

John E. Ahmann and Judy Ann Ahmann, as Trustees of the Ahmann Family Trust,
under Declaration of Trust, dated June 18, 2005

Issuance of a General Lease – Recreational and Protective Structure Use.

Sovereign land in the Napa River, adjacent to 1301 Milton Road, near Napa, Napa County (as shown on Figure 1).

SCALE

LOCATION

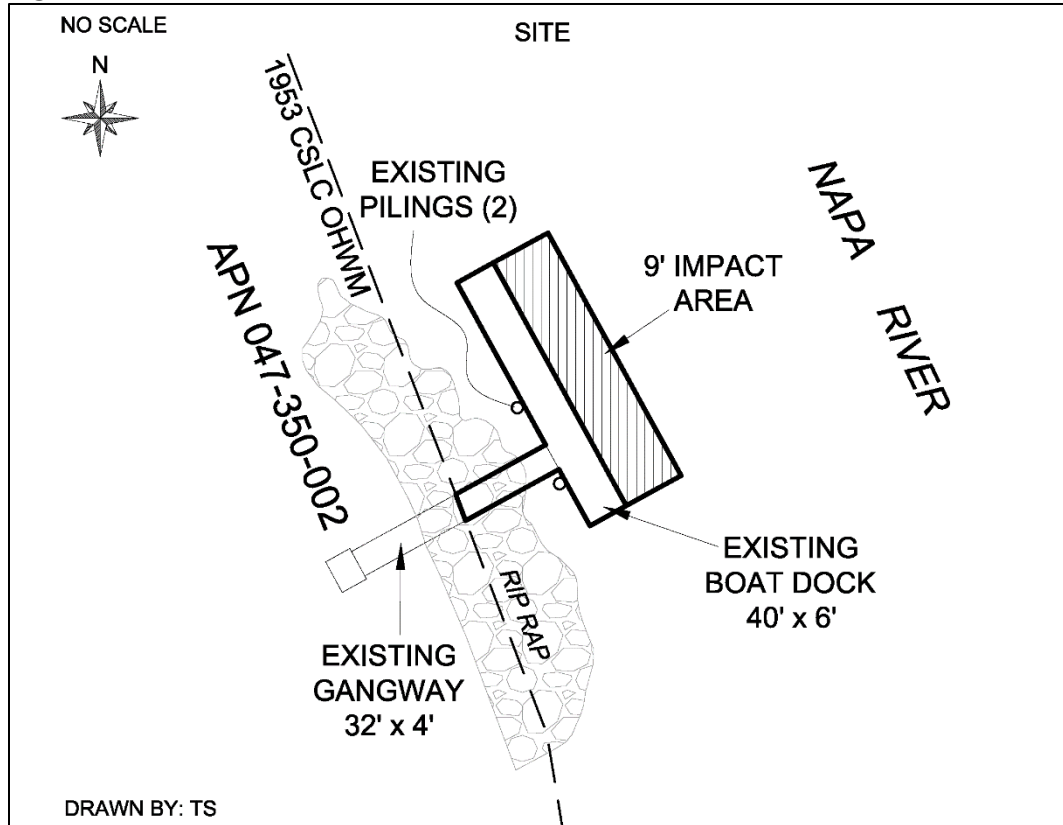
SITE

MAP SOURCE: USGS C

AUTHORIZED USE:

Construction of a boat dock and gangway using two existing pilings, removal of one existing piling, and use of existing 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 October 19, 2023.

CONSIDERATION:

\$290 per year, with an annual Consumer Price Index adjustment; and \$600 for unauthorized occupation of State land for the period through October 18, 2023 for the pilings and for the period through May 22, 2023 for a floating dock that has since been removed.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees to obtain permits from all regulatory agencies for the proposed construction activities.
- 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.
- Within 60 days of completing the construction of 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 this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by 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 revised Exhibits shall be incorporated in this Lease as though fully set forth herein.
- Construction may begin upon receipt of all approvals or permits and be completed no later than October 19, 2026.
- Construction may occur only during the work window established by applicable regulatory agencies.

