

# Staff Report 37

## **APPLICANT:**

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Gregory Scott Kann and Elizabeth Garamendi Kann, Co-Trustees of the Garamendi Kann Family Trust dated December 26, 2019

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Sacramento River, adjacent to Sacramento County Assessor's Parcel Numbers (APN) 142-0230-007 and 142-0230-008, near Walnut Grove, Sacramento County.

## **AUTHORIZED USE:**

Use and maintenance of an existing boat dock, ramp, and two pilings.

## **TERM:**

10 years, beginning November 28, 2022.

## **CONSIDERATION:**

\$140 per year, with an annual Consumer Price Index adjustment; and \$248 for unauthorized occupation of State land for the period prior to November 28, 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:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 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 September 20, 2013, the Commission authorized issuance of a General Lease – Recreational Use to John R. Garamendi and Patricia W. Garamendi, Trustees of The Garamendi Living Trust, Dated July 23, 1989, for reconstruction, use, and maintenance of an uncovered floating boat dock, ramp, and two pilings ([Item C31, September 20, 2013](#)). This lease expired on November 27, 2022.

On December 4, 2014, ownership interest in the upland parcel was transferred to Gregory Scott Kann and Elizabeth Garamendi Kann. The Commission was not notified of this change in ownership nor was an assignment of lease sought, however the previous Lessee did continue to pay the annual rent.

On October 19, 2017, staff conducted a rent review as directed by lease terms and conditions ([Item C47, October 19, 2017](#)). This resulted in modification of the annual rent from \$61 per year to \$125 per year, effective November 28, 2017.

On January 2, 2020, Gregory Scott Kann and Elizabeth Garamendi Kann transferred ownership interest in the upland parcel to Gregory Scott Kann and Elizabeth Garamendi Kann, Co-Trustees of the Garamendi Kann Family Trust dated December 26, 2019. The Commission was not notified of this change in ownership, nor was an assignment of lease sought. However, Commission records indicate that billing for this lease ceased at the close of the lease-year ending November 27, 2020.

The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of the existing boat dock, ramp, and two pilings. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on November 28, 2022.

Because the Applicant took ownership of the upland parcel on December 4, 2014, the lease provisions regarding indemnity would include the period of the Applicant's unauthorized occupation of State-owned lands.

Because the previous Lessee paid rent through the lease-year ending November 27, 2020, the State has already received payment covering part of the time the Applicant has occupied the premises and this prior payment is offset against the

amount owed by the applicant for the period of unauthorized occupation of State lands. The Applicant will pay the remaining \$248 for unauthorized occupation of State land by the subject boat dock, ramp, and two pilings for the period prior to November 28, 2022, the day before the beginning date of the proposed lease.

The subject facilities are privately owned and maintained by the Applicant. The boat dock and appurtenant facilities are used for 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 subject facilities are located directly waterward of the upland property and occupy a relatively small area of the river. The proposed lease will not interfere with navigation and does not substantially interfere with any Public Trust needs at this time or the foreseeable future.

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 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 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**

<b>Year</b>	<b>Projection (feet)</b>
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. 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 floating dock and ramp 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 pilings are 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 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:**

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1. Approval or denial of the 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 as authorized by law. If the Commission denies the application, the Applicant may be required to remove the boat dock, ramp, and two pilings and return the premises to their original condition. The lessee 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, California Code of Regulations, title 14, section 15300, and California Code of Regulations, title 2, section 2905.

## **EXHIBITS:**

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

## **RECOMMENDED ACTION:**

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

**AUTHORIZATION:**

1. Authorize the acceptance of compensation from the Applicant in the amount of \$248 for unauthorized occupation of State land for the period prior to November 28, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning November 28, 2022, for a term of 10 years, for the use and maintenance of an existing boat dock, ramp, and two 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 \$140, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 6351**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Lots 2 & 3 of fractional Section 34, Township 5 North, Range 4 East, M.D.B.&M., as shown on Official Government Township Plat approved June 18, 1859, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing boat dock, ramp and two steel pilings lying adjacent to that parcel described in Quitclaim Deed, recorded January 2, 2020 in Document No. 202001021021 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 said river.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

