

Staff Report 13

LESSEE:

Martha Nevai

APPLICANT:

Paul Crampton and Tania G. Crampton

PROPOSED ACTION:

Termination of a General Lease Recreational and Protective Structure Use; Void Invoices, and any associated Penalty and Interest; and consider Issuance of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 6961 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, gangway, two pilings, and bank protection.

TERM:

10 years, beginning August 25, 2021.

CONSIDERATION:

Boat dock, gangway, and two pilings: \$177 per year, with an annual Consumer Price Index adjustment, and \$369 to compensate for the unauthorized occupation of state sovereign land for the period beginning June 18, 2019 through August 24, 2021.

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 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 August 23, 2018, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to Martha J. Nevai, for an existing boat dock, gangway, two pilings, and bank protection ([Item C63, August 23, 2018](#)). That lease will expire on August 22, 2028. On July 18, 2019, the upland property was deeded to the Applicant without notification to Commission staff. Staff continued mailing invoices for annual rent to the name and address on file. When staff became aware of the upland sale, formal letters were mailed to the Applicant about leasing requirements. The Applicant is applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing boat dock, gangway, two pilings, and bank protection in the Sacramento River.

Staff recommends termination of the existing lease, Lease Number PRC 8636, because the Lessee sold the upland property without submitting a lease quitclaim deed and application for assignment. The Commission's accounting records show the annual rent is delinquent with balances due on Invoice 53033 (\$191.47, dated June 15, 2021), Invoice 50371 (\$188.29, dated July 10, 2020), Invoice 47832 (\$183.18, dated June 27, 2019), and Invoice 45746 (\$177.00, dated September 10, 2018). Based on the cost of collection services and available resources, staff believes it is not in the State's best interest to pursue collection measures. Further, the Lessee was not the upland owner for a significant portion of the occupation period, based

on the transfer of ownership. Therefore, staff recommends voiding Invoices 53033, 50371, 47832, and 45746, and any associated penalty and interest.

Staff is requesting compensation from the Applicant in the amount of \$369, for the unauthorized occupation of State land for the period of July 18, 2019, through August 24, 2021, the day preceding issuance of the proposed lease. There will be no gap in payment for the use of State land while the Applicant has been the upland owner. Further, staff recommends the effective date of the proposed lease align with the authorization date of August 25, 2021. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is protected.

The subject facilities are privately owned and maintained 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 land (Pub. Resources Code, § 6503.5). The existing 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 subject facilities have existed at this location for many years. The facilities are located directly adjacent to the upland property and occupy a relatively small area of the river. 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 facilities are located on the Sacramento River, 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 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 decrease bank stability at a faster rate.

The existing floating dock 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 or replacement to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The combination of these projected conditions could increase the likelihood of damage and affect the fixed features like the two pilings and the bank protection within the lease premises during the term of the lease. The two pilings and bank protection may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events.

The vegetated bank provides additional stability and reduces the amount of erosion and scour pressure experienced during future events because of the

vegetation's underground root system; but remains at risk of accelerated deterioration from currents and floods.

Regular maintenance, as referenced in the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the 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 interfere with Public Trust needs 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. 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 issuance of the lease 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 termination of the lease and 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 Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Terminate, effective August 24, 2021, Lease Number PRC 8636, a General Lease – Recreational and Protective Structure Use, issued to Martha Nevai.
2. Void Invoices 53033, 50371, 47832, and 45746, and any associated penalty and interest.
3. Accept compensation from the Applicant in the amount of \$369, for the unauthorized occupation of State land for the period of June 18, 2019, through August 24, 2021.
4. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning August 25, 2021, for a term of 10 years, for the use and maintenance of an existing boat dock, gangway, two 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 for the boat dock, gangway, and two pilings in the amount of \$177, with an annual Consumer Price Index adjustment; consideration for the bank protection being 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 8636

LAND DESCRIPTION

A parcel of submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 923, patented May 18, 1872, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, and two pilings lying adjacent to that parcel described in Grant Deed recorded July 5, 2013 in Book 20130705 at Page 0507 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH all those lands lying immediately beneath any existing bank protection structure adjacent to said parcel.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/18/2016 by the California State Lands Commission Boundary Unit.



