

# Staff Report 15

## **LESSEE/APPLICANT:**

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Port Stockton Boaters, Inc.

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational and Protective Structure Use

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

Filled and unfilled sovereign land in the San Joaquin River, at Headreach Island, near Stockton, San Joaquin County.

## **AUTHORIZED USE:**

Use and maintenance of four boat docks, two ramps, eight pilings, swim float, propane tank float, speed buoy, water intake pipeline, bulkhead, clubhouse with sundeck, bunkhouse with deck, gazebo, storage shed, generator shed, septic system, and bank protection.

## **TERM:**

10 years, beginning September 1, 2021.

## **CONSIDERATION:**

\$1,788 per year, with an annual Consumer Price Index adjustment.

## **SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Surety bond or other security in the amount of \$20,000, with a \$2,000 increase upon the first anniversary followed by annual \$1,000 increases to a total surety equal to \$30,000 by the end of the lease term.
- 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:**

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### **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 Port Stockton Boaters, Inc. ([Item 16, April 6, 2011](#)). The lease will expire on August 31, 2021. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the use and maintenance of four boat docks, two ramps, eight pilings, swim float, propane tank float, speed buoy, water intake pipeline, bulkhead, clubhouse with sundeck, bunkhouse with deck, gazebo, storage shed, generator shed, septic system, and bank protection.

The subject docks and appurtenant facilities are privately owned and maintained and are for the docking and mooring of recreational boats. Port Stockton Boaters, Inc. is a non-profit organization founded in 1956 with the goal of creating safe recreational boating for all. It is a membership-funded organization, limited to 50 members, located in the current and historic bed of San Joaquin River, near Stockton.

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 docks and appurtenant facilities have existed at this location for many years. The bank protection maintains and improves the integrity of the river channel, which helps protect the Public Trust resources for recreational and navigational use by the public.

The existing buildings are generally not consistent with the Public Trust Doctrine. However, they are located on the historic bed of the San Joaquin River which is currently a portion of Headreach Island. The buildings are used for recreational purposes and do not substantially interfere with the public rights of navigation or access. Proposed rent for the buildings is calculated using a rate based on nearby upland land values to ensure the State receives fair compensation for use of sovereign land.

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 or 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 maintain a performance bond in the amount of \$20,000 with a \$2,000 increase upon the first anniversary followed by increase of \$1,000 per year until the total bond reaches \$30,000, and 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 San Joaquin River, which is a tidally influenced site vulnerable to flooding at current sea levels.

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 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 docks, ramps, floats, and buoy 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, such as the eight pilings, water intake pipeline, bulkhead, clubhouse with sundeck, bunkhouse with deck, gazebo, storage shed, generator shed, septic system, and bank protection may need frequent maintenance and reinforcement to withstand higher levels of flood exposure. In addition, the septic system will need to be monitored closely during storms or floods, so it does not become a public health 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 remains at risk of accelerated deterioration from currents and floods. Exposed portions of the bank protective structure could be vulnerable to future events.

Regular maintenance will reduce the likelihood of severe structural degradation or dislodgement. 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:**

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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 the “Meeting Evolving Public Trust Needs” and the Strategic Focus Area of the Commission’s 2021-2025 Strategic Plan.
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 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 four boat docks, two ramps, eight pilings, swim float, propane tank float, speed buoy, water intake pipeline, bulkhead 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 clubhouse with sundeck, bunkhouse with deck, gazebo, storage shed, generator shed, septic system are not generally consistent with

the Public Trust Doctrine but that the current use does 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

3. Find that issuing the proposed lease 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 1, 2021, for a term of 10 years, for the use and maintenance of existing four boat docks, two ramps, eight pilings, swim float, propane tank float, speed buoy, water intake pipeline, bulkhead, clubhouse with sundeck, bunkhouse with deck, gazebo, storage shed, generator shed, septic system, 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 in the amount of \$1,788 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$2,000,000 per occurrence; and surety bond or other security in the amount of \$20,000, with an annual \$1,000 increase to a total surety equal to \$30,000 by the end of the lease term.