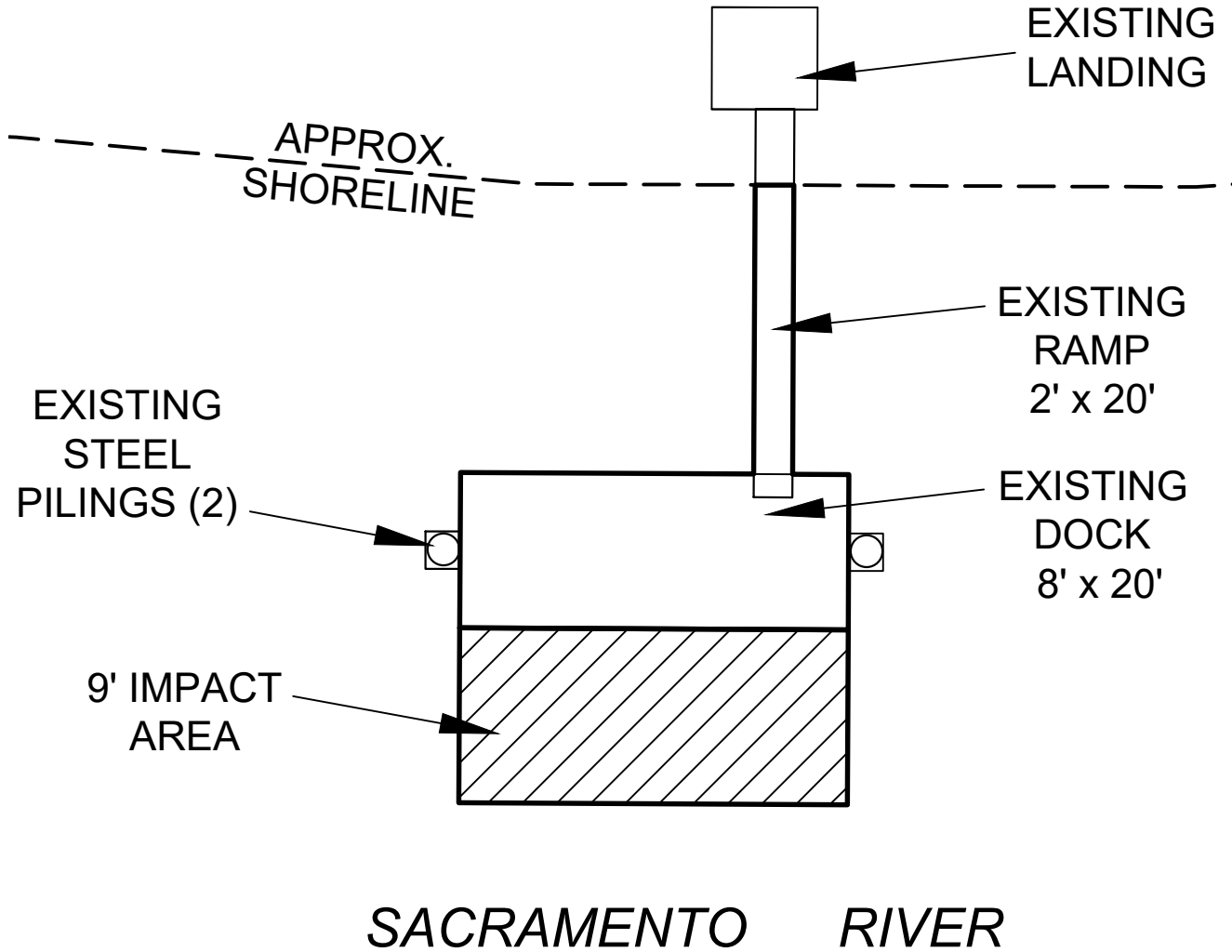
Prepared 01/12/2022 by the California State Lands Commission Boundary Unit



NO SCALE



# APNs 142-0230-007 & -008



## EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 6351, GARAMENDI KANN  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION

