

Staff Report 21

APPLICANT:

William Alexander Millie and Jennifer M. Porter

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Number 142-0030-037, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Construction, use, and maintenance of a covered single-berth floating boat dock, gangway, nine pilings, and two debris diverters.

TERM:

10 years, beginning August 23, 2022.

CONSIDERATION:

\$462 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 to obtain and maintain all permits or other entitlements from all regulatory agencies.
- 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.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to

this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The revised Exhibits shall be incorporated in this Lease as though fully set forth herein.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, section 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On July 27, 2020, Assessor's Parcel Number 142-0030-037, located at the Sacramento River and Steamboat Slough confluence, was transferred from Steamboat Landing, LLC, a California limited liability company to William Alexander Millie and Jennifer M. Porter. The Applicant is now applying for a General Lease – Recreational Use for the construction, use, and maintenance of a covered single berth floating boat dock, gangway, nine pilings, and two debris diverters.

The debris diverters are proposed for this location due to the proximity to the Steamboat Slough confluence. The diverter will consist of four 16-inch-diameter steel pilings to buttress and anchor a 45-foot floating pair of steel pontoons. Five 16-inch-diameter steel pilings will anchor the 60-foot by 25-foot dock with a 46-foot by 15-foot covered boat slip. Composite materials will be used for the decking on the dock and encased foam tubs will be utilized for floatation. The dock will be accessed from the upland by a 36-foot by 4-foot aluminum gangway transitioning from an 18-foot by 4-foot aluminum bridge located on the upland. The pilings will be placed with barge-mounted equipment and is the only construction activity planned to take place below the mean high water line and will occur between August 1 and October 31. The Applicant is in the process of obtaining permits from all applicable regulatory agencies for the proposed construction activities.

The existing bank protection adjacent to the upland parcel was placed by the U.S. Army Corps of Engineers (Army Corps) as part of the Sacramento River Bank Protection Project. The Army Corps works in conjunction with the Central Valley Flood Protection Board (CVFPB) on this project. On May 9, 1988, the Commission authorized a General Permit – Public Agency Use, Lease Number PRC 7203, to

the CVFPB for the maintenance of existing bank protection structures and construction of new bank protection structures as specific construction sites become known in designated areas along the Sacramento River, sloughs, distributaries, and tributaries that join it ([Item C17, May 9, 1988](#)). The lease expired on April 30, 2018, and the CVFPB submitted application number A3467 for a new lease. The CVFPB application will be considered by the Commission at a later date.

The Applicant owns the upland parcel adjoining the lease premises. The proposed facilities will be 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 facilities will occupy a small portion of the waterway and will not interfere with public boating traffic.

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 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 proposed covered single-berth floating boat dock, debris diverter, and gangway are adaptable to higher 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 the facilities; however, the proposed pilings would be fixed and therefore more vulnerable to sea level rise and more frequent flood events. These structures may need additional fortification or repair and maintenance to ensure they do not become dislodged or degraded, as they could pose risks to public safety and navigation.

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 the 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 may not construct the proposed facilities. 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVAL OBTAINED:

Reclamation District 3
California Department of Fish and Wildlife

APPROVALS REQUIRED:

Central Valley Flood Protection Board
Central Valley Regional Water Quality Control Board
U.S. Army Corps of Engineers

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; are consistent with the common law Public Trust Doctrine; and are in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2022, for a term of 10 years, for the construction, use, and maintenance of a covered single-berth floating boat dock, gangway, nine pilings, and two debris diverters, 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 \$462, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

A 3286

LAND DESCRIPTION

A parcel of tide and submerged land situated in the bed of the Sacramento River, lying adjacent to Section 8, Township 5 North, Range 4 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1872, County of Sacramento, State of California, described as follows:

PARCEL 1 – BOAT DOCK:

All those lands underlying a proposed covered boat dock, ramp and five pilings lying adjacent to that parcel described in Grant Deed recorded July 27, 2020 as Document Number 202007270796 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 the Sacramento River.

PARCEL 2 – DEBRIS DIVERTERS:

All those lands underlying proposed two debris diverters lying adjacent to that parcel described in Grant Deed recorded July 27, 2020 as Document Number 202007270796 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on Applicant provided design plans for a proposed boat dock together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 03/09/2022 by the California State Lands Commission Boundary Unit.



