

Staff Report 56

LESSEE:

Venice Island, Inc., a California Corporation

APPLICANT:

Venice Island Owners, LLC, a California limited liability company

PROPOSED ACTION:

Consider Voiding Annual Rent Invoice Number 52933, Acceptance of a Lease Quitclaim Deed, and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to 17500 West Eight Mile Road, near Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing L-shaped boat dock with 13 pilings, walkway, ramp, and two unattached pilings previously authorized by the Commission; and two existing jet-ski ramps, two boat hoists, and electrical conduit not previously authorized by the Commission.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$467 per year, with an annual Consumer Price Index adjustment; and \$165 to compensate for the unauthorized occupation of state sovereign land for the period beginning August 1, 2021 through December 7, 2021.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that 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, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 23, 2014, the Commission authorized a General Lease - Recreational Use for an existing L-shaped floating boat dock with 13 pilings, walkway, ramp, and two unattached pilings to Venice Island, Inc., a California Corporation ([Item C43, April 23, 2014](#)). On June 21, 2018, the Commission authorized a continuation of rent at \$452 per year ([Executive Officer's Report, June 21, 2018](#)). On October 16, 2020, the upland property and facilities were deeded to Venice Island Owners, LLC, a California limited liability company. The lease would have expired on July 31, 2023.

The Applicant owns the upland parcel adjoining the lease premises and has exercised dominion and control over the infrastructure on state sovereign land. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing L-shaped boat dock with 13 pilings, walkway, ramp, and two unattached pilings previously authorized by the Commission; and two existing jet-ski ramps, two boat hoists, and electrical conduit not previously authorized by the Commission. The subject facilities are privately owned and maintained.

Staff recommends acceptance of a lease quitclaim deed from the Lessee who paid rent through July 31, 2021, past the date the upland property and facilities were deeded to the Applicant. The Lessee did not pay invoice number 52933 for the August 1, 2021 through July 31, 2022, lease year since they no longer owned the upland or the facilities on state sovereign land. Staff believes it is in the State's best interests to void the unpaid rental invoice issued in the Lessee's name since the Applicant agreed to pay compensation in the amount of \$165 for its occupation of State land from the day after the Lessee paid rent through the day before the proposed lease begins. In all, the State is made whole with

regards to rental payments. Staff recommends issuance of a new lease to the Applicant beginning December 8, 2021.

The subject facilities are used for the docking and mooring of boats 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 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 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 subject facility is located on Venice Island near the city of Stockton on the San Joaquin 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 lease area 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 |

| Year | Projection (feet) |
|-------------|--------------------------|
| 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, and this risk of flood exposure is likely to increase with time. 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. Although the banks within the lease area are vegetated, 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. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear and tear and damage on the floating dock infrastructure. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards related to the lease area structures.

The lease area infrastructure may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events, based on projected sea level rise and climate change scenarios. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not under lease) 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 impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of an 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. If the Commission denies the application, the Applicant, as the owner of the improvements on state land, may be required to remove the docking facilities 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of a lease quitclaim deed 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 the 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 acceptance of a lease quitclaim deed; voiding of annual rent invoice 52933; and issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

AUTHORIZATION:

1. Void annual rent invoice number 52933, issued on June 15, 2021, to Venice Island, Inc., a California Corporation.
2. Authorize acceptance of a lease quitclaim deed, effective October 15, 2020, of Lease Number PRC 2212, a General Lease – Recreational Use, issued to Venice Island, Inc., a California Corporation.
3. Authorize acceptance of compensation from the Applicant in the amount of \$165 for the unauthorized occupation of State land for the period beginning August 1, 2021 through December 7, 2021.
4. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the continued use and maintenance of an existing L-shaped boat dock with 13 pilings, walkway, ramp, and two unattached pilings previously authorized by the Commission; and two existing jet-ski ramps, two boat hoists, and electrical

conduit not previously authorized by the Commission, 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 \$467, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 2212

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of the San Joaquin River, lying adjacent to Swamp and Overflowed Land Survey 731, patented May 10, 1872, County of San Joaquin, State of California and more particularly described as follows:

PARCEL 1 – Boat dock

All those lands underlying an existing floating boat dock, ramp, walkway, two (2) jet-ski ramps, two (2) boat hoists, utility conduit and thirteen (13) pilings lying adjacent to “PARCEL ONE” as described in “Exhibit A” of that Partnership Quitclaim Deed, recorded November 7, 1990 as Document Number 90110118 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 San Joaquin River.

