

Staff Report 21

APPLICANT:

Patricia R. Enos, Ron J. Enos, and Stacy A. Benson, Co-Trustees of the Enos Family Trust

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Georgiana Slough, adjacent to 14810 Andrus Island Road, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, ramp, and two pilings previously authorized by the Commission and two existing pilings not previously authorized by the Commission.

TERM:

10 years; beginning December 10, 2020.

CONSIDERATION:

\$167 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 December 10, 2010, the Commission authorized a 10-year General Lease – Recreational Use to Joseph A. Enos and Patricia R. Enos, Trustees of the Enos Trust, established November 20, 1989 ([Item C11, December 10, 2010](#)). That lease expired on December 9, 2020. On November 6, 2014, Patricia R. Enos, as trustor, amended and restated the Trust after the death of Joseph A. Enos. The amendment included trustees Ron J. Enos and Stacy A. Benson under the restated Enos Family Trust. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing boat dock, ramp, and two pilings previously authorized by the Commission and two existing unattached pilings not previously authorized by the Commission in Georgiana Slough. The Commission's accounting records show the annual rent was paid through December 9, 2020. Therefore, staff recommends starting the new lease on December 10, 2020.

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 subject facilities are located on Georgiana Slough, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected 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 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 Georgiana Slough'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.

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. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause

facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the dock and pilings. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating boat dock and ramp 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 or replacement to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features, such as the pilings, may need reinforcement 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.

The vegetation on the bank of the slough (not within the lease area) 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. But, the bank remains at risk of accelerated deterioration from currents and potential floods. Exposed portions of the vegetated bank could be vulnerable to future events.

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; 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 Applicant may be required to remove the existing boat dock, ramp, two pilings, and two unattached pilings, 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:

- 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 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:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 10, 2020, for a term of 10 years, for the use and maintenance of an existing boat dock, ramp, and two pilings previously authorized by the Commission and two existing unattached pilings not previously authorized by the Commission, 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 \$167, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8906

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of Georgiana Slough, lying adjacent to Swamp and Overflowed Survey 357 patented February 6, 1884 County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing dock, gangway, two (2) unattached pilings and two (2) pilings with a brace lying adjacent to the west bank of said slough and being adjacent to those lands as described in "Exhibit A" of Grant Deed recorded in Book 19891130 Page 1017 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 west bank of said slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 1/14/2021 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



