

Staff Report 34

LESSEE:

Traci L. Cone

APPLICANT:

Eugene Grant Larson and Angelina Oppedisano Larson, Trustees under the Larson Family Trust dated September 11, 1995

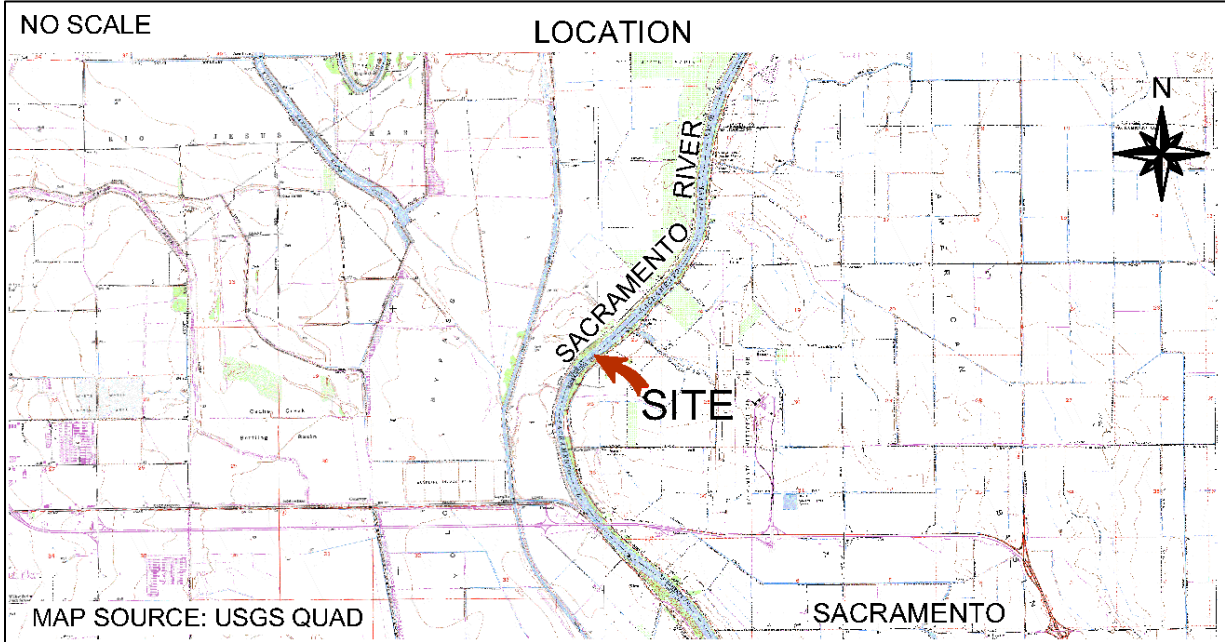
PROPOSED ACTION:

Termination of a General Lease – Protective Structure Use; and Issuance of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 7115 Garden Highway, Sacramento, Sacramento County (as shown in Figure 1).