PARCELS 2 & 3 – Detached pilings

All those lands underlying two (2) existing and detached pilings lying adjacent to “PARCEL ONE” as described in “Exhibit A” of that Partnership Quitclaim Deed, recorded November 7, 1990 as Document Number 90110118 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 8/18/2021 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



SAN JOAQUIN RIVER

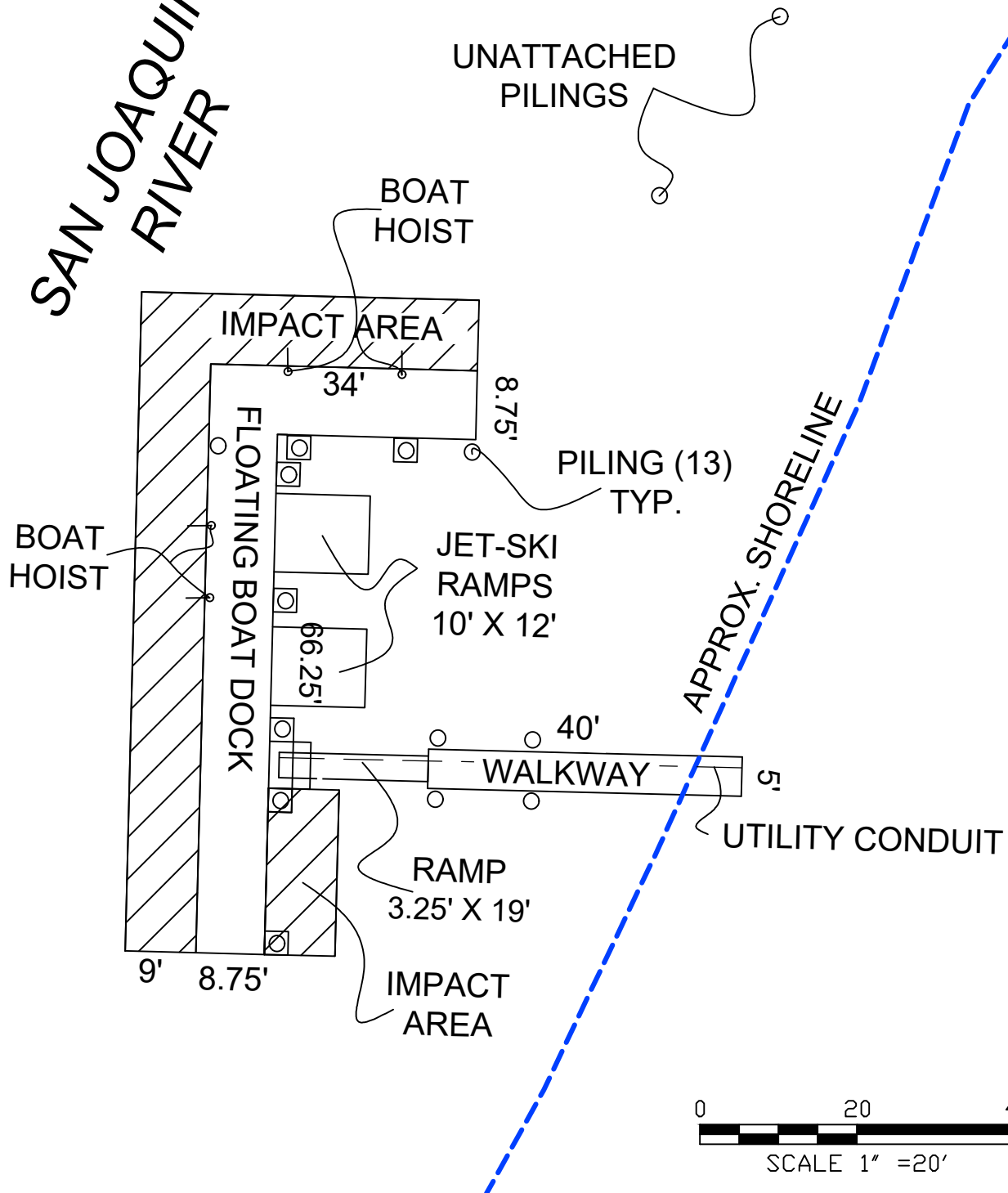
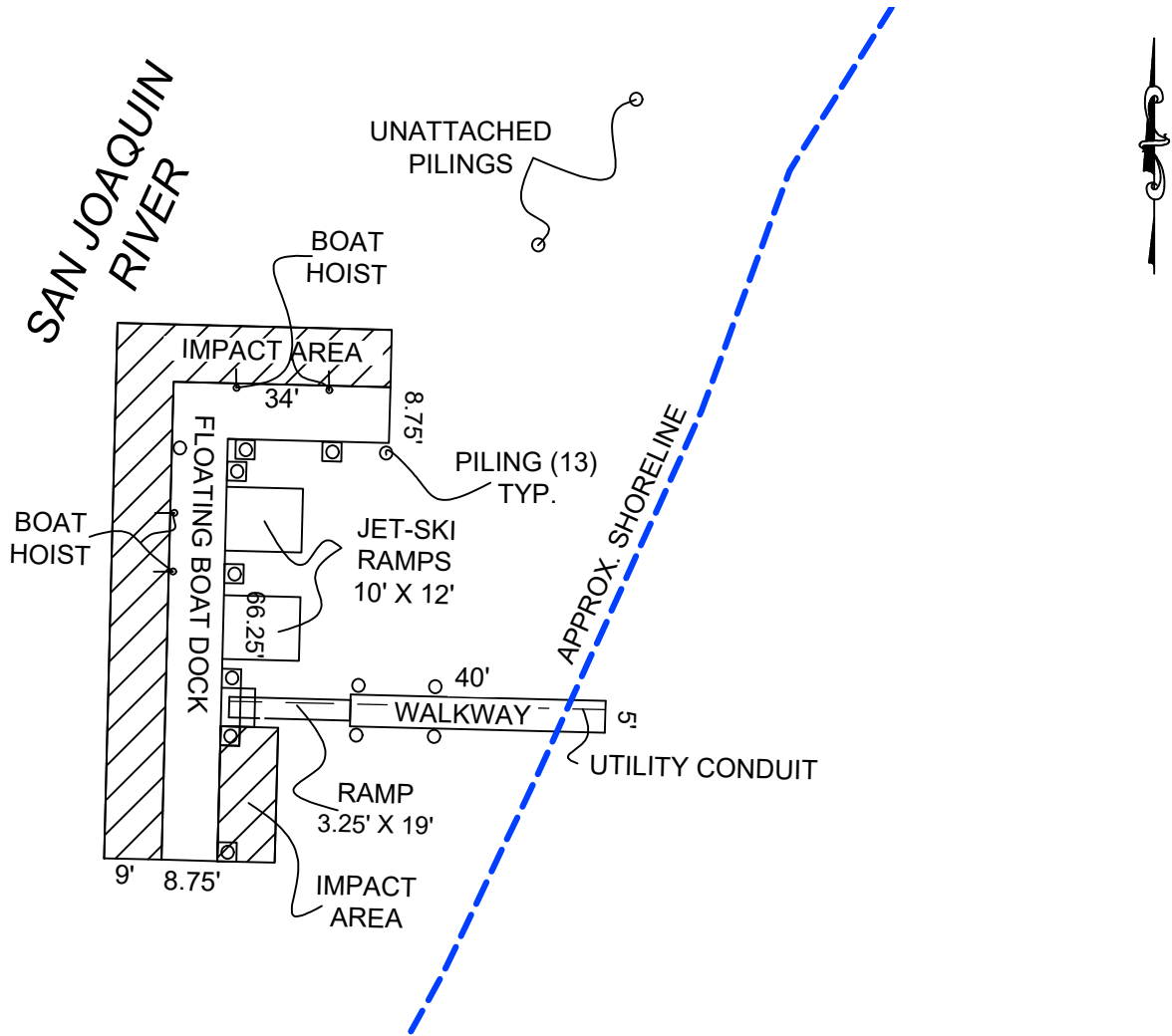


