

Staff Report 16

LESSEE/ASSIGNOR:

John H. White, Trustee of The JHW Trust, Dated May 16, 2000

APPLICANT/ASSIGNEE:

Donald James Bjork and Jean Ann Bjork, as Trustees of the Bjork 2006 Trust dated July 26, 2006

PROPOSED ACTION:

Assignment of a General Lease - Recreational and Protective Structure Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 4435 Garden Highway, Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat dock, gangway, two deadmen anchor systems, and bank protection.

TERM:

10 years, beginning June 1, 2018.

CONSIDERATION:

Boat dock, gangway, and two deadmen anchor systems: \$211 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 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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 18, 2018, the Commission authorized a General Lease – Recreational and Protective Structure Use to John H. White, Trustee of The JHW Trust, Dated May 16, 2000 ([Item C54, October 18, 2018](#)). That lease will expire on May 31, 2028.

On September 10, 2020, the ownership of the upland property was deeded to Donald James Bjork and Jean Ann Bjork. On October 5, 2020, James and Jean Bjork transferred ownership of the upland parcel to the Donald James Bjork and Jean Ann Bjork, as Trustees of the Bjork 2006 Trust dated July 26, 2006. In coordination with the Lessee, the Applicant is now applying for an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff believes the Applicant is best qualified to be the lessee because they now own the adjacent upland and the improvements that are currently under lease. Staff recommends an assignment of the lease to reflect the change in ownership from Assignor to Assignee. The effective date of the assignment would be September 10, 2020, in order to coincide with the Assignee's purchase of the upland property.

The proposed assignment of lease does not alienate the State's fee simple interest in the underlying land, nor will it permanently impair public rights. Approval of this lease assignment is limited to the remaining term of the 10-year lease and will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the remaining term of the lease. For these reasons, staff recommends finding that approval of this assignment is in the best interests of the State.

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 boat 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 also increase the likelihood of damage to the fixed features within the lease premises during the term of the lease. The anchor systems and bank protection may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events.

The lease is a 10-year General Lease – Recreational and Protective Structure Use that began on June 1, 2018, and may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2028 and would be based on projected sea-level rise scenarios at that time.

CONCLUSION:

Assignment of this lease will not result in a change in the use of or impacts to Public Trust resources. Commission staff believes approval of this assignment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The Commission cannot unreasonably deny an assignment to a qualified party. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. Upon expiration or prior termination of the lease, neither the assignor nor the assignee has any right to a new lease or to renewal of any previous lease. If no new lease is granted the assignee may be required to remove the boat dock, gangway, two deadmen anchor systems, and bank protection and restore the premises to their original condition.
2. This action is consistent with the “Meeting Evolving Public Trust Needs” Strategic Focus Area of the Commission’s 2021-2025 Strategic Plan.
3. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number PRC 8026, a General Lease – Recreational and Protective Structure Use, of sovereign land, as described in Exhibit A, Land Description and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof; from John H. White, Trustee of The JHW Trust, dated May 16, 2000, to Donald James Bjork and Jean Ann Bjork, as Trustees of the Bjork 2006 Trust dated July 26, 2006, effective September 10, 2020.

EXHIBIT A

PRC 8026

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Surveys 415 and 416 patented July 11, 1865, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, ramp and two deadman with cables lying adjacent to that parcel described in Quitclaim Deed, recorded October 5, 2020 in Document Number 202010051005 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 ordinary high water mark of the left bank of said River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/10/2021 by the California State Lands Commission Boundary Unit



NO SCALE



APN 225-0102-037

EXISTING
BANK
PROTECTION

EXISTING
DEADMAN
WITH CABLE

EXISTING
RAMP
4' x 55'

EXISTING
DEADMAN
WITH CABLE

APPROX.
SHORELINE

EXISTING
FLOATING
BOAT DOCK
40' x 8'

