

Staff Report 56

APPLICANT:

Padra Tarifard

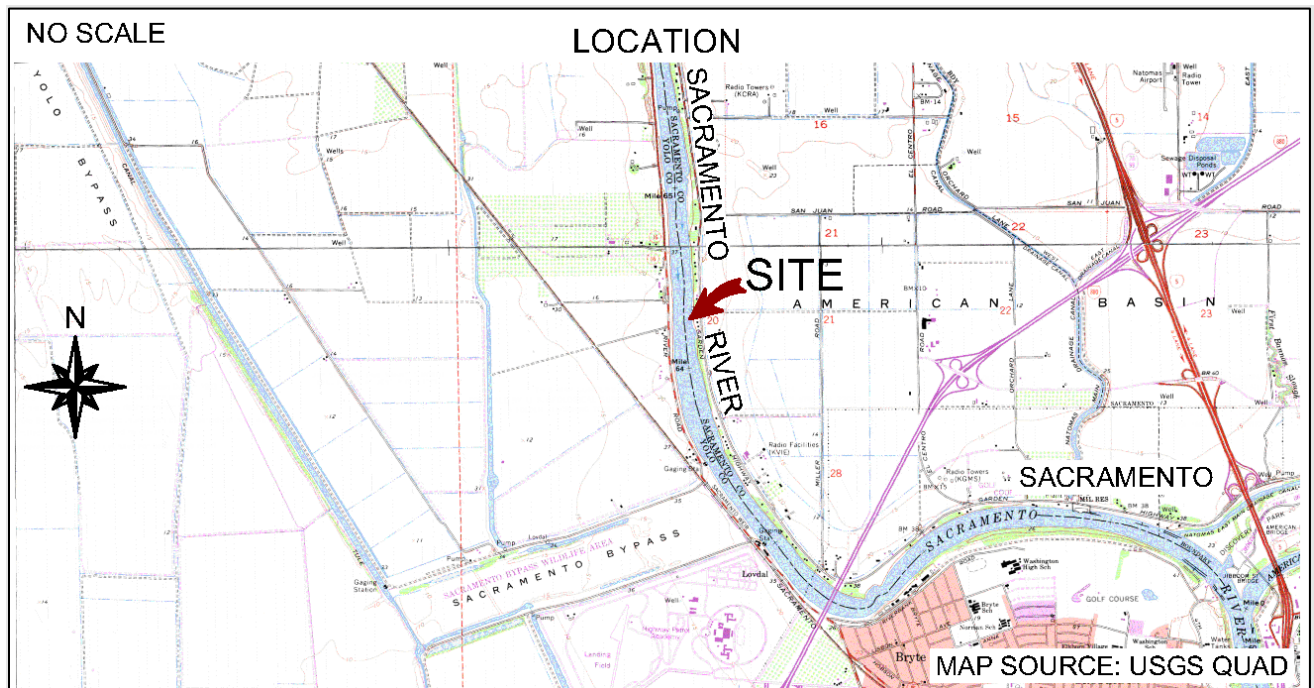
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent 2931 Garden Highway, near Sacramento, Sacramento County (as shown in Figure 1).