EXHIBIT A



NO SCALE

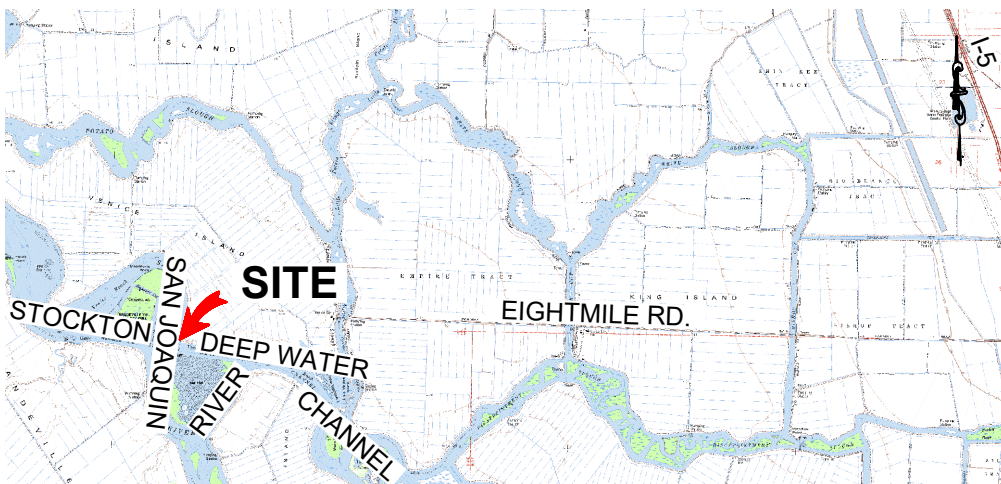
SITE



17500 Eight Mile Rd. - Venice Island, San Joaquin River

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 2212
 VENICE ISLAND OWNERS, LLC
 APN 069-040-08
 GENERAL LEASE -
 RECREATIONAL 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.