

Staff Report 07

APPLICANT:

Joshua Evans and Nicole Evans

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Three-Mile Slough, adjacent to 18164 Sherman Island East Levee Road, near Rio Vista, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and a two-pile dolphin.

TERM:

10 years, beginning August 1, 2022.

CONSIDERATION:

\$229 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 May 24, 2012, the Commission authorized a General Lease - Recreational Use to Joseph F. Davi, Sr. and Laura L. Wright, as Trustees of The Davi Wright Revocable Trust dated November 30, 2009, for the continued use and maintenance of an boat dock, landing, ramp, walkway, four pilings, and a two-pile dolphin ([Item 23, May 24, 2012](#)).

On October 14, 2014, the Commission authorized an Assignment of the Lease from the Lessee to Joshua Evans and Nicole Evans ([Item 34, October 14, 2014](#)). On April 20, 2017, the Commission authorized a continuation of the rent ([EO Report, April 20, 2017](#)). The lease is set to expire on July 31, 2022.

The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and a two-pile dolphin in Three-Mile Slough.

The subject improvements are privately owned and maintained facilitates that align with recreational boating activities. 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 facilities have existed at this location for many years. The facilities are located adjacent to the upland property and occupy a relatively small area of the Slough. 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 lease area is located on the Three-Mile Slough (draining both into the San Joaquin River and the Sacramento River), which is a tidally influenced site vulnerable to flooding at current sea levels.

The facilities associated with this lease area include adjustable ramp and uncovered floating boat dock with a landing and fixed walkway, four pilings, and a two-pile dolphin.

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 Three-Mile 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, 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 ramp and boat dock with a landing 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 to ensure continued function during and after storm seasons and to avoid dislodgement. The combination of these projected conditions could increase the likelihood of damage and affect the fixed features like the walkway, four pilings, and a two-pile dolphin within the lease premises during the term of the lease. These fixed features may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events.

The vegetated bank (not under lease) 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 lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland 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 authorization of this lease is consistent with the common law Public Trust Doctrine and 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, as owner of improvements on State land, may be required to remove the boat dock, landing, ramp, walkway, four pilings, and two-pile dolphin 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 the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas 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:

- 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 August 1, 2022, for a term of 10 years, for the use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and a two-pile dolphin, 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 \$229 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8414

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of Three Mile Slough lying adjacent to Swamp and Overflow Lands Survey 583 patented December 19, 1867, County of Sacramento, State of California, more particularly described as follows:

All those lands underlying an existing boat dock, walkway, ramp, landing, 2-pile dolphin and four pilings lying adjacent to that parcel described in Quitclaim Deed, recorded January 4, 2010 in Book 20100104 at Page 1474 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 right bank of Three Mile Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared on 08/11/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



SHERMAN ISLAND EAST LEVEE ROAD

APN 058-0010-020

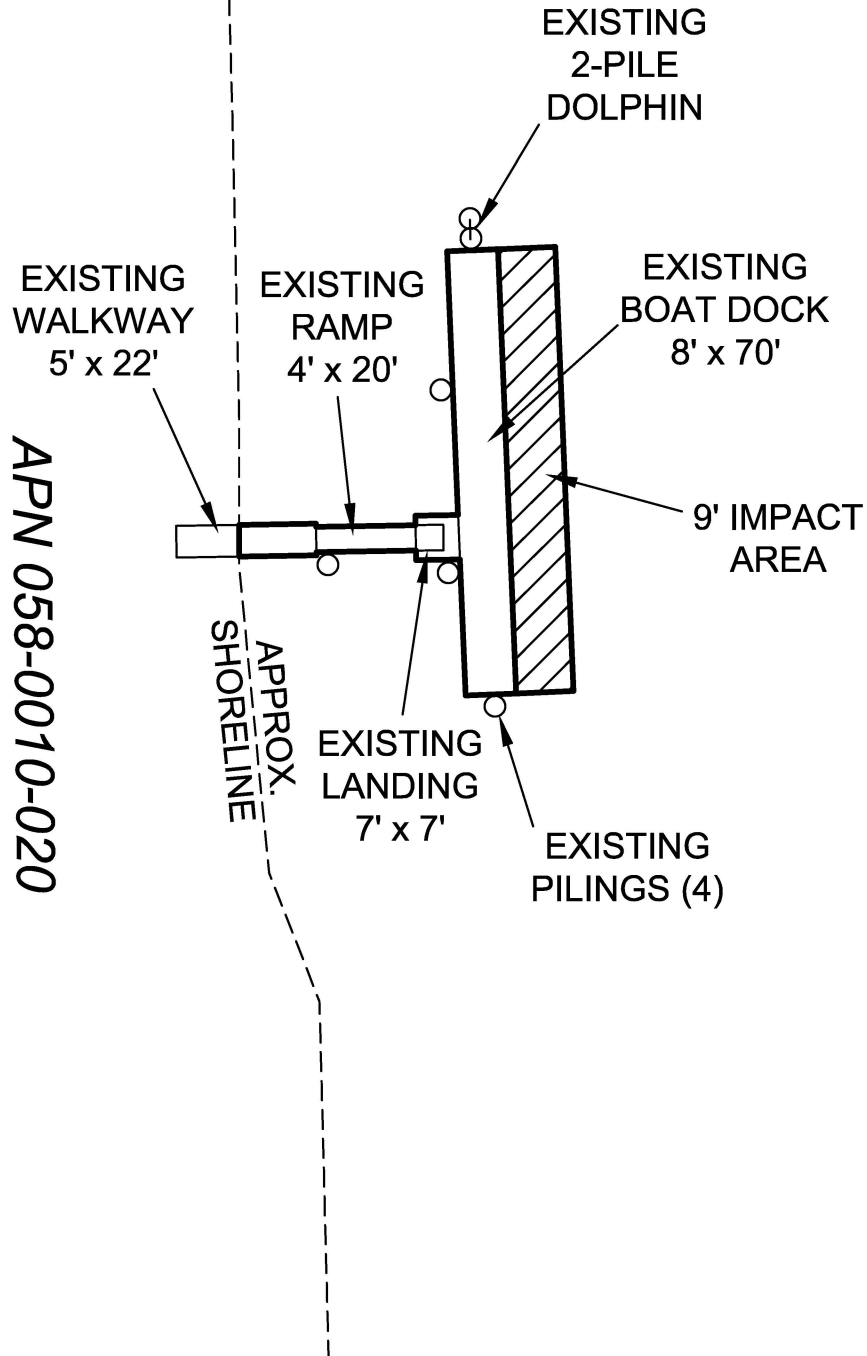


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 8414, EVANS
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SHERMAN ISLAND EAST LEVEE ROAD

EXISTING
WALKWAY
5' x 22'

APN 058-0010-020

APPROX

SHORELINE

EXISTING
RAMP
4' x 20'

EXISTING
2-PILE
DOLPHIN

EXISTING
BOAT DOCK
8' x 70'

9' IMPACT
AREA

EXISTING
LANDING
7' x 7'

EXISTING
PILINGS (4)

18164 SHERMAN ISLAND EAST LEVEE ROAD, NEAR RIO VISTA

SITE

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.

LEASE 8414
EVANS
APN 058-0010-020
GENERAL LEASE -
RECREATIONAL USE
SACRAMENTO COUNTY

SITE

TS 08/11/2021