**EXHIBIT A**

**LEASE 2771**

**LAND DESCRIPTION**

A parcel tide and submerged lands, whether filled or unfilled, adjacent to projected Section 13, T2N, R4E, MDM, San Joaquin County, California, and being a portion of the natural bed of the San Joaquin River, more particularly described as follows:

BEGINNING at a point on the easterly boundary of PARCEL SEVENTY-TWO as described in deed recorded in Volume 3329 of Official Records, page 1, San Joaquin County Records, said point being the southerly terminus of that certain course described as S 05°36' E, 148.98 feet in said PARCEL SEVENTY-TWO; thence along said easterly boundary N 05°36' W, 148.98 feet and N 23°01' E, 40.00 feet; thence S 85°18'43" E, 335.53 feet; thence S 17°35' W, 70.00 feet; thence S 86°30' W, 110.00 feet; thence S 01° 43' E, 112.64 feet; thence S 86°30' W, 175.52 feet; thence N 39°57'09" W, 51.00 feet to the POINT OF BEGINNING.

TOGETHER WITH any portion lying below the ordinary high water mark of the historic left and right bank of the San Joaquin River.

EXCEPTING THEREFROM any portion lying above the ordinary high water mark of the historic left and right bank of the San Joaquin River.

ALSO TOGETHER WITH a circular parcel having a 40 foot radius and lying approximately 400 feet southwesterly of the most southeasterly corner of the above described parcel.

**END OF DESCRIPTION**

Revised 7/30/2021 by the California State Lands Commission Boundary Unit

Revised description based on the July 1991 reviewed description found in lease file PRC 2777.1 executed July 7, 1993 as prepared by staff of the CSLC.



NO SCALE

### SITE

APN  
129-110-02

FLOODED  
ISLAND

FORMER  
BED OF  
THE  
SAN  
JOAQUIN  
RIVER

APPROX.  
SHORELINE

APN  
129-120-01

FLOODED  
ISLAND

APPROX.  
SHORELINE

SAN JOAQUIN RIVER

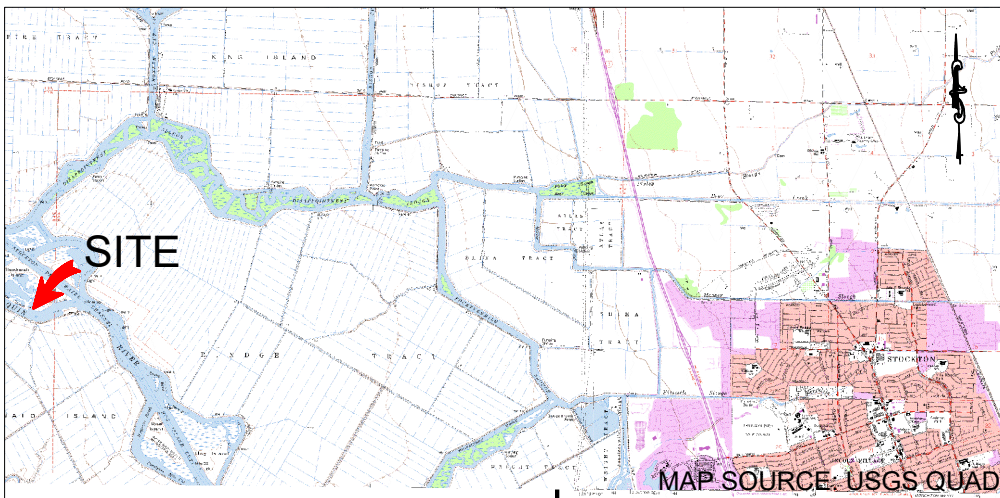
LEASE  
AREA

SPEED  
BUOY  
(PART OF LEASE)

### SAN JOAQUIN RIVER, HEADREACH ISLAND, NEAR STOCKTON

NO SCALE

### LOCATION



### EXHIBIT B

LEASE 2771  
 APN 129-110-02 & 129-120-01  
 PORT STOCKTON BOATERS, INC.  
 GENERAL LEASE -  
 RECREATIONAL & PROTECTIVE  
 STRUCTURE USE  
 SAN JOAQUIN 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.

MJF 7/30/2021