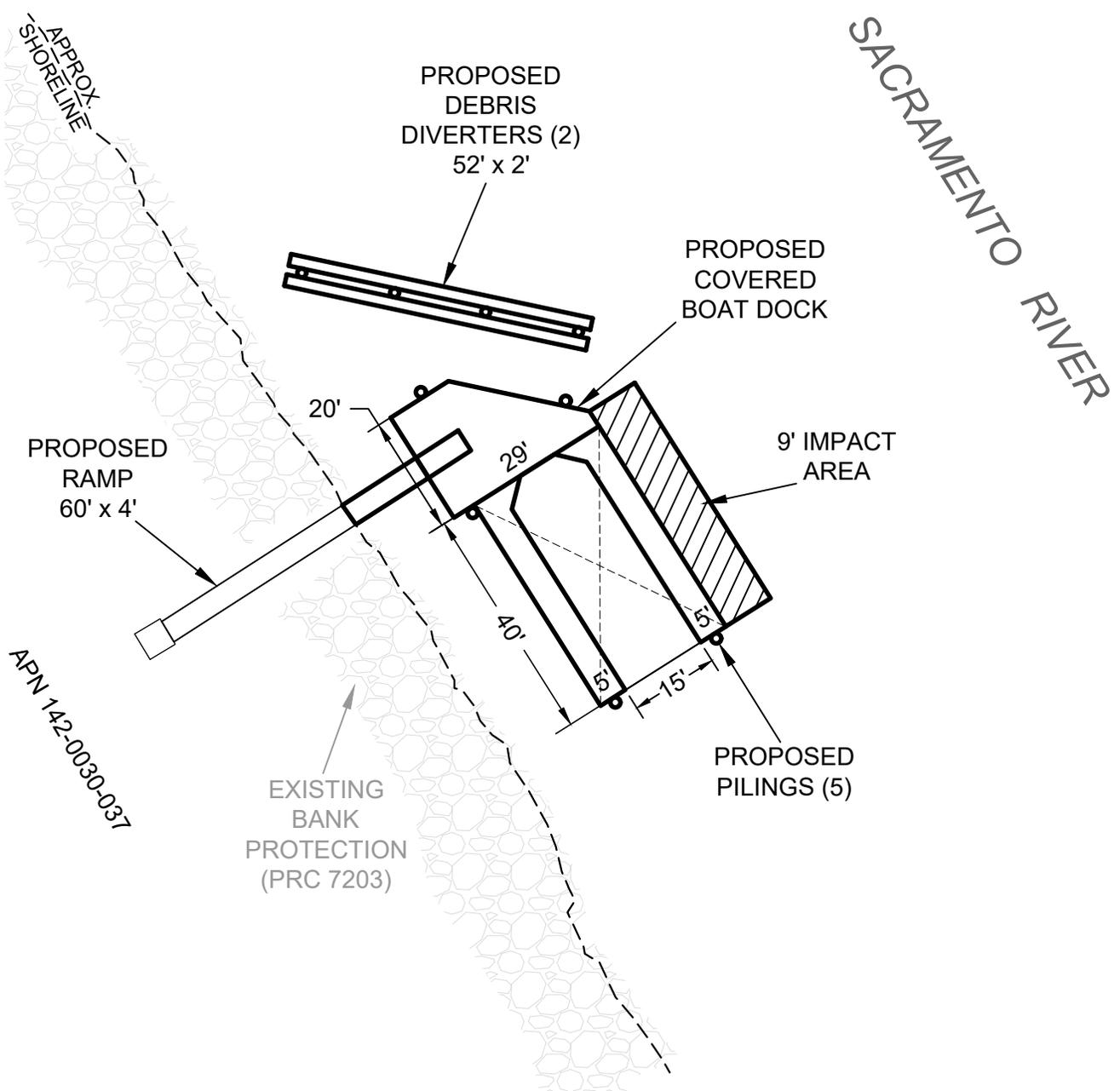
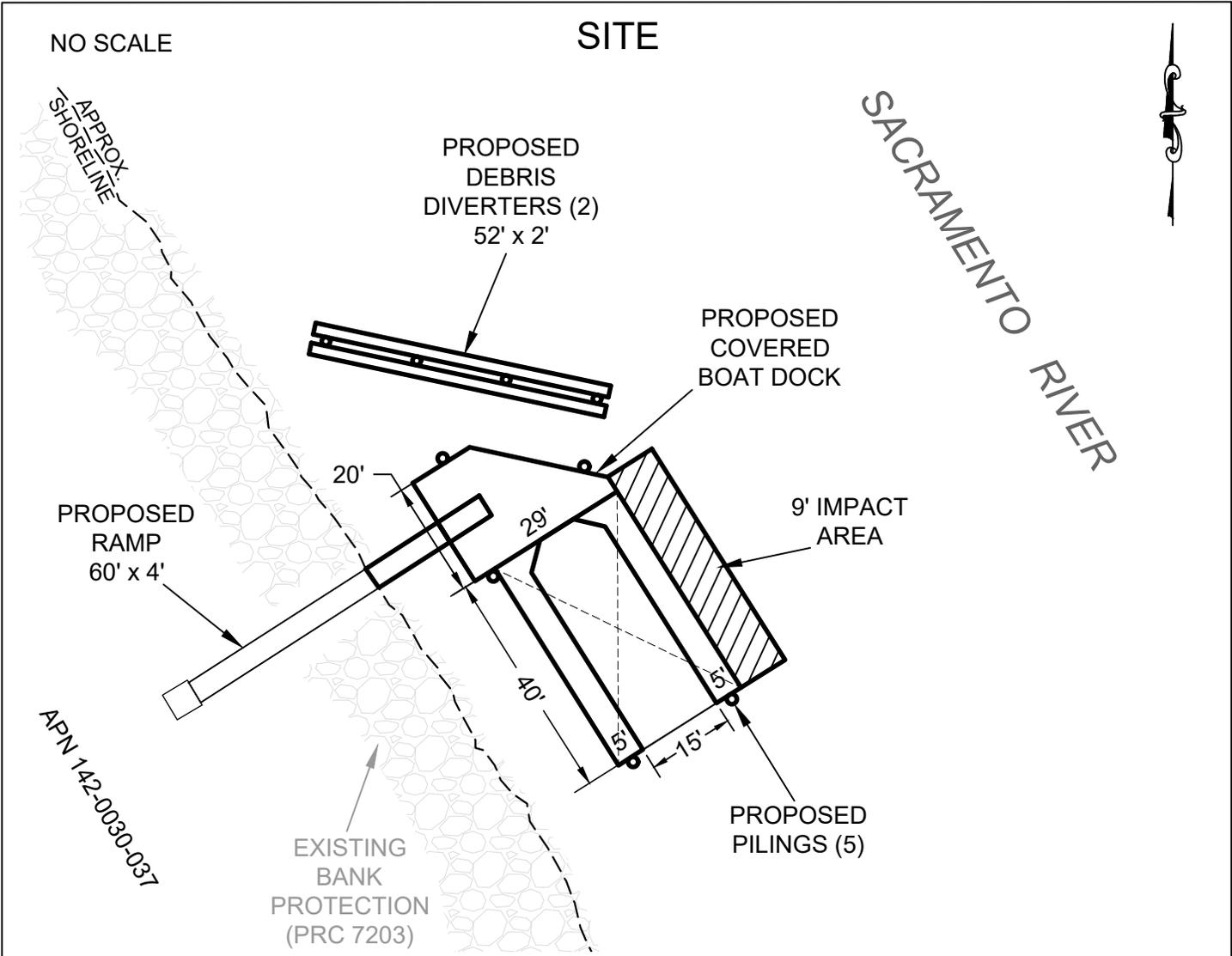


