

# Staff Report 20

## **APPLICANT:**

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Delta Yacht Club, Inc., a California Domestic Nonprofit Corporation

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational and Protective Structure Use

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

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Number 129-120-010, at Tule Island, near Stockton, San Joaquin County.

## **AUTHORIZED USE:**

Use and maintenance of an existing boat dock, gangway, electric and water utility outlets, and bank protection.

## **TERM:**

10 years, beginning September 16, 2020.

## **CONSIDERATION:**

**Boat dock, gangway, and electric and water utility outlets:** \$5,442 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:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that the hazards associated with climate change, including 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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On April 24, 2001, the Commission authorized a 20-year General Lease – Recreational and Protective Structure Use to Delta Yacht Club for the use and maintenance of an existing floating boat dock, walkway, and bank protection ([Item C36, April 24, 2001](#)). That lease expired on September 15, 2020. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing boat dock, gangway, and bank protection previously authorized by the Commission, and electric and water utility outlets not previously authorized by the Commission. The existing electric and water utility outlets were not authorized in the previous lease but appear to have been in place since before 2010. The docking facilities are for the sole private use of the members of the Delta Yacht Club and not for commercial purposes. Staff recommends issuance of a new lease beginning September 16, 2020.

As part of the application review process, the Commission's Boundary Determination Unit completed a boundary analysis of the subject parcel to determine the State's leasing jurisdiction. The analysis was limited to determining the lease premises for the proposed 10-year term. The Boundary Determination Unit would need to conduct further research to precisely determine the State's interests at this location. Based on available evidence currently known to and reviewed by staff, it appears that a portion of the San Joaquin River at this location is experiencing natural accretion that has been occurring over many years, resulting in a new reduced lease area of 32,391 square feet.

The Applicant has the right to use the upland parcel by means of a long-term lease with the Stockton Port District. The subject facilities have existed at this location for many years, are used for the docking and mooring of boats, and facilitate recreational boating. 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 lands (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 proposed 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 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 are an existing boat dock, gangway, electric and water utility outlets, 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 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**

<b>Year</b>	<b>Projection (feet)</b>
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 floating boat dock and walkway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing its 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 bank protection may need frequent maintenance and reinforcement to withstand higher levels of flood exposure. The fixed structures like the electrical and water conduits on the floating 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 may remain at risk of accelerated deterioration from currents and floods. Exposed portions of the bank protective structure could be vulnerable to future 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 the effects of climate change, including sea-level rise.

## **CONCLUSION:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs 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 an 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, gangway, electric and water utility outlets, 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 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 proposed 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 September 16, 2020, for a term of 10 years, for the use and maintenance of an existing boat dock, gangway, and bank protection previously authorized by the Commission, and electric and water utility outlets not previously authorized by the Commission, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration for the boat dock, gangway, and electric and water utility outlets: \$5,442 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit; with the State reserving the right at any time to set a monetary rent, as specified in the lease, 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 3930

### LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the San Joaquin River, lying adjacent to Swamp and Overflowed Land Survey 1161, patented November 11, 1867, County of San Joaquin, State of California and more particularly described as follows:

#### PARCEL 1 – Dock Area

COMMENCING at a 1" bolt at U.S.C.E. Station 410+36.05 on the as shown on that Parcel Map filed April 4<sup>th</sup>, 1978 in Book 5 of Parcel Maps at Page 191, San Joaquin Records; thence North 83°54'41" West 439.53 feet to a 1" bolt at U.S.C.E. Station 414+75.51; thence North 46°32'58" West 740.60 feet to the POINT OF BEGINNING; thence along the following fourteen (14) courses:

- 1) South 81°13'27" West 166.68 feet;
- 2) South 76°25'00" West 122.06 feet;
- 3) South 76°02'35" West 115.54 feet;
- 4) South 70°41'04" West 98.28 feet;
- 5) North 19°18'56" West 50.00 feet;
- 6) North 70°41'04" East 100.62 feet;
- 7) North 76°02'35" East 117.46 feet;
- 8) North 75°05'05" East 116.49 feet;
- 9) North 13°35'00" West 44.11 feet;
- 10) North 76°35'00" East 22.00 feet;
- 11) South 13°35'00" East 44.00 feet;
- 12) North 76°25'00" East 107.71 feet;
- 13) North 81°13'27" East 168.78 feet;
- 14) South 08°46'33" East 50.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the San Joaquin River.

#### PARCELS 2 – Rip-Rap

COMMENCING at a 1" bolt at U.S.C.E. Station 410+36.05 on the as shown on that Parcel Map filed April 4<sup>th</sup>, 1978 in Book 5 of Parcel Maps at Page 191, San Joaquin Records; thence North 83°54'41" West 439.53 feet to a 1" bolt at U.S.C.E. Station 414+75.51; thence North 26°01'19" West 698.11 feet to the POINT OF BEGINNING; thence along the following eight (8) courses:

- 1) South 78°52'57" West 525.35 feet;
- 2) South 76°25'00" West 20.89 feet;
- 3) South 73°46'48" West 361.01 feet;

- 4) North 16°13'12" West 25.00 feet;
- 5) North 73°46'48" East 361.59 feet;
- 6) North 76°25'00" East 22.00 feet;
- 7) North 78°52'57" East 522.54 feet;
- 8) South 18°44'38" East 25.22 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the San Joaquin River.

