

Staff Report 55

APPLICANT:

Charles S. Jensen, III and Corrine L. Lill

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 14000 State Highway 160, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, gangway, and five pilings.

TERM:

10 years, beginning March 1, 2023.

CONSIDERATION:

\$465 per year, with an annual Consumer Price Index adjustment; and \$658 for unauthorized occupation of State land for the period beginning September 29, 2021 through February 28, 2023.

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, 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 November 27, 2000, the Commission authorized issuance of a General Lease – Recreational Use to Stephen A. Finn for the construction, use, and maintenance of a 30 foot by 60 foot floating boat dock and a 4 foot by 48 foot gangway ([Item C30, November 27, 2000](#)). This lease expired August 31, 2010.

On September 29, 2021, ownership interest in the upland parcel was transferred to Charles S. Jensen, III and Corrine L. Lill. The Commission was not notified of this change in ownership. However, a lease application for this property was submitted to the Commission on August 24, 2022.

The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of the existing boat dock, gangway, and five pilings in the Sacramento River, adjacent to 14000 State Highway 160, near Walnut Grove, Sacramento County. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on March 1, 2023.

The Applicant will pay \$658 in compensation for the unauthorized occupation of State lands by the boat dock, gangway, and five pilings for the period beginning September 29, 2021 through February 28, 2023, the day before the beginning date of the proposed lease. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, from September 29, 2021 through February 28, 2023, ensuring the State is protected.

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 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.

Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events and 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 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 cause damage to the bank protection at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

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 (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 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, gangway, and five 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:

- 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 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 \$658 for unauthorized occupation of State land for the time period of September 29, 2021 through February 28, 2023.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2023, for a term of 10 years, for the use and maintenance of

an existing boat dock, gangway, 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 \$465, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8222

LAND DESCRIPTION

A parcel of tide and submerged land situated in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Survey 306 patented August 5, 1859, County of Sacramento, State of California, described as follows:

All those lands underlying an existing double slip boat dock, gangway and five pilings lying adjacent to that parcel described in Grant Deed recorded September 9, 2021 as Document Number 202109290088 in Official Records of said County.

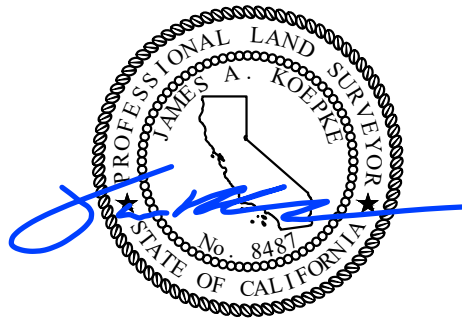
TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/08/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

