

Staff Report 24

LESSEE/APPLICANT:

Keith Hobert and Laurie Hobert

PROPOSED ACTION:

Issuance of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 17404 Grand Island Road, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, ramp, landing, deck, dolphin piling, and bank protection.

TERM:

10 years, beginning April 6, 2021.

CONSIDERATION:

Boat dock, ramp, landing, deck, and dolphin piling: \$214 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 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:

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 April 6, 2011, the Commission authorized a General Lease – Recreational and Protective Structure Use to Paul R. Scott and Keith J. Hobert ([Staff Report C21, April 6, 2011](#)). The lease will expire on April 5, 2021.

On February 10, 2014, interest in the upland parcel and lease improvements were deeded to Keith Hobert and Laurie Hobert. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing boat dock, ramp, landing, deck, dolphin piling, and bank protection.

The subject dock and appurtenant facilities are privately owned and maintained and are for the docking and mooring of recreational boats. Recreational boating is water-dependent and 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 existing boat dock and appurtenant facilities have existed at this location for many years and are located directly adjacent to the Applicant's upland property. 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 existing deck is generally not consistent with the Public Trust Doctrine. However, the deck does not substantially interfere with the public rights of navigation or access. Proposed rent for the deck is calculated using a rate based on nearby upland land values to ensure the State receives appropriate compensation for use of sovereign land as the deck serves as an extension of the upland property's private backyard.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, nor permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements 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 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 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 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 sediment accumulation 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 due to warming temperatures resulting 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 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 ramp 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 deck, landing, dolphin piling and bank protection may need frequent maintenance and reinforcement to withstand higher levels of flood exposure.

The vegetation on the bank 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 interfere with Public Trust needs 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. An applicant has no right to a new lease or to renewal of any previous lease. Denial of the application may result in a determination that the proposed activity on or use of state land is unauthorized and may result in legal action.
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 FINDINGS:

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:

1. Find that the ramp, dock, 3-pile dolphin, and bank protection will not substantially interfere with the Public Trust needs and values at this location, at this time and for the foreseeable term of the lease and are consistent with the common law Public Trust Doctrine; and
2. Find that the existing deck is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust needs and values at this location at this time and for the foreseeable term of the lease; and
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Keith Hobert and Laurie Hobert beginning April 6, 2021, for a term of 10 years, for the use and maintenance of an existing boat dock, ramp, landing, deck, dolphin piling, 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; consideration for the boat dock, ramp, landing, deck, and dolphin piling: \$214 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 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 4761

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River on Long Island, lying adjacent to Swamp and Overflowed Land Survey 957, patented October 4, 1871, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, ramp, deck and one 3-pile dolphin lying adjacent to that parcel, as described in Grant Deed, recorded February 10, 2014 in Book 20140210 at Page 0443 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

EXCEPTING THEREFROM any portion lying landward of the MHTL of the right bank of said river as per Sacramento Superior Court Case No. 78345 and shown on "Record of Survey of Compromise Title Settlement Agreement, Boundary Line Agreement No. 241 at Long Island, Vicinity of Isleton in Projected Section 27, T4N, R3E, MDM" and filed in Book 38 of Surveys at page 40 Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/05/2020 by the California State Lands Commission Boundary Unit



