

Meeting Date: 02/25/22
Lease Number: 4638
Staff: M.J. Columbus

Staff Report 36

APPLICANT:

Selso Vargas, Jr., as Trustee of the Selso Vargas, Jr. Revocable Trust dated May 21, 2012

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 905 Piedmont Drive, Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing covered boat dock, three pilings, and a removable ramp.

TERM:

10 years; beginning June 24, 2021.

CONSIDERATION:

\$189 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, 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 January 26, 2012, the Commission authorized a 10-year Recreational Pier Lease to Selso Vargas, Jr. ([Item C08, January 26, 2012](#)). That lease expired on June 23, 2021. On May 24, 2012, the upland was deeded to Selso Vargas, Jr., as Trustee of the Selso Vargas, Jr. Revocable Trust dated May 21, 2012. The Commission was not made aware of the ownership change during the course of the lease. The Applicant is now applying for a General Lease – Recreational Use, for the continued use and maintenance of an existing covered boat dock, three pilings, and a removable ramp.

The subject improvements are privately owned and maintained and are for the docking and mooring of recreational boats. 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 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 subject 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 the Sacramento River's inundation levels within the lease area over the term of the lease. 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 covered boat dock and ramp 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 fixed features within the lease premises during the term of the lease (pilings) may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events.

Regular maintenance, as referenced in the lease, may 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 common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for a new lease 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 the prior lessee, may be required to remove the covered boat dock, three pilings and removable ramp 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. 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 proposed 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 June 24, 2021, for a term of 10 years, for the continued use and maintenance of an existing covered boat dock, three pilings, and a removable ramp, 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 \$189, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A
LEASE 4638
LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Rancho New Helvetia, as shown on the Official Rancho Plat, approved August 9, 1873, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing single-berth covered dock, removable ramp, stairs and three pilings lying adjacent to that parcel described in Grant Deed, recorded May 24, 2012 in Book 20120524 at Page 0783 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 left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/18/2022 by the California State Lands Commission Boundary Unit



