

Staff Report 29

APPLICANT:

Gerald Campbell and Kellie Campbell, Trustees of the Campbell Revocable Family Trust, dated September 14, 2000

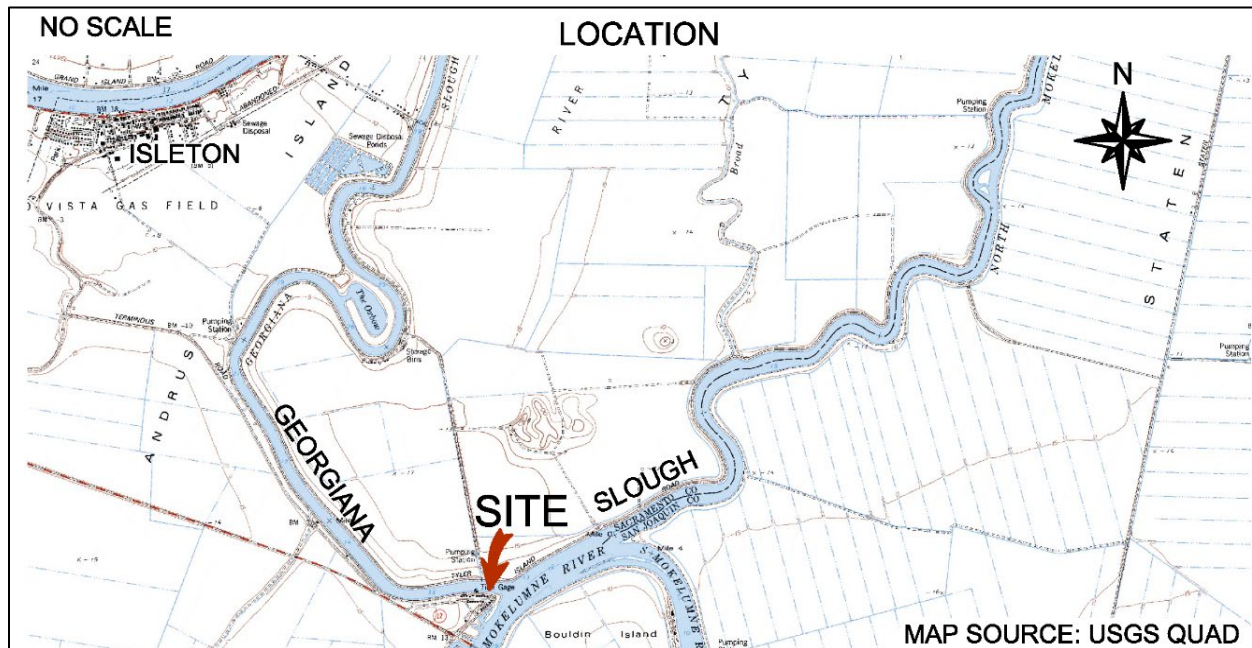
PROPOSED ACTION:

Issuance of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Georgiana Slough, adjacent to 405 West Willow Tree Lane, near Isleton, Sacramento County (as shown on Figure 1).

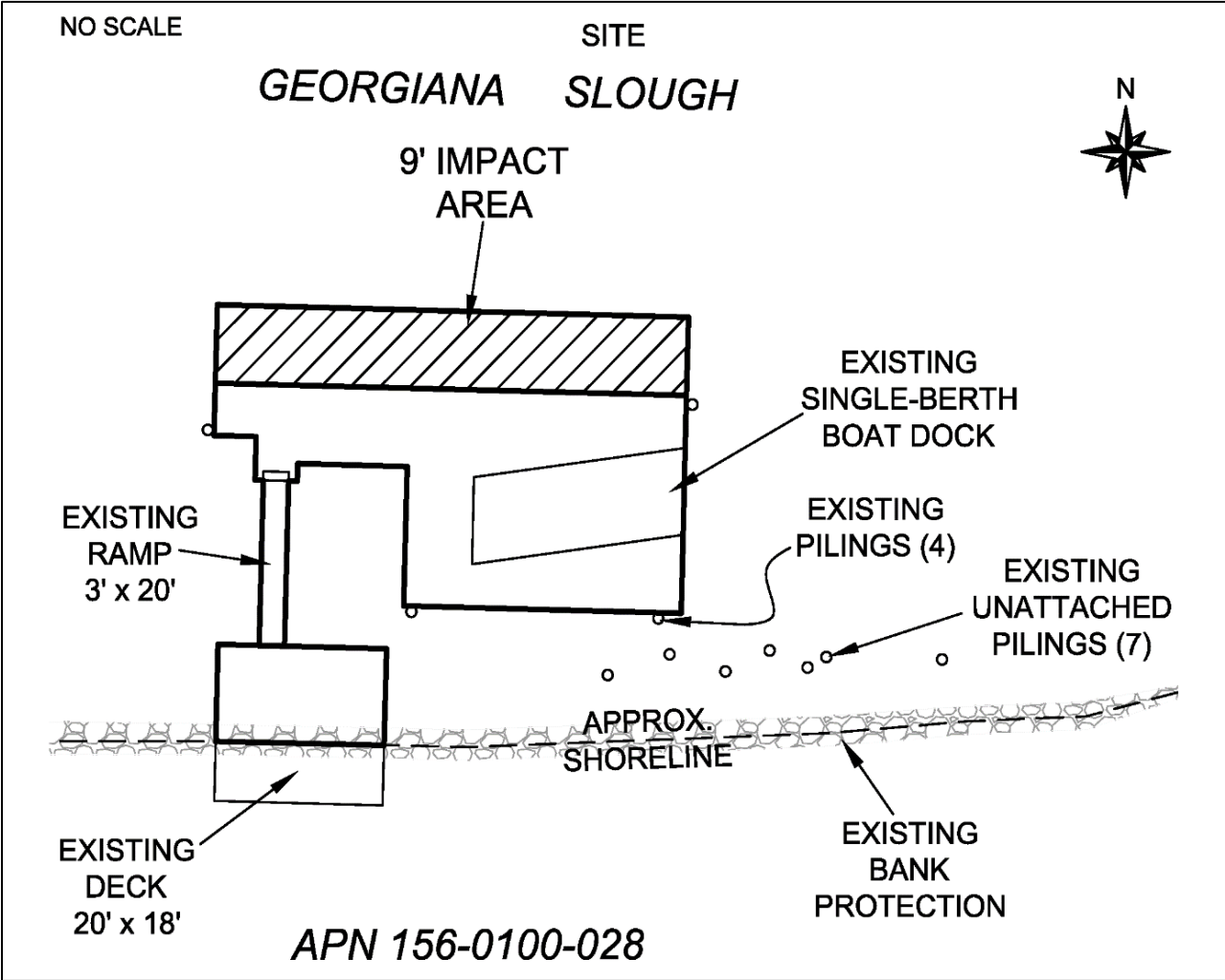
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, deck, ramp, and four pilings previously authorized by the Commission; and seven existing unattached pilings and bank protection not previously authorized by the Commission (as shown on Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