NO SCALE

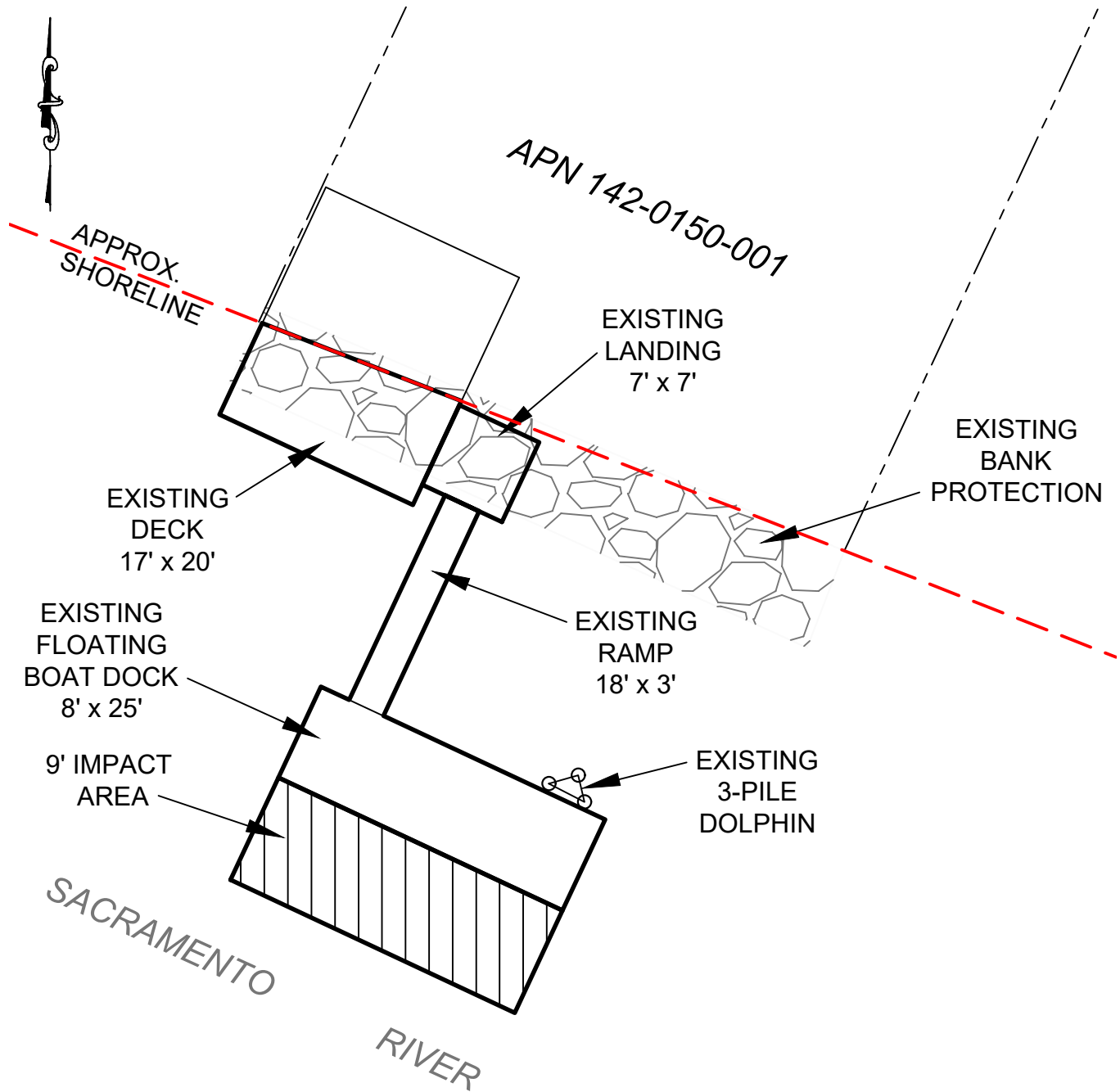


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4761, HOBERT
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