### **END OF DESCRIPTION**

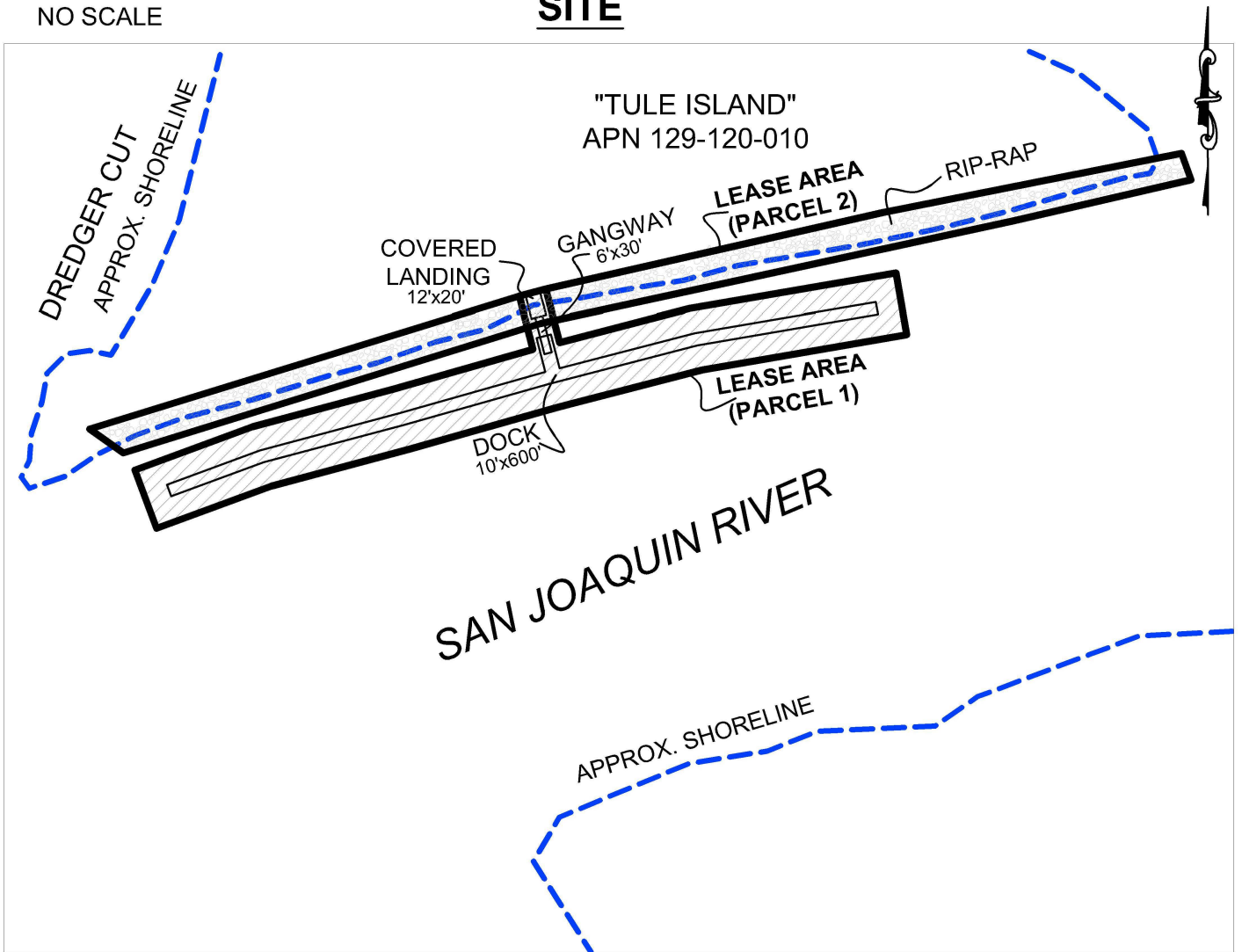
PREPARED 1/20/2021 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





NO SCALE

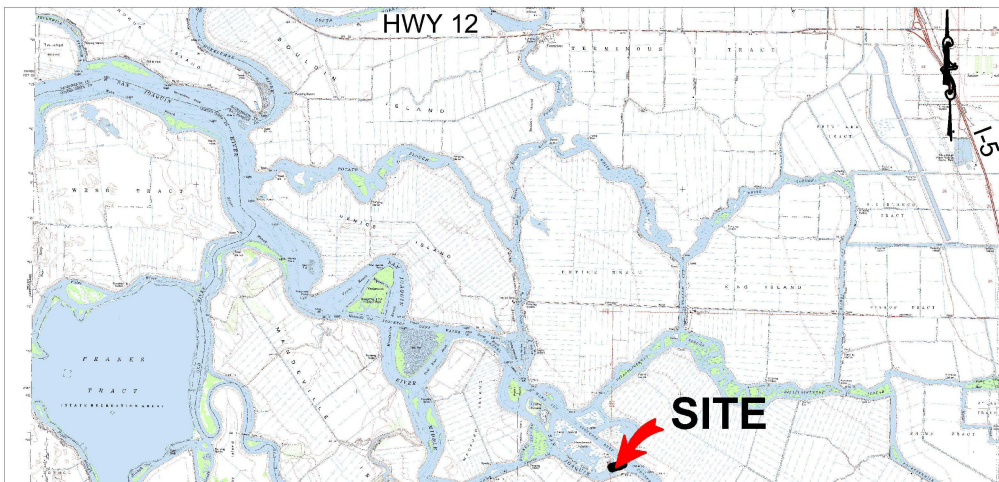
## SITE



Tule Island, San Joaquin River

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

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 3930  
DELTA YACHT CLUB  
APN 129-120-010  
GENERAL LEASE -  
RECREATIONAL AND  
PROTECTIVE STRUCTURE USE  
SAN JOAQUIN COUNTY



MJF  
01/19/2021