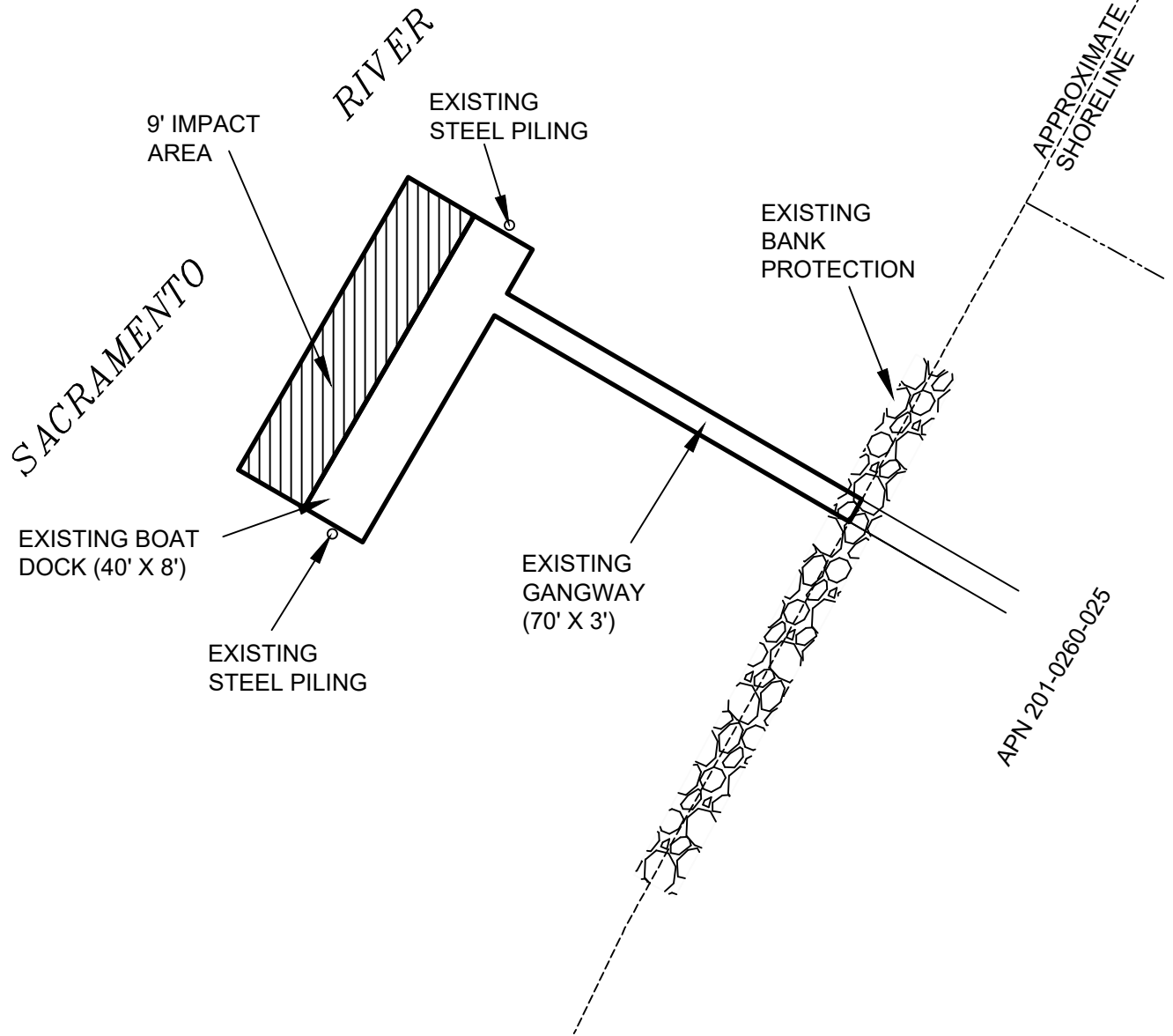


EXHIBIT A

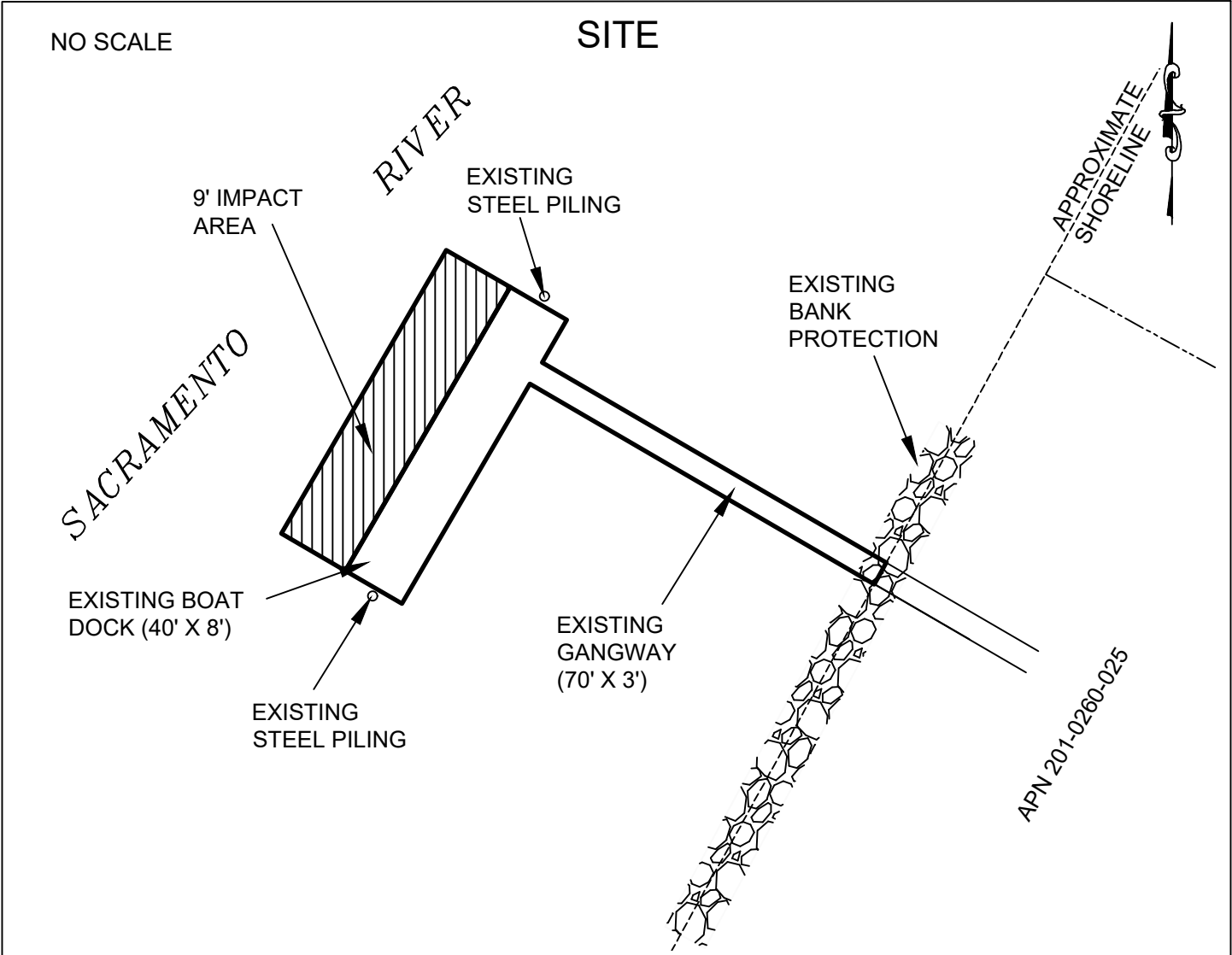
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LAND DESCRIPTION PLAT
LEASE 8636, CRAMPTON
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION





