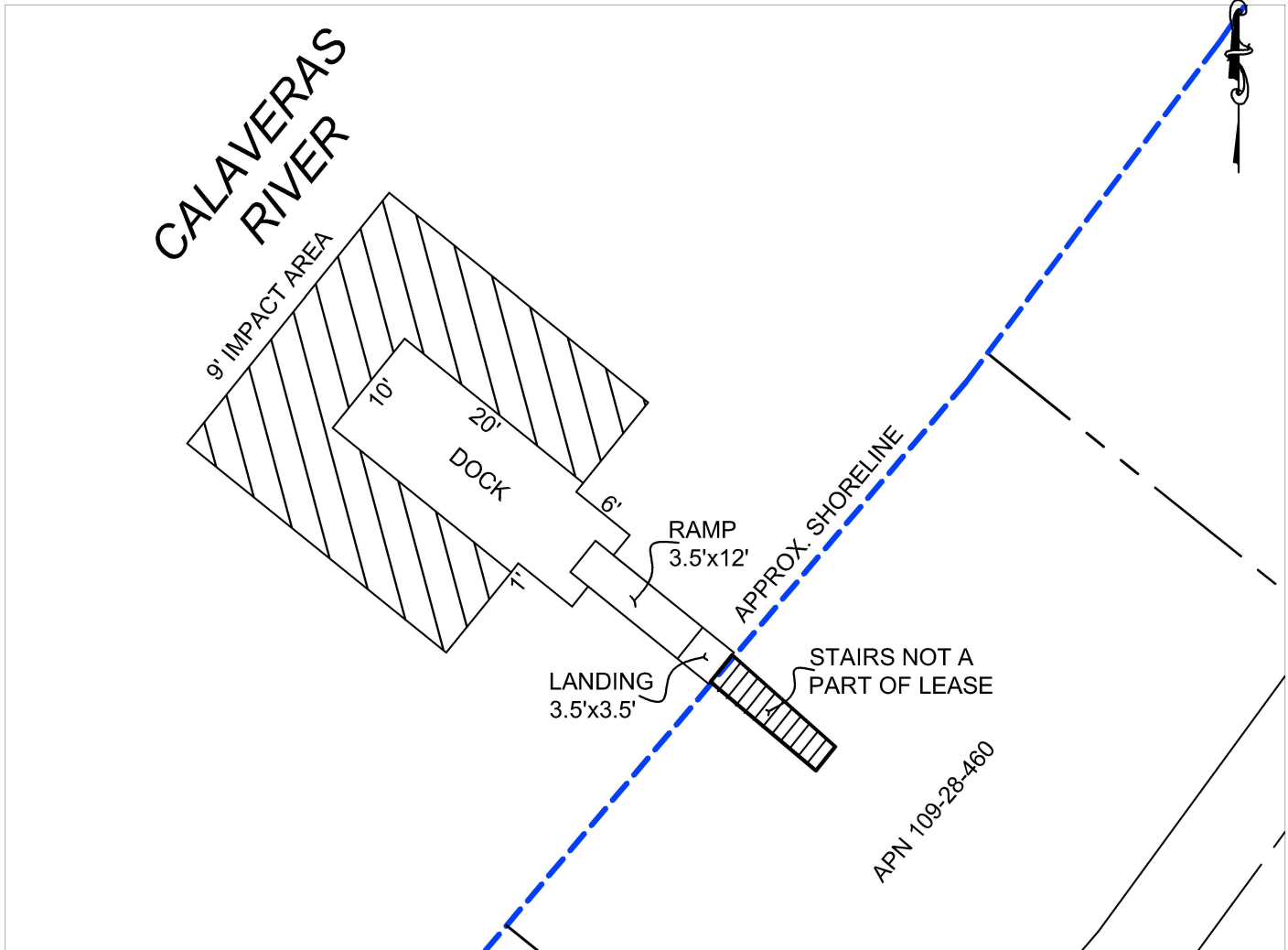
LAND DESCRIPTION PLAT
LEASE 5562, AWAN
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

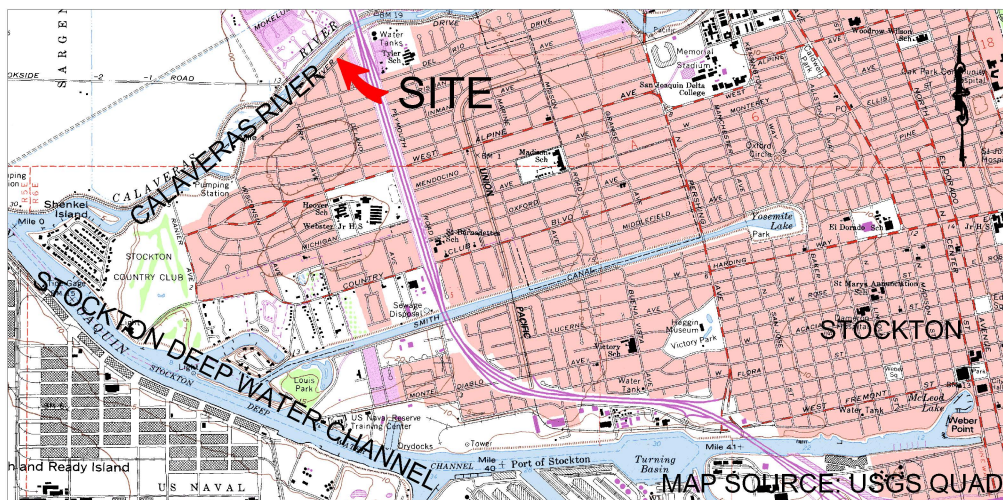
SITE



2955 CALARIVA DR. NEAR STOCKTON

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 5562
AWAN
APN 109-280-460
GENERAL LEASE -
RECREATIONAL USE
SAN JOAQUIN COUNTY



MJF 11/19/2020