9' IMPACT
AREA

SACRAMENTO RIVER

EXHIBIT A

Page 2 of 2

TS 05/10/2021

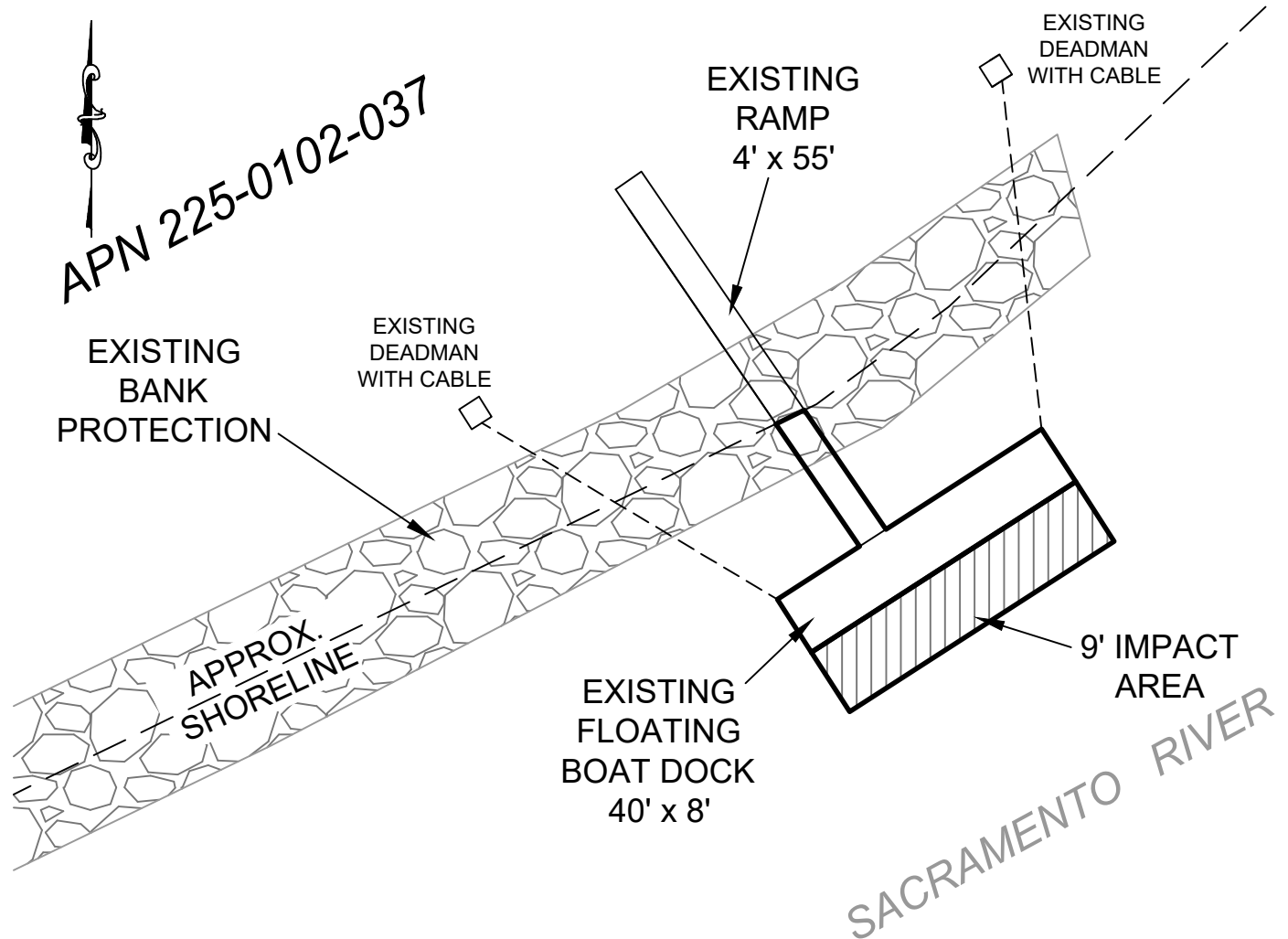
LAND DESCRIPTION PLAT
PRC 8026, BJORK TRUST
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

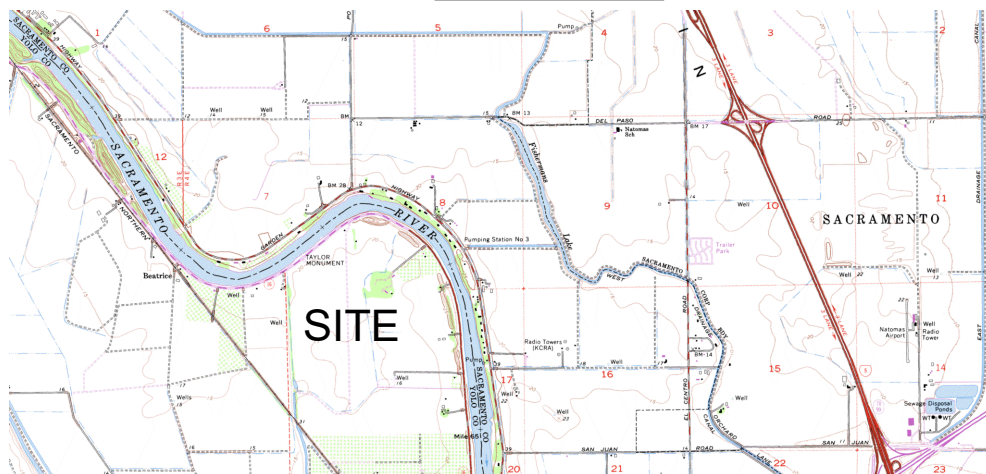
SITE



4435 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

LOCATION



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.

Exhibit B

PRC 8026
BJORK TRUST
APN 225-0102-037
GENERAL LEASE-
RECREATIONAL & PROTECTIVE
STRUCTURE USE
SACRAMENTO COUNTY



TS 05/10/2021