10 years, beginning June 5, 2023.

CONSIDERATION:

\$914 per year, with an annual Consumer Price Index adjustment; and \$1,050 for unauthorized occupation of State land from January 26, 2022 through June 4, 2023.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.
- Lessee agrees to submit an application to the Commission for removal or for reuse of the seven existing unattached pilings, within 2 years of Lease execution date.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503.5 and 6505.5; California Code of Regulations, title 2, section 2000.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 26, 2013, the Commission authorized issuance of a 10-year General Lease – Recreational Use to Kathleen F. Gallo and Patrick T. Beckley, for an existing boat dock, four pilings, ramp, and deck ([Item C35, April 26, 2013](#)). That lease expired on January 25, 2023.

On March 27, 2020, the upland parcel was deeded to the Applicant without Commission authorization. The Applicant is applying for a General Lease – Recreational and Protective Structure Use, for the use of an existing boat dock, deck, ramp, and four pilings previously authorized by the Commission; and seven existing unattached pilings and bank protection not previously authorized by the Commission. The seven unattached pilings and bank protection have existed for many years but were never under lease.

Accounting records show that the annual rent was paid through January 25, 2022. Staff is requesting compensation from the Applicant in the amount of \$1,050, for the unauthorized occupation of State land for the period from January 26, 2022 through June 4, 2023, the day before issuance of the proposed new lease. Further, Staff recommends the effective date of the proposed new lease align with the authorization date, June 5, 2023. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is protected.

The existing boat dock, ramp, and pilings are privately owned and maintained 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 existing bank protection serves to improve the integrity of the Georgiana Slough (Slough), which helps protect the upland property and the Public Trust resources of the Slough for recreational and navigational use by the public.

The facilities are located directly adjacent to the upland property and occupy a relatively small area of the Slough. 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 Georgiana Slough (draining into the San Joaquin 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 Georgiana 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, 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 Slough 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 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. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the dock and stabilizer poles. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The single-berth boat dock and ramp are adaptable to variable 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. The fixed features, such as the pilings and deck may need reinforcement to withstand higher levels of flood exposure and more frequent storm events.

The vegetated bank (not under lease) 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 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 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; 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 be required to remove the lease facilities. The lessee also has no right to a new lease or 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 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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:

Commission staff believes that the proposed lease for the facilities in the Georgiana Slough will not substantially interfere with the Public Trust needs and values at this location because the unattached pilings occupy a relatively small area of sovereign land, is located outside of the main channel of the slough and is located close to the shoreline. In addition, the unattached pilings have existed for several years at this location and do not permanently alienate the State's fee simple interest in the underlying land. Furthermore, the proposed lease for the unattached pilings will allow the Applicant to develop a plan for the eventual removal which is in the long-term best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$1,050 for unauthorized occupation of State land from January 26, 2022 through June 4, 2023.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning June 5, 2023, for a term of 10 years, for the use of an existing boat dock, deck, ramp, and four pilings previously authorized by the Commission; and seven existing unattached pilings and bank protection not previously authorized by the Commission; annual rent in the amount of \$914, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.