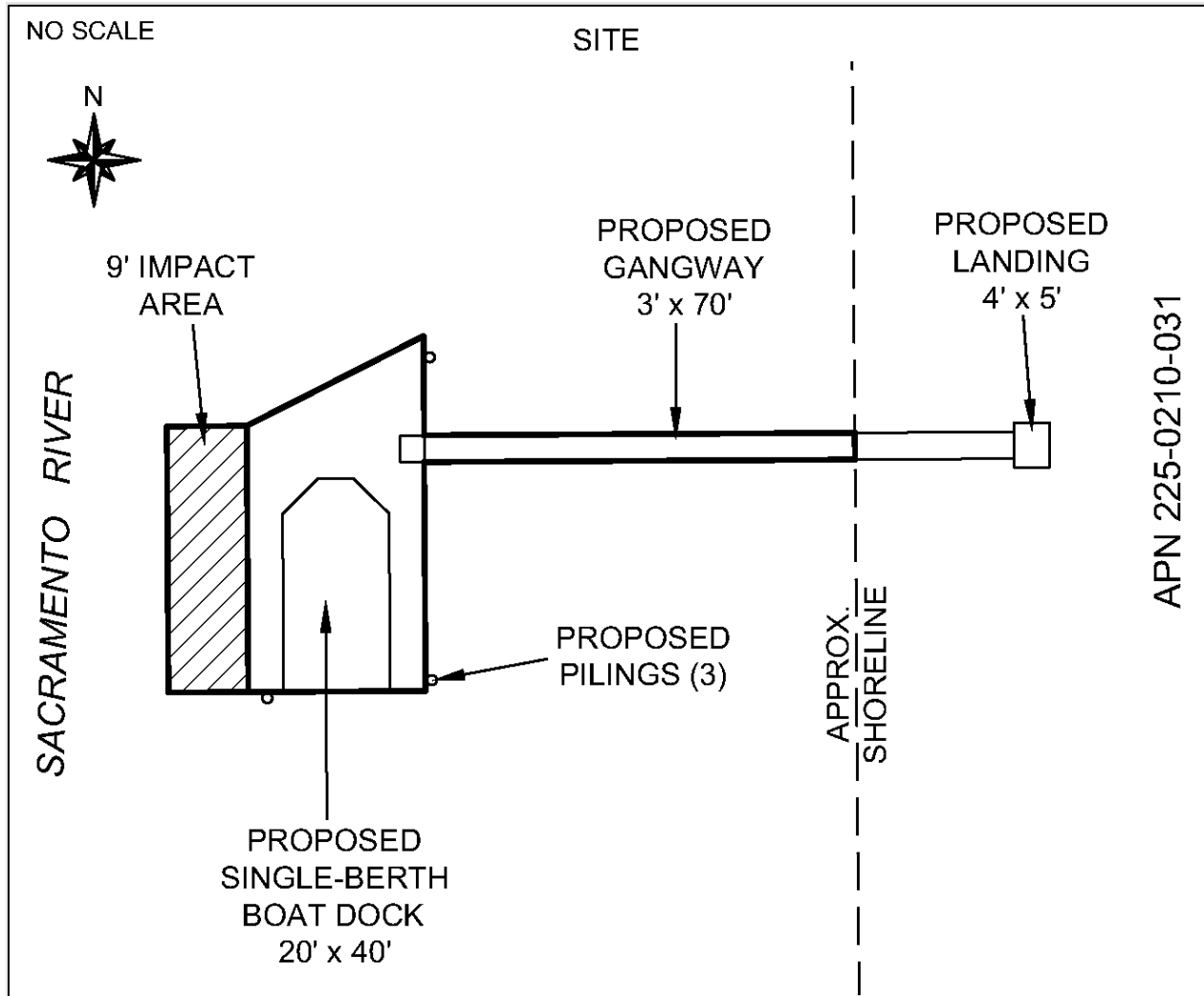
Figure 1. Location



AUTHORIZED USE:

Construction and use of a boat dock, three pilings, and a gangway (as shown in 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:

\$239 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.
- Lessee agrees and acknowledges that the boat dock is used for docking and mooring purposes only. This does not include swimming floats or platforms, swim area, fishing platforms, residential, storage, or eating facilities or areas attached or adjacent to the authorized improvements, or any other facilities not constructed for the docking of boats.
- 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 therein.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

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:

The Applicant is applying for a General Lease – Recreational Use for the construction and use of a boat dock, three pilings, and a gangway in the Sacramento River, adjacent to 2931 Garden Highway, near Sacramento, Sacramento County. The Applicant took ownership interest of the adjacent upland property on October 19, 2021.

The Applicant has demonstrated due diligence by submitting a project description, project plans, and a biological assessment of predicted impacts to the surrounding environment and wildlife resulting from the proposed project. The Applicant has

also applied for appropriate permits to authorize the construction of the boat dock and appurtenant facilities.

The proposed project consists of the installation of a boat dock and gangway which are to be manufactured offsite, delivered to the boat ramp nearest to the lease premises, and floated to the lease premises from said boat ramp. Additionally, the proposed project involves driving three 12-inch-diameter steel piles of approximately 40 feet in length into the bed of the Sacramento River to a depth of 25 feet or to a point of refusal using a barge-mounted drop hammer of 3,000 pounds or less; and the installation of a concrete landing with two steel pilings on the shore, to which the gangway will be attached.

The proposed project plan details appropriate management practices which will be used to minimize the environmental impacts from construction. These practices include driving all the steel piles in less than one day to minimize the duration of acoustic impacts, utilizing wooden curtain blocks to diminish the acoustic intensity of the drop hammer strikes, using curtains and screen barriers to mitigate impacts to water quality from disturbed sediment, and using a variety of barrier devices to capture debris, spills, or drips resulting from any construction activities.

The proposed dock will occupy an area measuring 20 feet by 40 feet and will be U-shaped, with an angled dock section for debris deflection, and two fingers measuring 4 feet by 24 feet. The dock will have a single-berth within the U-shape. It will be constructed with an aluminum frame, decked with composite materials, and will utilize encapsulated floatation for buoyancy. The dock is to be anchored to the three steel piles such that the dock can rise and fall along with the changing water levels of the river.

The dock will be accessible from the shore via the proposed gangway. The gangway will measure 3 feet by 70 feet and be constructed with an aluminum frame and aluminum decking. The gangway will be attached to the dock such that it can rise and fall along with the dock in accordance with the changing water levels of the river. The gangway will be attached to the shore via the proposed concrete landing; the gangway will specifically be attached to the two four-inch-diameter steel pipes which are to be built into the landing in such a way that the gangway can rise during flood conditions.

The proposed project will commence only once all necessary approvals, authorizations, and permits are obtained. There is currently no scheduled project date. All construction activities must comply with the codes and methods established by agencies exercising pertinent jurisdiction within the lease area.

The proposed improvements shall be privately owned and maintained by the Applicant. The boat dock and appurtenant facilities will be 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 proposed improvements will be located directly waterward of the upland property and will 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.

Staff recommends issuance of a General Lease – Recreational Use to the applicant, to take effect on June 5, 2023. 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 required the lessee to insure the lease premises and indemnify the State not 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 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.

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 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 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 interest 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 cannot construct the boat dock, three pilings or gangway. The lessee has no right to a new lease or to a 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2).

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

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
Central Valley Flood Protection Board

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(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 issuance of a General Lease – Recreational Use to the Applicant beginning June 5, 2023, for a term of 10 years, for the construction and use of a boat dock, gangway, and three pilings; annual rent in the amount of \$239, with a Consumer Price index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Authorize the Executive Officer or their 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.