6961 GARDEN HWY, NEAR CITY OF SACRAMENTO

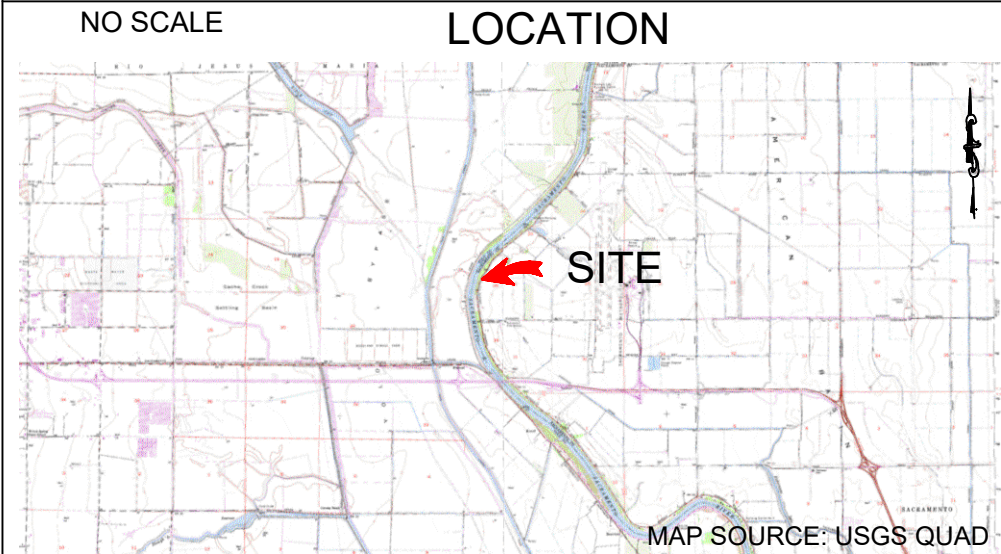


EXHIBIT B
 LEASE 8636
 CRAMPTON
 APN 201-0260-025
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SACRAMENTO COUNTY



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.

DJF 6/1/2021