NO SCALE

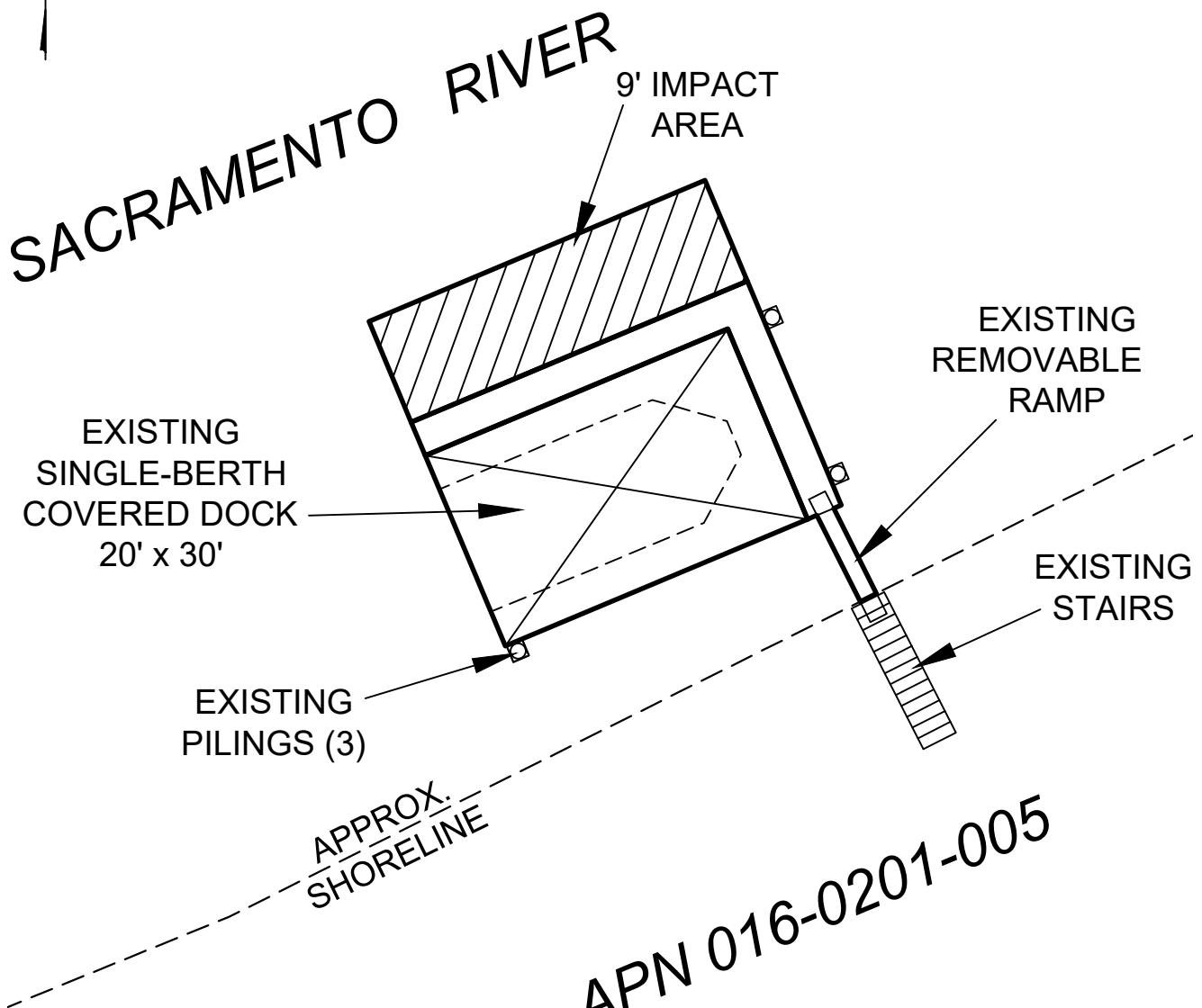


EXHIBIT A

Page 2 of 2

TS 01/18/2022

LAND DESCRIPTION PLAT
LEASE 4638, VARGAS
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

SACRAMENTO RIVER

EXISTING
SINGLE-BERTH
COVERED DOCK
20' x 30'

EXISTING
PILINGS (3)

9' IMPACT
AREA

EXISTING
REMOVABLE
RAMP

EXISTING
STAIRS

APPROX.
SHORELINE

APN 016-0201-005

905 PIEDMONT DRIVE, SACRAMENTO

NO SCALE

LOCATION

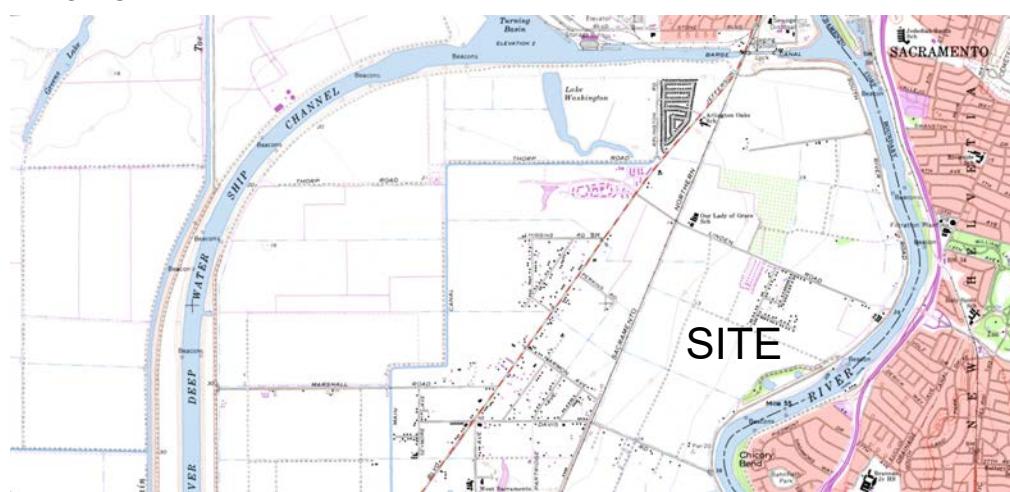


Exhibit B

LEASE 4638

VARGAS

APN 016-0201-005

GENERAL LEASE-

RECREATIONAL USE

SACRAMENTO COUNTY



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.

TS 01/18/2022