

Staff Report 22

LESSEE/ASSIGNOR:

Joshua Evans and Nicole Evans

APPLICANT/ASSIGNEE:

Lindsay K. Eyler

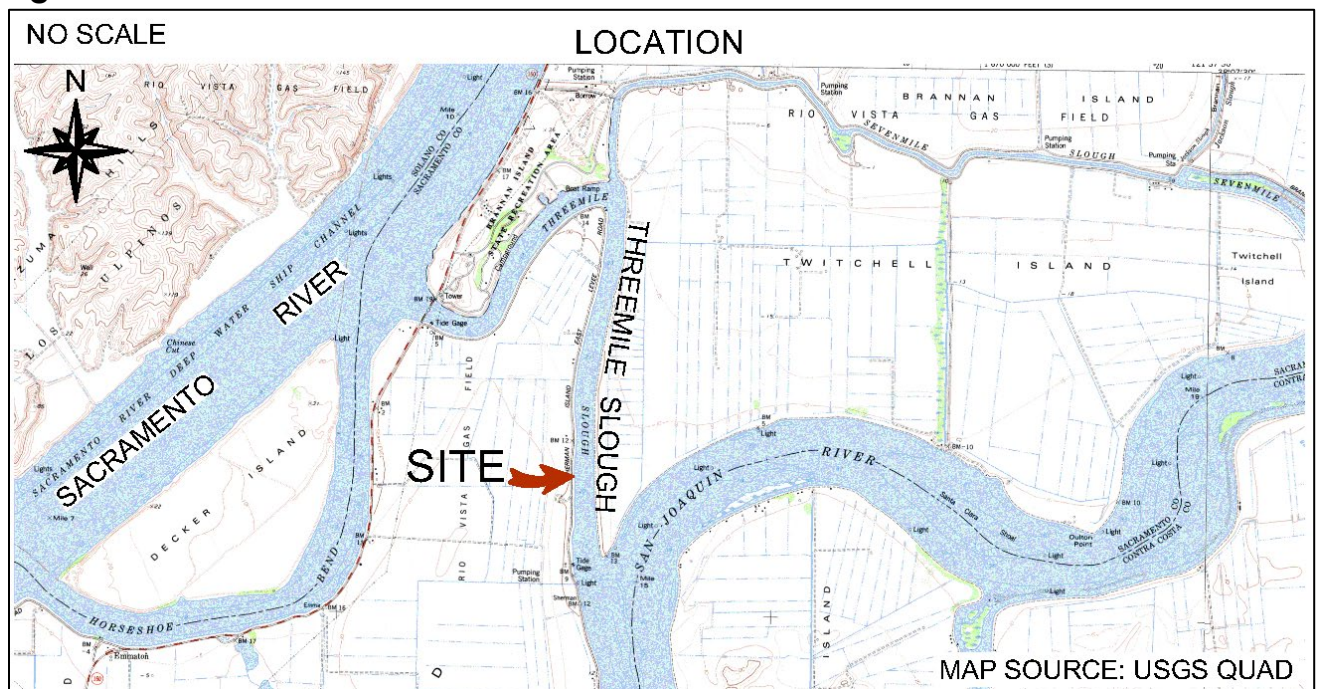
PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Three-Mile Slough, adjacent to 18164 Sherman Island East Levee Road, Rio Vista, Sacramento County (as shown in Figure 1).

