

# Staff Report 54

## **APPLICANT:**

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Jean M. Gomez

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

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

Sovereign land in the Sacramento River, adjacent to 17210 Sherman Island East Levee Road, near Rio Vista, Sacramento County.

## **AUTHORIZED USE:**

Use and maintenance of an existing boat dock, four pilings, a ramp, and landing.

## **TERM:**

10 years, beginning April 26, 2023.

## **CONSIDERATION:**

\$207 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:**

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## **AUTHORITY:**

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

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On March 15, 2010, ownership interest in the upland parcel was deeded from Donald J. Colvin and Christine Colvin to Jean M. Gomez. On April 26, 2013, the Commission authorized a termination and issuance of a General Lease – Recreational Use for the continued use and maintenance of an existing boat dock, four pilings, and ramp ([Item 24, April 26, 2013](#)). The lease will expire on April 25, 2023.

The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of an existing boat dock, four pilings, a ramp, and landing in the Sacramento River.

The subject improvements are privately owned and maintained facilities that align with recreational boating activities. 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 facilities have existed at this location for many years. The facilities are located adjacent to the upland property and occupy a relatively small area of the Slough. 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 ensure 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 lease area is in Three Mile Slough, which is tributary to the Sacramento River and is 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
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 slough'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, creeks, 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.

The floating boat dock and ramp will be 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. 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 authorization of this 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, as owner of improvements on State Land, may be required to remove the boat dock, four pilings, a ramp and landing and restore the premises to their original condition, after the expiration of the previous lease. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "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:**

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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 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 lease; is consistent with the common law Public Trust Doctrine; and is in the best interest of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 26, 2023, for a term of 10 years, for the use and maintenance of an existing boat dock, four pilings, a ramp, and landing, as described in Exhibit A and shown in Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$207 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 8468**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Three Mile Slough, lying adjacent to Swamp and Overflowed Land Survey 584 patented December 19, 1867, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing boat dock, ramp, landing and four pilings lying adjacent to that parcel described in Trust Transfer Deed, recorded December 17, 2021 in Document Number 202112171553 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 slough.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Revised 12/07/2022 by the California State Lands Commission Boundary Unit



NO SCALE



THREE MILE SLOUGH

9' IMPACT  
AREA

EXISTING  
PILINGS (4)

EXISTING  
BOAT DOCK  
8' x 16'

EXISTING  
BOAT DOCK  
8' x 60'

EXISTING  
RAMP  
4' x 15'

EXISTING  
LANDING  
8' x 20'

APPROX. SHORELINE

EAST LEVEE ROAD

APN 158-0010-046

## EXHIBIT A

Page 2 of 2

TS 12/07/2022

LAND DESCRIPTION PLAT  
LEASE 8468, GOMEZ  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



THREE MILE SLOUGH

9' IMPACT  
AREA

EXISTING  
PILINGS (4)

EXISTING  
BOAT DOCK  
8' x 16'

EXISTING  
BOAT DOCK  
8' x 60'

EXISTING  
RAMP  
4' x 15'

EXISTING  
LANDING  
8' x 20'

APPROX. SHORELINE

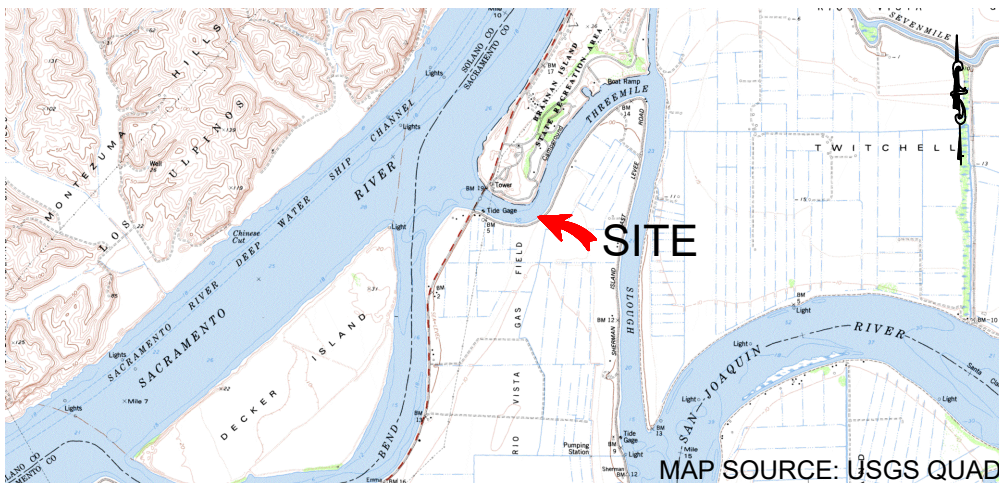
EAST LEVEE ROAD

APN 158-0010-046

17210 SHERMAN ISLAND, EAST LEVEE ROAD, RIO VISTA

NO SCALE

## LOCATION



## EXHIBIT B

LEASE 8468

GOMEZ

APN 158-0010-046

GENERAL LEASE -  
RECREATIONAL USE  
SACRAMENTO 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 12/07/2022