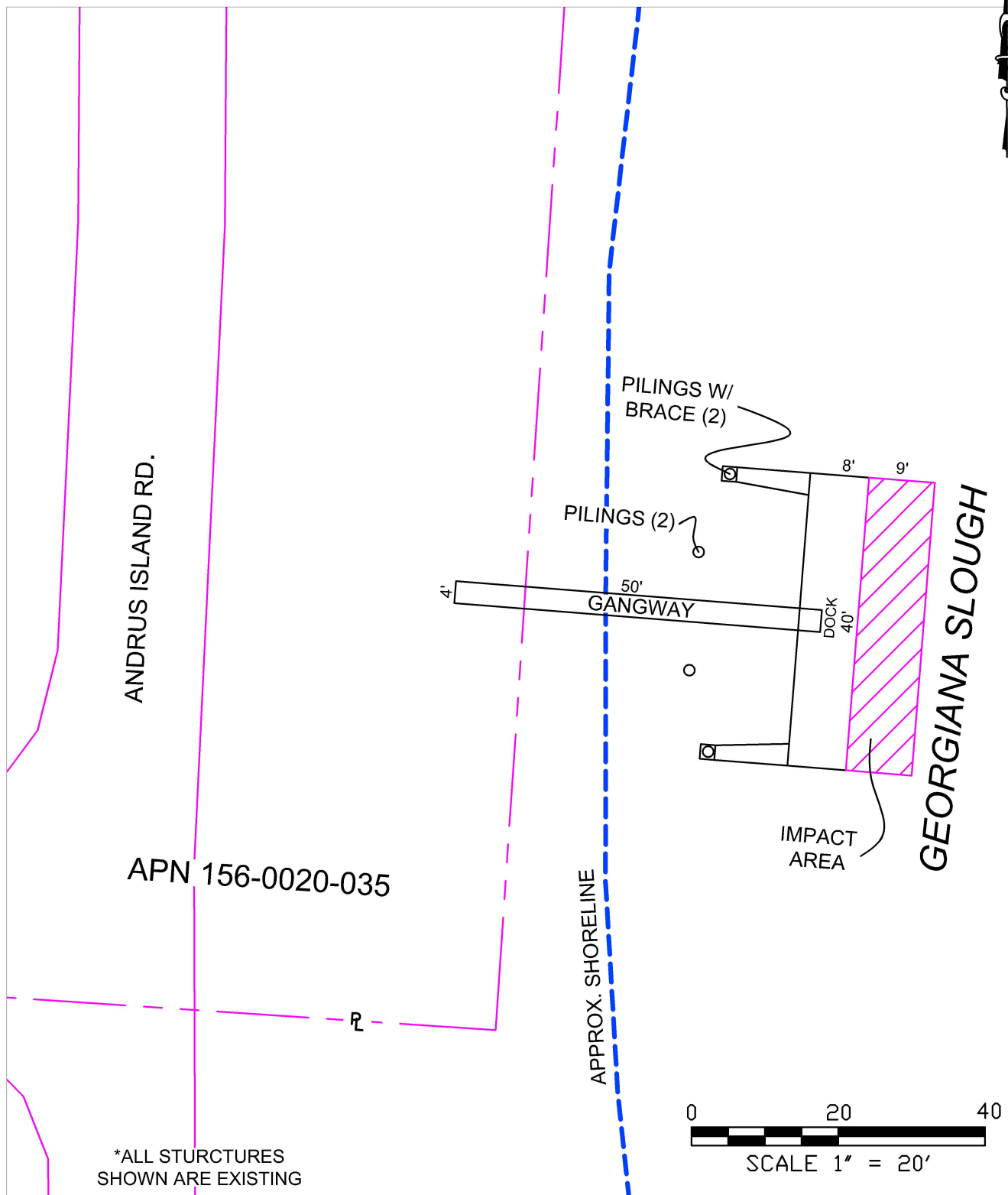


EXHIBIT A

Page 2 of 2

MJF 1/13/2021

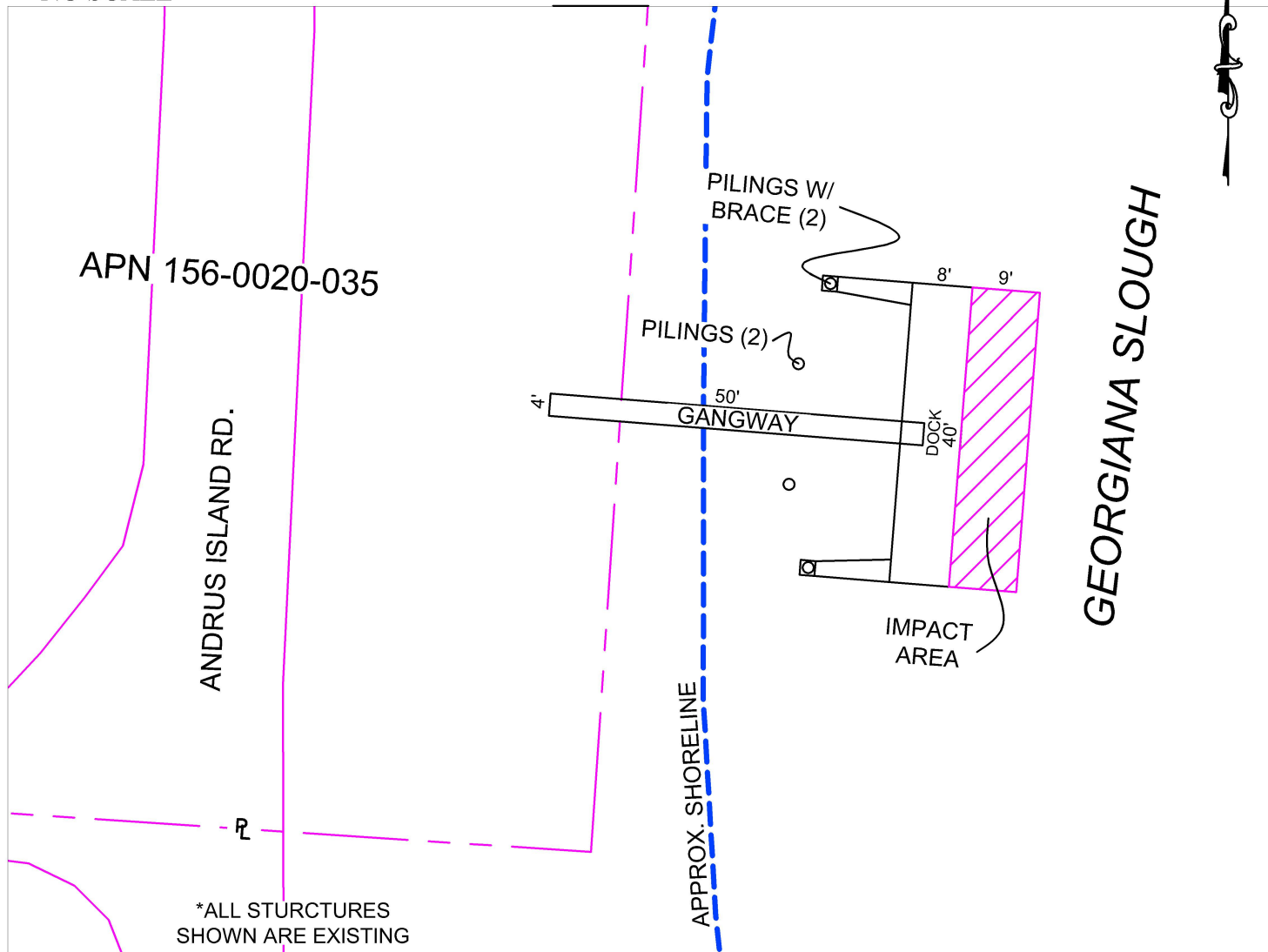
LAND DESCRIPTION PLAT
LEASE 8906, ENOS TRUST
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

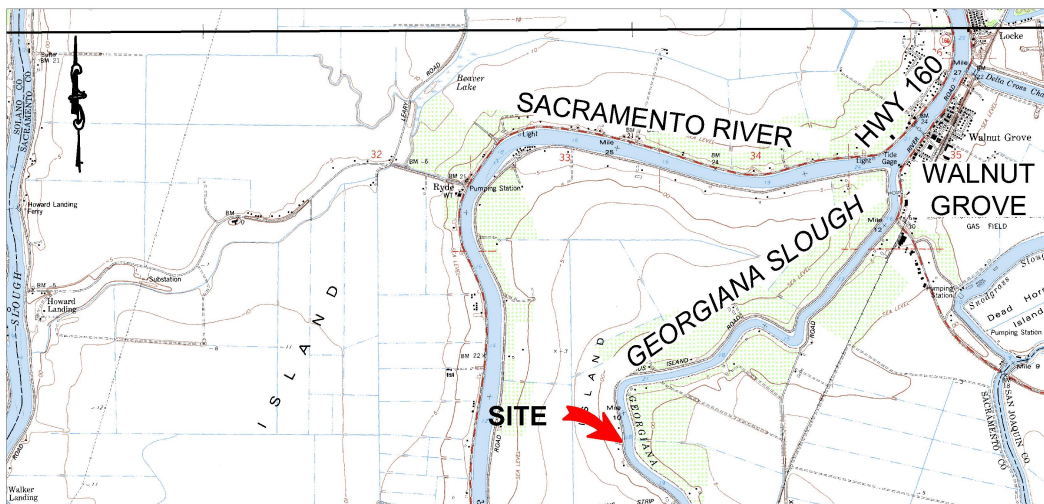
SITE



14810 Andrus Island Rd, near Walnut Grove

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 8906
ENOS TRUST
APN 156-0020-035
GENERAL LEASE -
RECREATIONAL USE
SACRAMENTO COUNTY



MJF 1/13/2021

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.