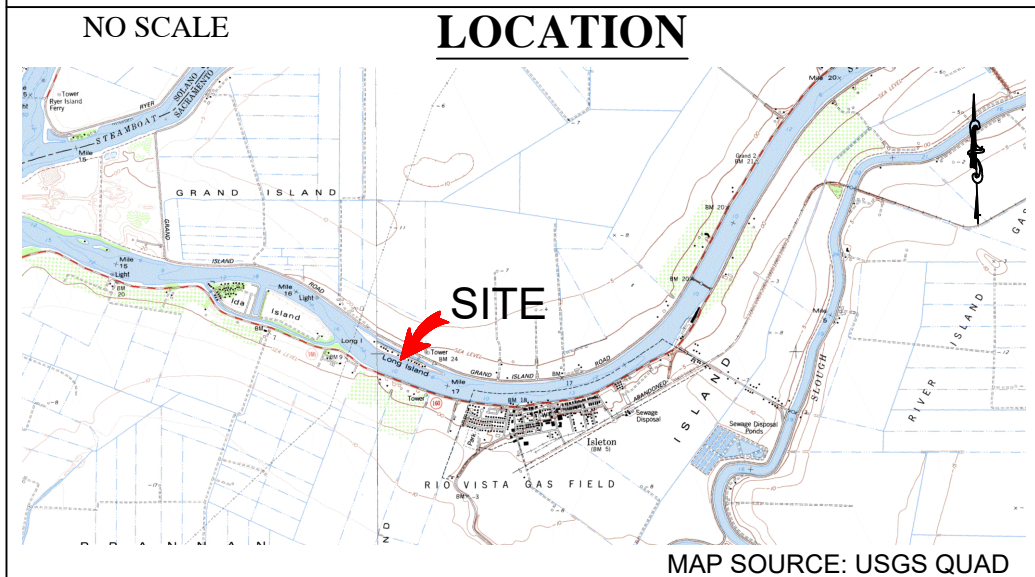
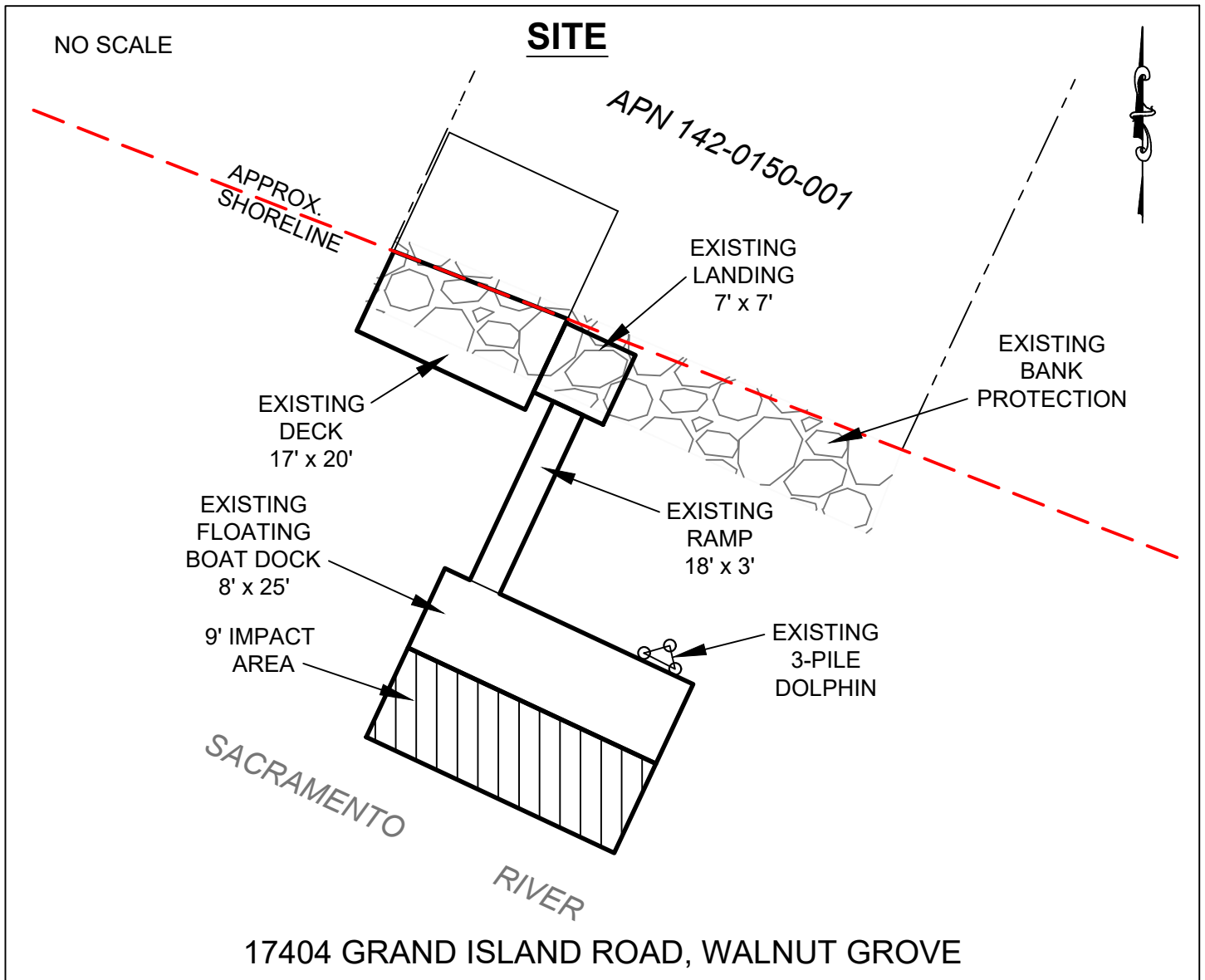


Exhibit B

LEASE 4761
 HOBERT
 APN 142-0150-001
 GENERAL LEASE-
 RECREATIONAL AND
 PROTECTIVE STRUCTURE USE
 SACRAMENTO COUNTY



TS 10/05/2020

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.