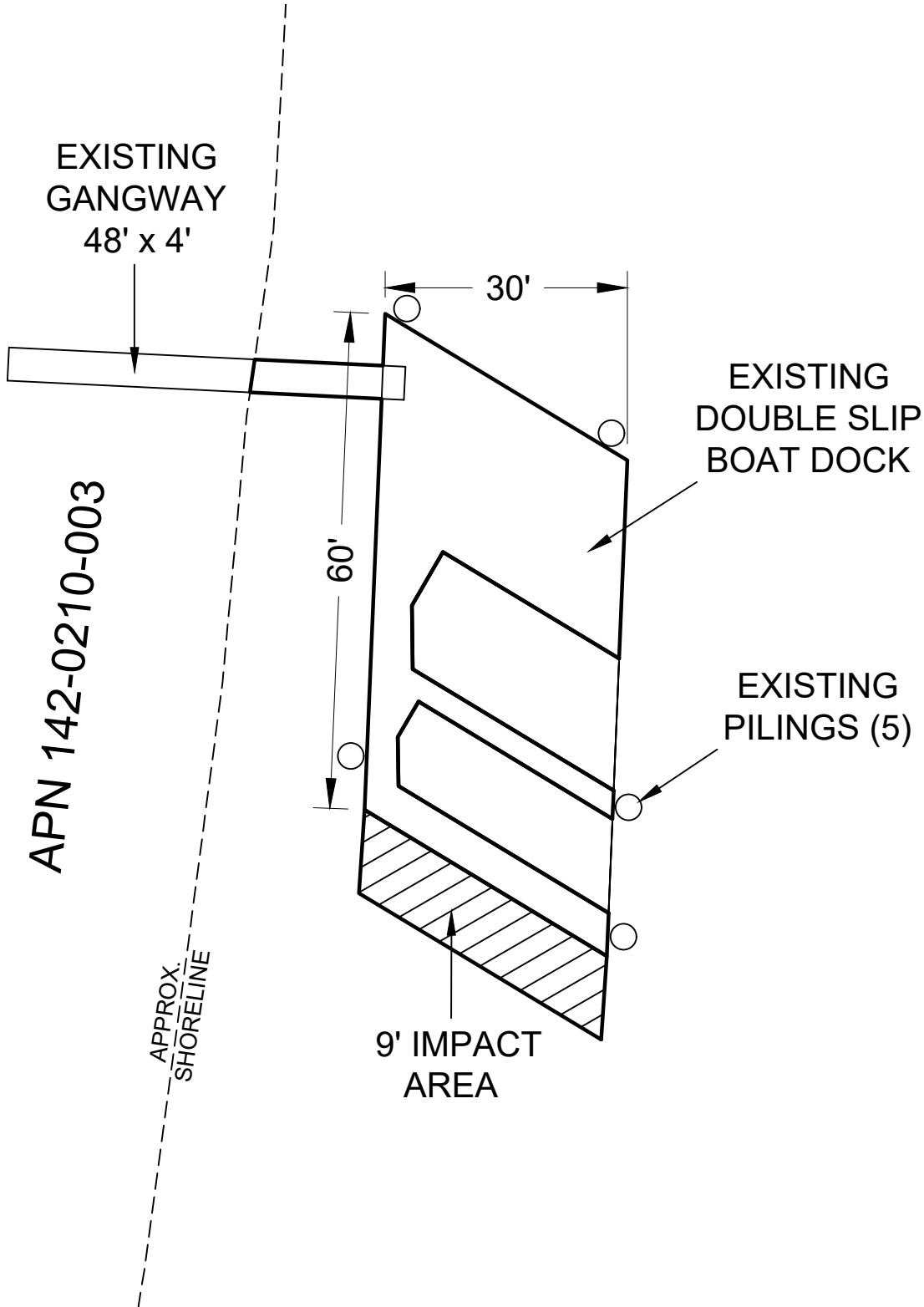


EXHIBIT A

PAGE 2 OF 2

DT 11/08/2022

LAND DESCRIPTION PLAT
 LEASE 8222, JENSEN & LILL
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