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, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On March 5, 2020, the upland parcel was deeded to John E. Ahmann and Judy Ann Ahmann, as Trustees of the Ahmann Family Trust. When the Ahmann Family Trust purchased the property, the pilings and bank protection already existed. On September 28, 2022, the Applicant installed a floating boat dock without Commission approval. The San Francisco Bay Conservation and Development Commission (BCDC) required the removal of the existing floating boat dock, and it was removed May 22, 2023. The Applicant applied to BCDC, to reconstruct a boat dock that was never approved by the State Lands Commission, and is now applying to the Commission for a General Lease – Recreational and Protective Structure Use, for the construction of a boat dock and gangway using two existing

pilings, removal of one unattached piling, and use of existing bank protection not previously authorized by the Commission.

The boat dock will be floated in by barge and will utilize two of the existing pilings. No new pilings will be driven into the riverbed. The gangway attaches to the upland and the boat dock with rollers and brackets. The dock is 40 by 6 square feet and the gangway is 32 by 4 square feet. The unattached piling will be removed using methods such as vibratory extraction, which shall be prioritized over direct-pull methods, in order to control silt and sediment during pile removal. Debris shall be removed to an offsite, authorized disposal site.

The Applicant is applying for a General Lease – Recreational and Protective Structure Use for the use of two of the existing pilings and rip rap, removal of one piling, and the installation, use and maintenance of a floating dock and gangway. Staff recommends the Commission accept compensation from the Applicant in the amount of \$600 for the unauthorized occupation of state land for the existing pilings from August 22, 2020 through October 18, 2023 as well as compensation from September 28, 2022 to May 22, 2023 for an unauthorized boat dock that has been removed.

The facilities will 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 existing and proposed improvements are 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 for the foreseeable future.

The bank protection protects the upland property and maintain the integrity of the Sacramento River, which will help protect the Public Trust resources 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 river.

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 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 leased facilities are located on the Napa River, in a tidally influenced site, that is vulnerable to shallow coastal flooding at current sea levels and will be at 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 lease area 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. 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 tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than

previously experienced. Finally, in tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The facilities in the leased area will be partially submerged or will have to withstand flooding events and will likely need continued maintenance in the near future to ensure the leased structures continue to withstand higher levels of flood exposure and storm activity. The floating dock and gangway are able to move with the surface of the river and will be able to withstand some flooding. However, the pilings, floating dock, and gangway could be damaged by storm-created debris in the river. In addition, the bank protection and adjacent upland may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation to the upland structures. 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 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 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 and may be required to remove the existing bank protection. Upon expiration or prior termination of the lease, a lessee also 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. **For Existing Pilings and Bank Protection:** 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).

For Construction of Boat Dock and Gangway: 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).

For Removal of One Unattached Piling: 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 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3).

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 RECEIVED:

U.S. Army Corps of Engineers
San Francisco Bay Conservation and Development Commission
San Francisco Bay Regional Water Quality Control Board

APPROVAL REQUIRED:

California Department of Fish and Wildlife

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

For Existing Pilings and 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).

For Construction of Boat Dock and Gangway: 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).

For Removal of One Unattached Piling: 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 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the proposed and, for a limited period, use of the proposed boat dock and gangway using two existing pilings, and removal of one existing piling, does not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine.
2. Find that the existing and, for a limited period, continuing use of the existing bank protection is not inconsistent with the Public Trust Doctrine and does not substantially interfere with the trust.
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$600 for unauthorized occupation of State land for the period prior to October 19, 2023.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning October 19, 2023, for a term of 10 years, for the construction of a boat dock and gangway using two existing pilings and use of existing bank protection not previously authorized by the Commission; annual rent in the amount of \$290, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. 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.