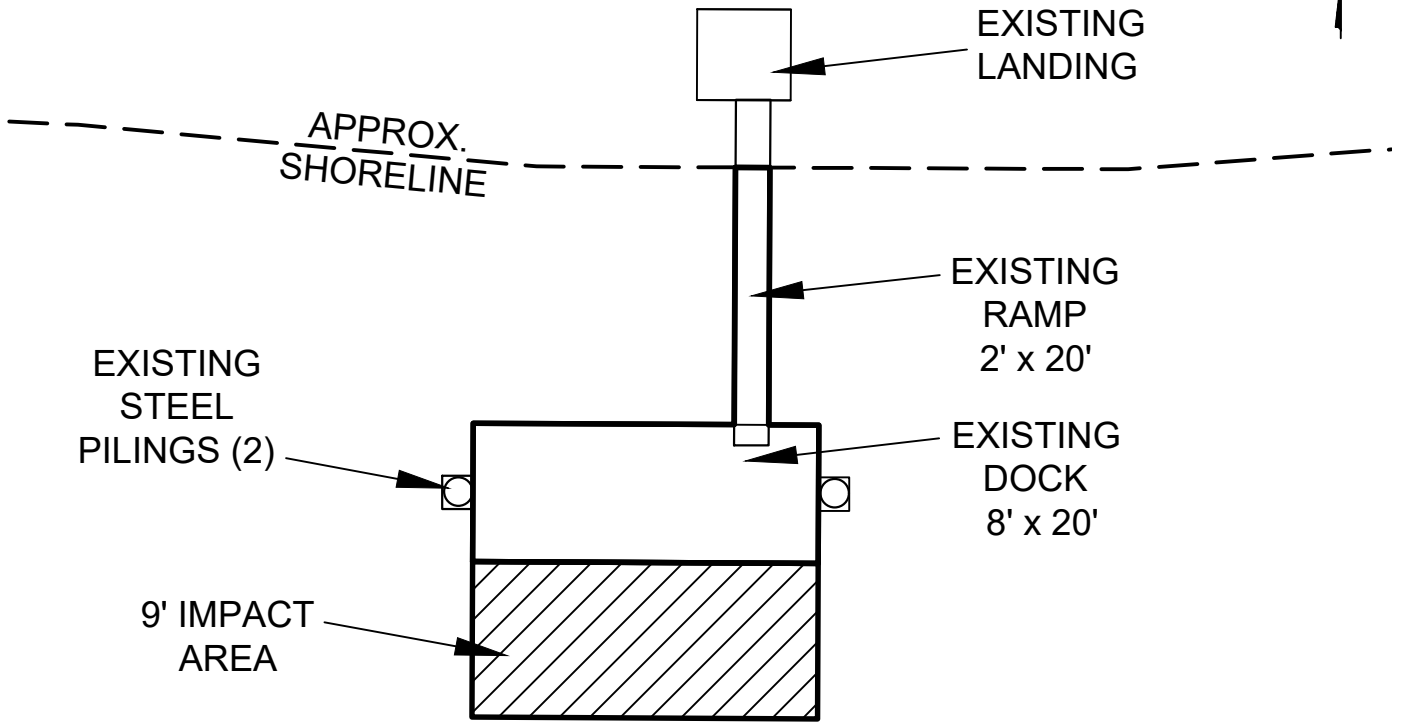




NO SCALE

# SITE

APNs 142-0230-007 & -008

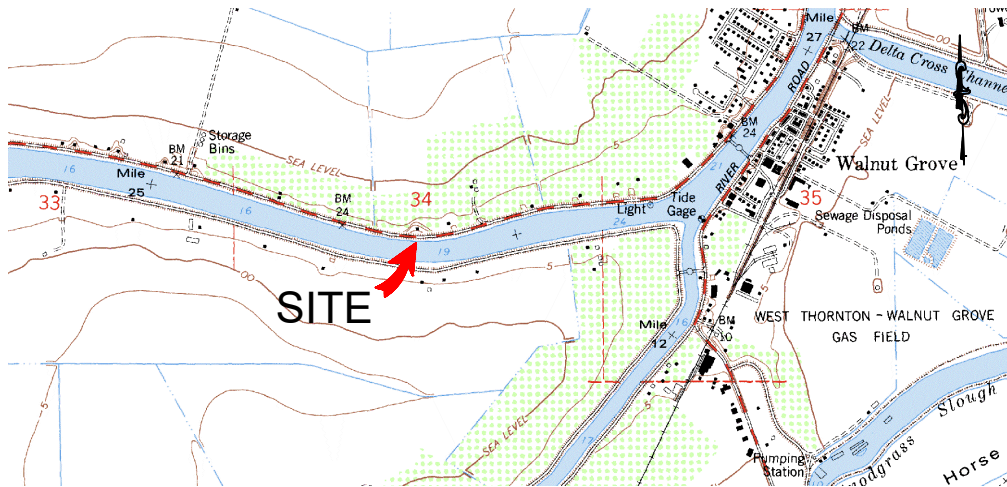


## SACRAMENTO RIVER

APNs 142-0230-007 AND -008, NEAR WALNUT GROVE

NO SCALE

# LOCATION



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.

# Exhibit B

LEASE 6351  
THE GARAMENDI CANN  
FAMILY TRUST  
APNs 142-0230-007 & -008  
GENERAL LEASE -  
RECREATIONAL USE  
SACRAMENTO COUNTY



TS 01/12/2022