

Staff Report 34

APPLICANT:

Dixon Boat and Fishing Club, Inc.

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Cache Slough, adjacent to 7504 Bartlett Road, near Dixon, Solano County.

AUTHORIZED USE:

Use and maintenance of two existing boat docks with boat ramp, walkway, and five pilings.

TERM:

10 years, beginning October 25, 2022.

CONSIDERATION:

\$1,013 per year, with an annual Consumer Price Index adjustment, and \$322 to compensate for the unauthorized occupation of state sovereign land for the period from July 1, 2022 through October 24, 2022.

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, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 26, 2013, the Commission authorized a 10-year General Lease – Recreational Use to Dixon Boat and Fishing Club, Inc. ([Item C38, April 26, 2013](#)). That lease expired on June 30, 2022. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of two existing boat docks with boat ramp, walkway, and five pilings.

The Applicant owns the upland adjoining the lease premises, and the subject facilities have existed at this location for several years. The subject facilities are privately owned and maintained. The boat docks and appurtenant facilities are used for 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).

Staff recommends the Commission accept compensation from the Applicant in the amount of \$322 for the unauthorized occupation of state land for the existing boat docks and appurtenant facilities, for the period beginning July 1, 2022, the day that the prior lease ended, through October 24, 2022, the day preceding issuance of the proposed lease.

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.

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 in Cache Slough 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 Cache 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 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 docks with walkways are adaptable to variable water levels allowing them to rise and fall with increased or decreased water levels. The fixed features like the five wood pilings may need reinforcement and possible

replacement to withstand higher levels of flood exposure and more frequent storm events.

The vegetated bank 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 it 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 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 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 prior lessee may be required to remove the facilities occupying state lands and restore the premises to their original condition. The lessee has no right to a new lease or a renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and the "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 proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$322 for unauthorized occupation of State land for the period beginning July 1, 2022 through October 24, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 25, 2022, for a term of 10 years, for the use and maintenance of two existing boat docks with boat ramp, walkway, and five pilings, 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 \$1,013, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4913

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of Cache Slough, lying adjacent to Section 4, Township 5 North, Range 2 East, Mount Diablo Meridian, as shown on Official Government Township Plat approved December 24, 1862, County of Solano, State of California and more particularly described as follows:

COMMENCING at the southeast corner of that certain parcel described in Decree of Distribution of the Estate of Adelaide Norton, recorded March 26, 1937 in Book 173, page 86, Official Records of Solano County, said southeast corner also being the one-quarter section corner common to Sections 4 and 5 T. 5 N., R. 2 E., MDM; thence from said corner along the east-west one-quarter section line of said Section 4, S 89° 45' E 2634.72 feet; thence N 89° 45' W 100.00 feet; thence N 27° 45' W 52.00 feet to the POINT OF BEGINNING; thence along the following six (6) courses:

1. N 62° 15' E 35.00 feet;
2. N 23° 00' W 110.00 feet;
3. N 32° 00' W 70.00 feet;
4. N 24° 09' 43" W 208.98 feet;
5. S 62° 15' W 52.00 feet;
6. S 27° 44' 58" E 388.04 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said slough.

END OF DESCRIPTION

The above description is based on that original description by Boundary and Title Unit on December 1, 1982 as found in PRC 4913 lease file.

Revised 04/15/2022 by the California State Lands Commission Boundary Unit.