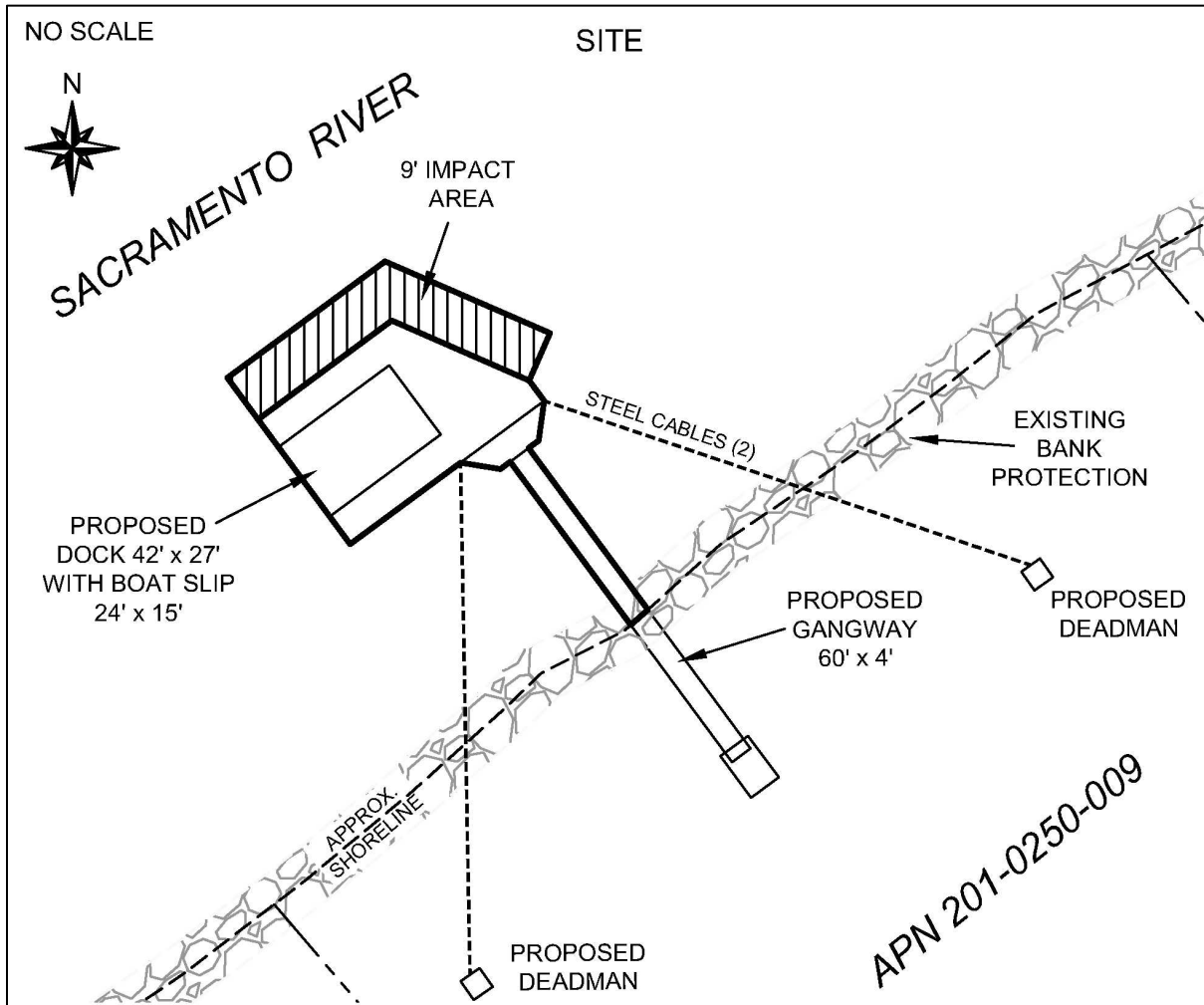
Figure 1. Location



AUTHORIZED USE:

Use of existing bank protection previously authorized by the Commission; and construction and use of a boat dock with slip and debris diverter, gangway and cables.

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:

\$511 per year, with an annual Consumer Price Index adjustment; and \$194 for unauthorized occupation of State land for the period prior to June 5, 2023.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Within 60 days of completing the construction of the authorized improvements, Lessee will provide Lessor with photographs and a set of “as-built” plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee, and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Lessee agrees to obtain permits from all regulatory agencies for the proposed construction activities.
- 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 6503.5; California Code of Regulations, title 2, sections 2000, subdivision (b).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 2, 2013, the Commission authorized a General Lease – Protective Structure Use to Tracie L. Cone for use of existing bank protection ([Item 46, December 2, 2013](#)). The lease is set to expire on August 8, 2023.

On October 29, 2020, ownership interest in the upland parcel was transferred from the Lessee to Eugene Grant Larson and Angelina Oppedisano Larson, Trustees under the Larson Family Trust dated September 11, 1995. The Lessee did not notify the Commission or apply for an assignment of the lease.

The Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the construction and use of a recreational boat dock with slip and debris diverter, gangway, and cables; and the use of existing bank protection. The

cables are attached to two deadmen concrete block anchors that are on the upland outside the Commission's leasing jurisdiction. Staff recommends termination of Lease No. PRC 5493 effective June 4, 2023, and starting the new lease on June 5, 2023, the day of the Commission meeting.

The Applicant will pay \$194 for unauthorized occupation of State lands by the subject bank protection for the period prior to June 5, 2023. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, ensuring the State is protected.

The existing bank protection has been under lease for many years. The placement of additional riprap is not proposed as a part of this project. Construction will be performed by using a crane truck, work boat, and work truck. The dock would be fabricated off site and floated into place. The proposed gangway would be placed from the land using a crane truck or similar equipment. Work will take place within approved in-water work windows from August 1 to October 31.

The proposed boat dock will be 27 feet by 42 feet with a 14-foot by 24-foot boat slip and will be accessed by a four-foot-wide aluminum gangway supported on encased foam flotation components per current in-water standards. No placement of in-water pilings is proposed. Instead, the boat dock gangway will serve as a rigid strut between the dock and a concrete landing on the edge of the berm adjacent to the upland residence. The gangway will be hinged at each end to adjust for changes in the river levels and will be fitted with engineered and encased foam flotation tubs to accommodate flood event flows. Galvanized steel cables will be attached to the boat dock and to two deadman concrete block anchors. These cables will stabilize the dock during flood tide and ebb current flows as well as transfer the lateral forces to the shore. A hinge bracket, at the landing end of the gangway is built with pile guides to work with two 6-inch-diameter galvanized pipe columns providing stability during high water events.

The upstream end of the dock float will be angled in the downstream direction and will have an underwater debris deflector developed by the dock manufacturer. The boat dock and gangway will be prefabricated at a local, off-site facility. The dock will be floated into position with a work boat and used to facilitate placement of the gangway and to string the anchor cables. A crane truck operating from the berm or from a work barge will be used to off-load and install the gangway. All concrete forming and pouring for the two deadman anchors and landing will be done by working from the upland.

The Applicant owns the upland parcel adjoining the lease premises. The proposed facilities would be used for the 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). 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 the boat dock, gangway, and cables 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 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 will be 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.

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 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 the proposed 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 proposed 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 proposed 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 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 not construct the proposed facilities. 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. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. **Existing Bank Protection:** Staff recommends that the Commission find that this activity is exempt from the requirements of 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).
5. **New Boat Dock:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS OBTAINED:

California Department of Fish and Wildlife
Central Valley Flood Protection Board
U.S. Army Corps of Engineers
Reclamation District No. 1

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Bank Protection: 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).

New Boat Dock: 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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. Terminate Lease No. PRC 5403, a General Lease – Protective Structure Use issued to Traci L. Cone.
2. Authorize acceptance of compensation from the Applicant in the amount of \$194 for unauthorized occupation of State land for the period prior to June 5, 2023.
3. 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 construction and use of a boat dock with slip and debris diverter, gangway, and cables; and the use of existing bank protection; annual rent in the amount of \$511, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
4. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the improvements following construction.