Meeting Date: 06/05/23
Lease Number: 5373
Staff: J. Plovnick

Staff Report 55

APPLICANT:

Stockton Water Ski Club

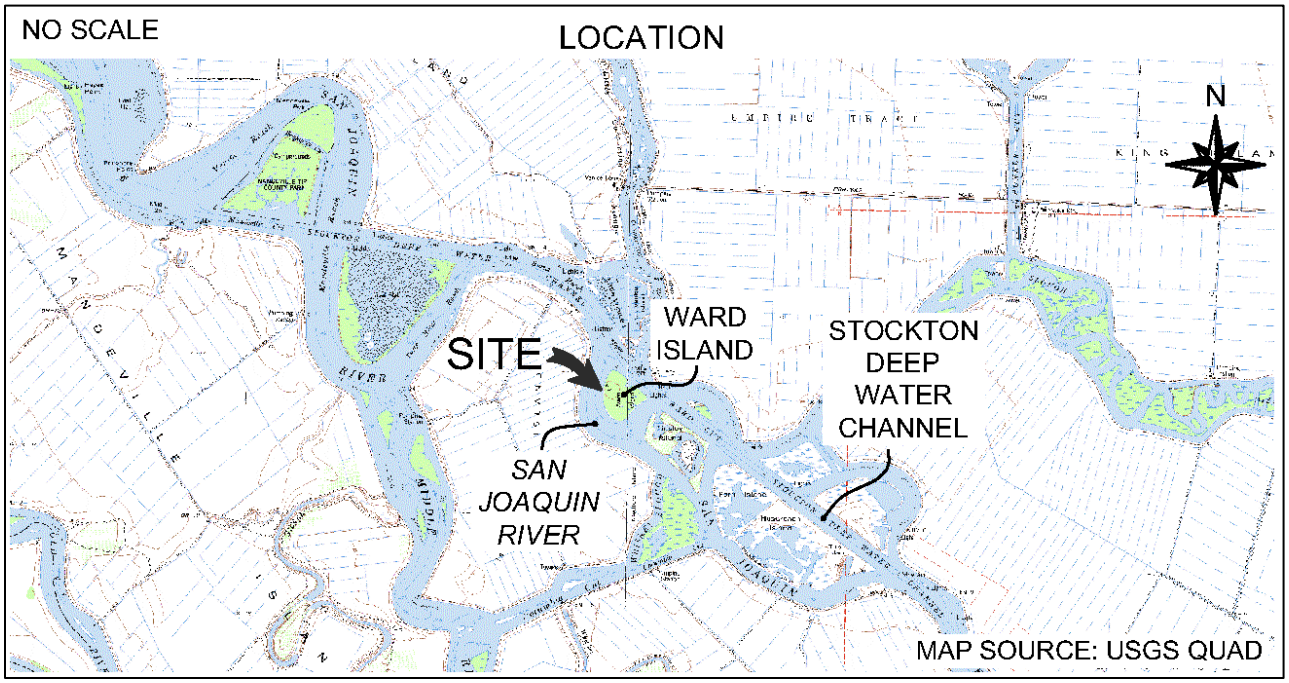
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the San Joaquin River, adjacent to Assessor's Parcel Number 129-070-01, near Ward Island, San Joaquin County (as shown in Figure 1).