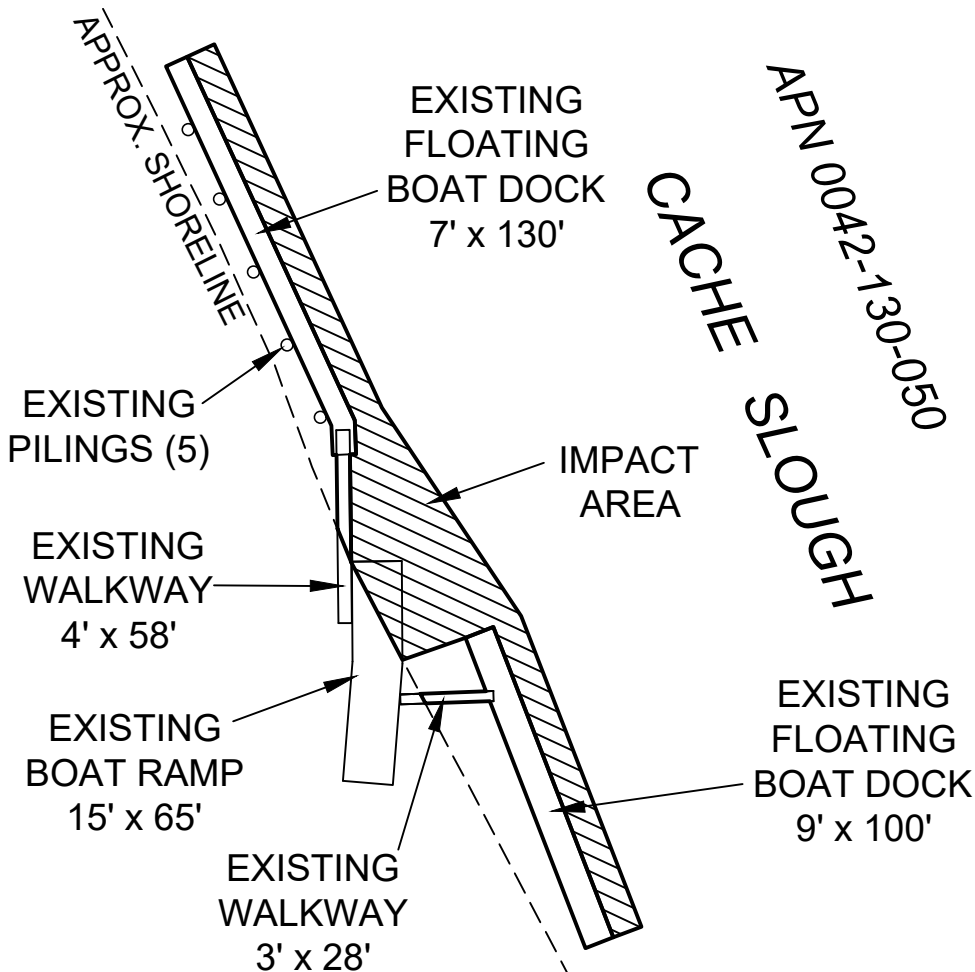


NO SCALE

SITE



APN 0042-130-100

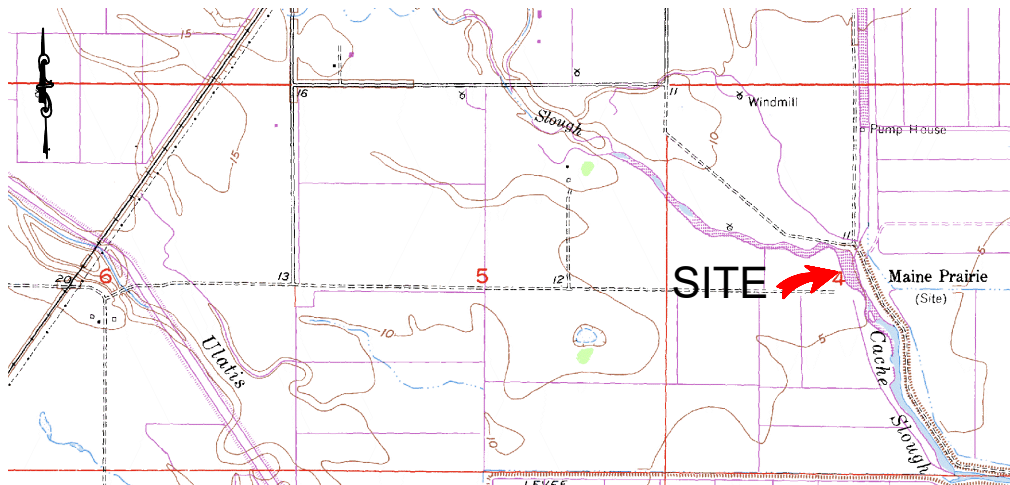


APN 0042-130-050
CACHE SLOUGH

7504 BARTLETT ROAD, NEAR DIXON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 4913
 DIXON BOAT & FISHING CLUB INC.
 APNs 0042-130-050 & -100
 GENERAL LEASE-RECREATIONAL USE
 SOLANO 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.

TS 04/15/2022