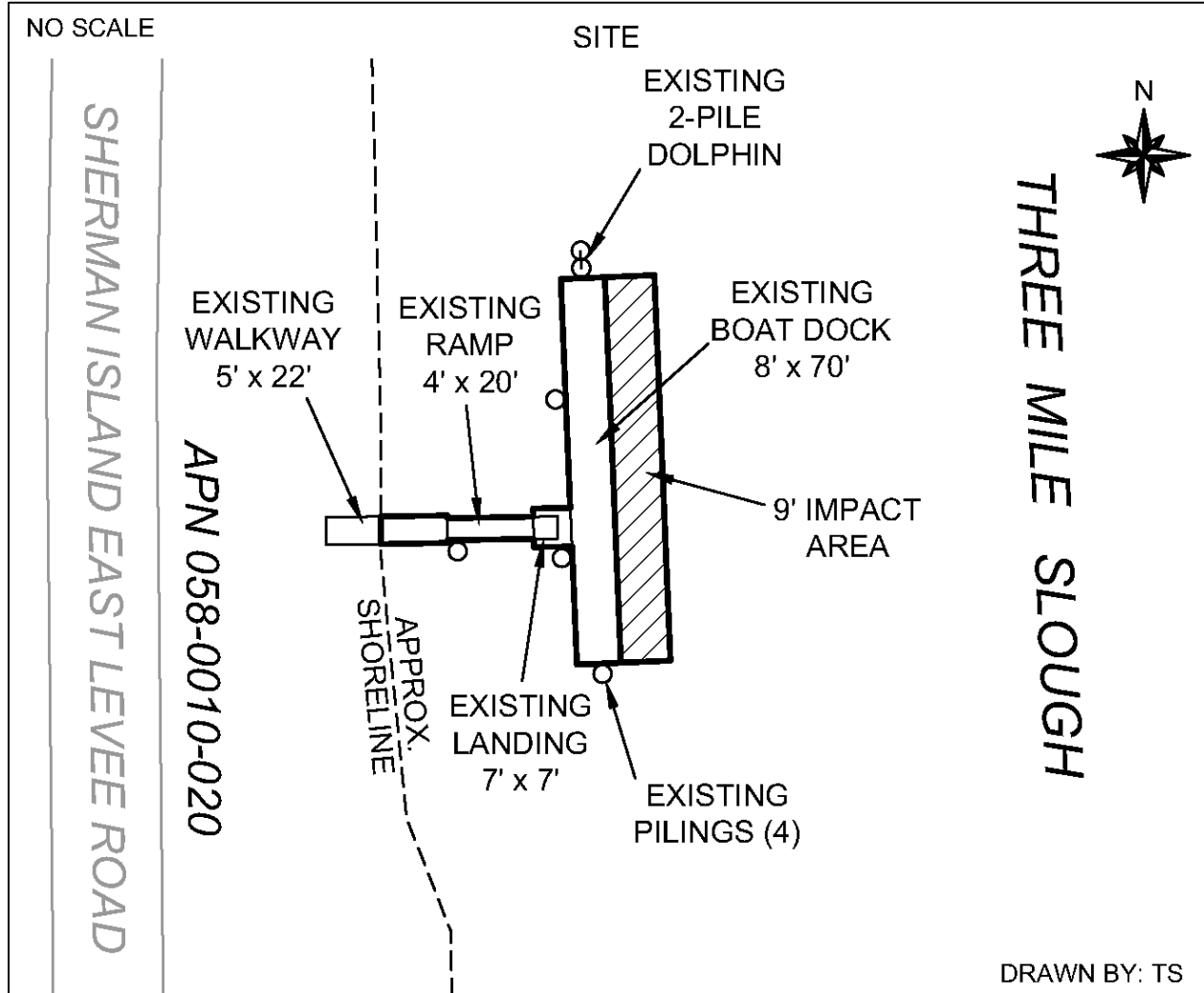
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and two-pile dolphin (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 August 1, 2022.

CONSIDERATION:

\$229 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 climate change 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 October 21, 2021, the Commission authorized a General Lease – Recreational Use to Joshua Evans and Nicole Evans, for the use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and two-pile dolphin ([Staff Report 07, October 21, 2021](#)). That lease will expire on July 31, 2032.

On June 6, 2023, ownership interest in the upland parcel was transferred to Lindsay K. Eyler. The Applicant, in coordination with the Lessee, is now applying for an assignment of Lease Number 8414, for the use and maintenance of an existing boat dock, landing, ramp, walkway, four pilings, and two-pile dolphin. The effective date of the assignment will be June 6, 2023, to coincide with the Applicant's acquisition of the upland property.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are located directly waterward of the upland property, and these facilities occupy a relatively small area of the slough. The boat dock, ramp, and pilings on the lease premises facilitate the docking and mooring of recreational boats. Recreational boating is water-dependent and 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 lands (Pub. Resources Code, § 6503.5).

The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the state's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed assignment does not alienate the State's fee simple interest or permanently impair public rights.

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 Three-Mile Slough, 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 slough'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 lease is a 10-year General Lease – Recreational Use that began on August 1, 2022, and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at

the time the lease is up for renewal in 2032 and would be based on projected sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes approval of this lease assignment will not substantially interfere with Public Trust needs at this location, at this time, and for the 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 as authorized by law. If the Commission denies the application, the lease would not be assigned. 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. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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).

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 8414, a General Lease – Recreational Use of sovereign land, from Joshua Evans and Nicole Evans to Lindsay K. Eyler; effective June 6, 2023, to coincide with the Applicant's acquisition of the upland property.