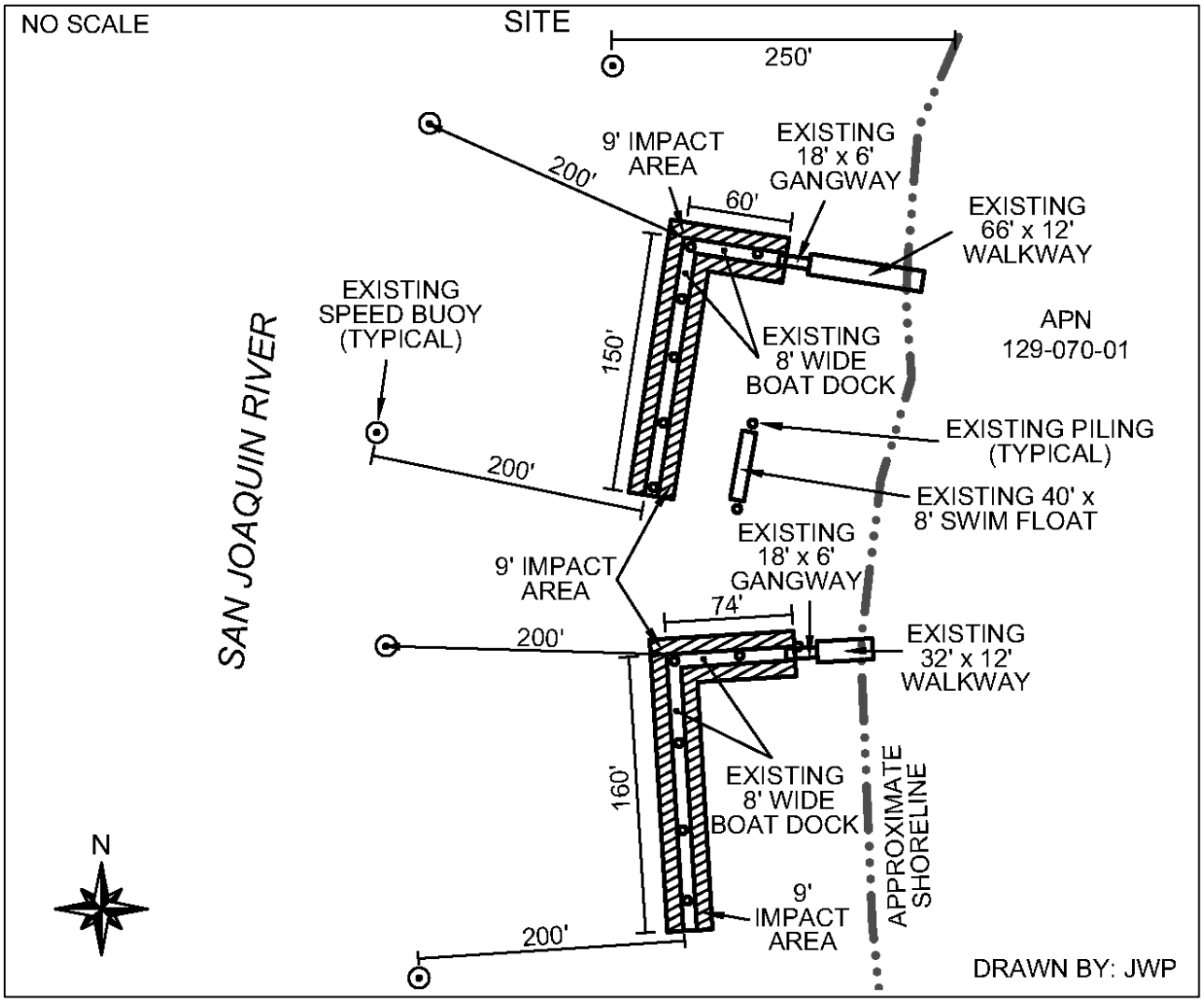
Figure 1. Location



AUTHORIZED USE:

Use of two existing boat docks, two walkways, one swim float, 14 pilings, and five speed control buoys (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 March 1, 2023.

CONSIDERATION:

$2,257 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.
- Surety bond in the amount of $10,000
- Lessee agrees to implement the Best Management Practices for Guest Dock Users and Boaters attached as Exhibit A.
- 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 February 22, 2013, the Commission authorized issuance of a General Lease – Recreational Use to Stockton Water Ski Club, for use of an existing uncovered floating boat dock, walkway, swim float, eight pilings, and five speed control buoys previously authorized by the Commission; and use of an existing boat dock, walkway, and six pilings not previously authorized by the Commission (Item C59, February 22, 2013). This lease expired on February 28, 2023.

The Applicant is now applying for a General Lease – Recreational Use, for the use of the two existing boat docks, two walkways, one swim float, 14 pilings, and five speed control buoys in the San Joaquin River adjacent to Assessor's Parcel Number 129-070-01, near Ward Island, San Joaquin County. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on March 1, 2023.

The subject facilities are privately owned and maintained by the Applicant. The boat docks, walkways, pilings, and speed control buoys all serve to 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). Additionally, the swim float on the Lease Premises serves to facilitate recreational swimming. This is also a water dependent use that is generally consistent with the Public Trust.

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 nor substantially interfere with any Public Trust needs at this time or for 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 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 San Joaquin River's inundation levels within the lease area. In addition, as stated in the *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 boat docks, swim float, and speed control buoys 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. The walkways and 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:

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. If the Commission denies the application, the Applicant may be required to remove the boat docks, walkways, swim float, pilings, and speed control buoys 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.

EXHIBIT:

A. Best Management Practices for Guest Dock Users and Boaters

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:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2023, for a term of 10 years, for the use of two existing boat docks, two walkways, one swim float, 14 pilings, and five speed control buoys; annual rent in the amount of $2,257, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $1,000,000 per occurrence.

EXHIBIT A

BEST MANAGEMENT PRACTICES FOR GUEST DOCK USERS AND BOATERS

Bilge Water Management

Keep bilge area as dry as possible.

Regularly check fittings, fluid lines, engine seals, and gaskets Fix all oil and fuel leaks in a timely manner.

Do not drain oil into the bilge.

Fit a drain pan, if feasible, underneath the engine to collect drips and leaks Consider the use oil-absorbent pads, even in small boats.

If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pump out service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.

Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.

Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.

Avoid overfilling fuel tanks and attend the fuel nozzle at all times.

Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.

Use petroleum absorption pads while fueling to catch splash back and the any drops when the nozzle is transferred back from the boat to the fuel dock.

Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent, check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

Schedule regular hull cleaning and maintenance to reduce the build up of hard marine growth and eliminate the need for hard scrubbing.

Regularly scheduled gentle cleaning will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles and other approved containers to dispose of garbage and other waste.