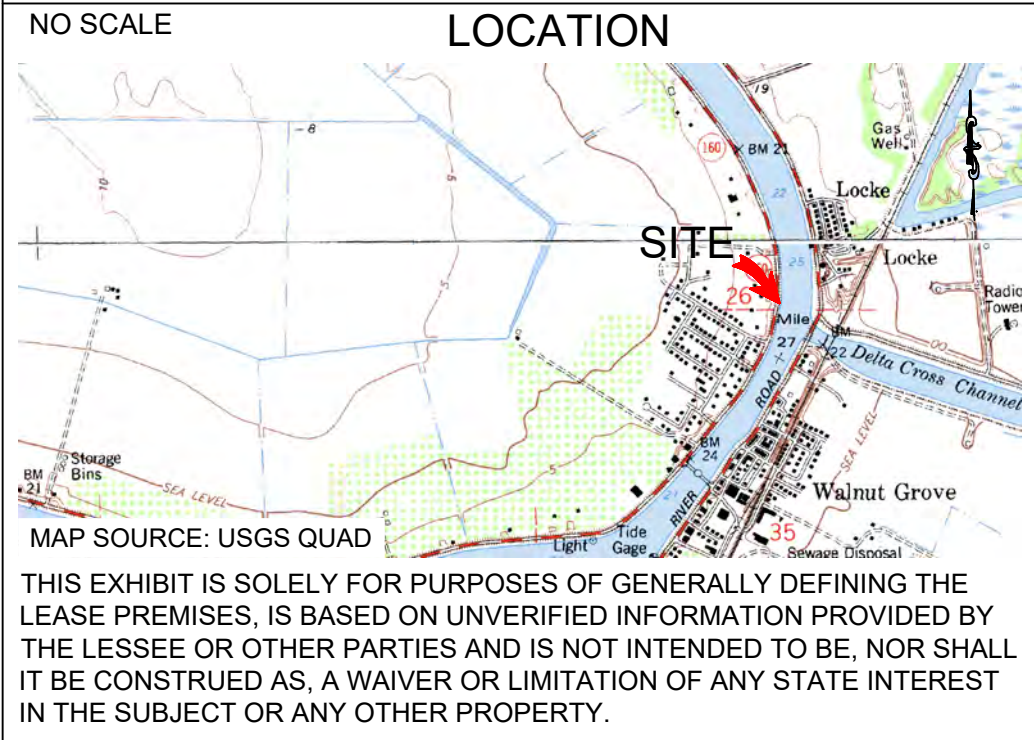
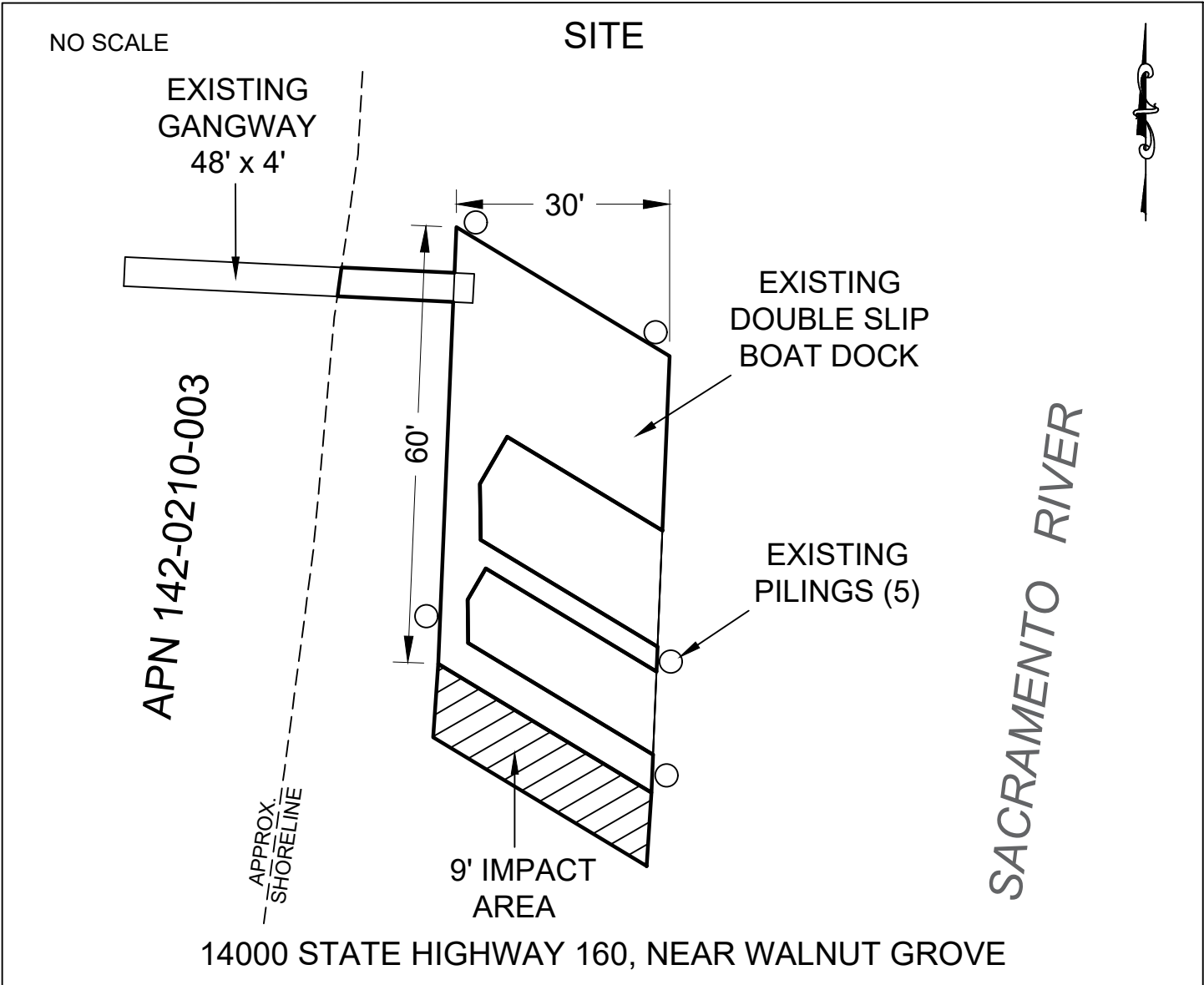


EXHIBIT B

LEASE 8222
 JENSEN & LILL
 APN 142-0210-003
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY

SITE

DT 11/08/2022