EXHIBIT A

LAND DESCRIPTION PLAT
A 3286, MILLIE & PORTER
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION





SACRAMENTO RIVER NEAR THE STEAMBOAT SLOUGH CONFLUENCE

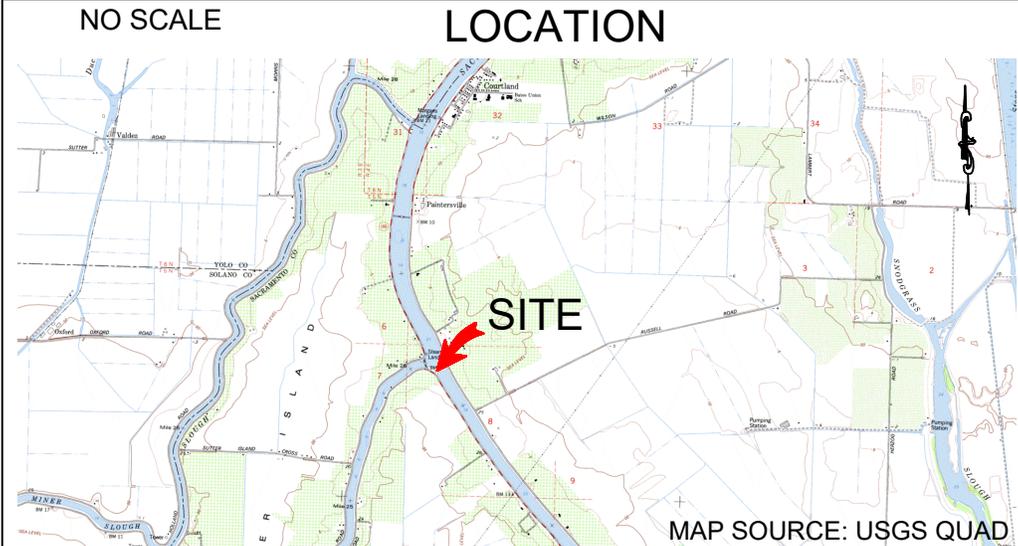


EXHIBIT B
 A 3286
 MILLIE & PORTER
 APN 142-0030-037
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



DT 03/09/2022

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.