

Staff Report 50

LESSEE/ASSIGNOR:

Freeport Ventures LLC

APPLICANT/ASSIGNEE:

8150 Freeport LLC, a California limited liability company

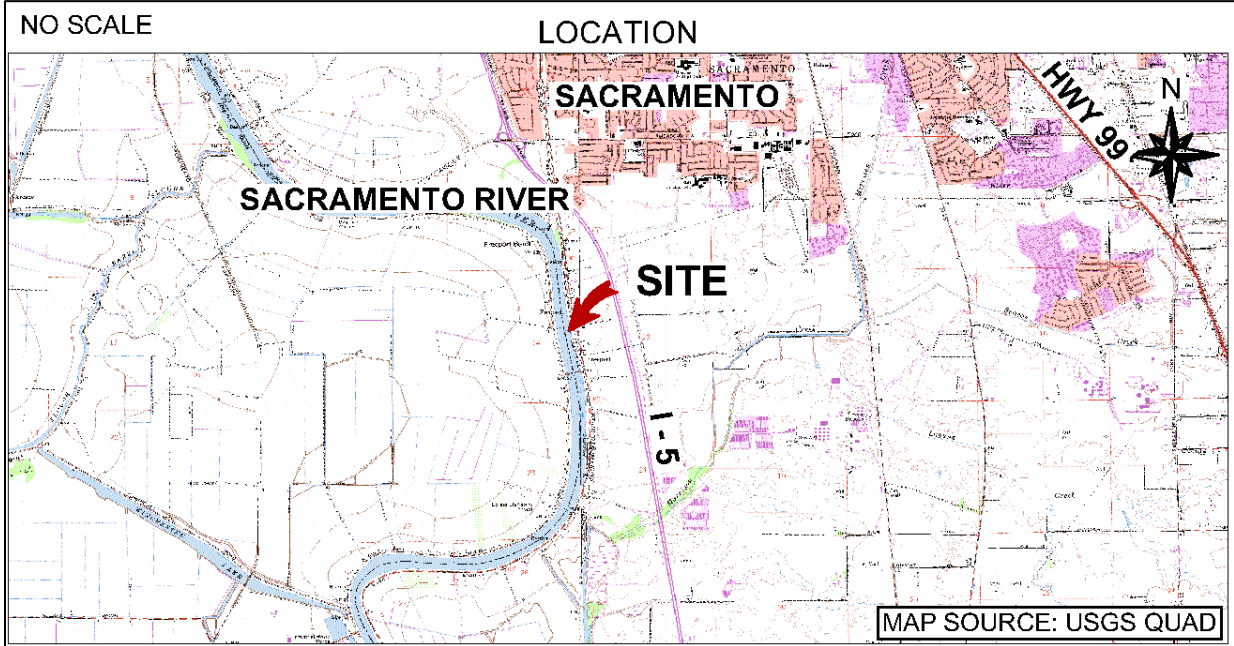
PROPOSED ACTION:

Assignment of a General Lease – Commercial Use.

AREA, LAND TYPE, AND LOCATION:

0.30 acre, more or less, of sovereign land in the Sacramento River, adjacent to Assessor's Parcel Number 119-0040-007, Freeport, Sacramento County (as shown on Figure 1).

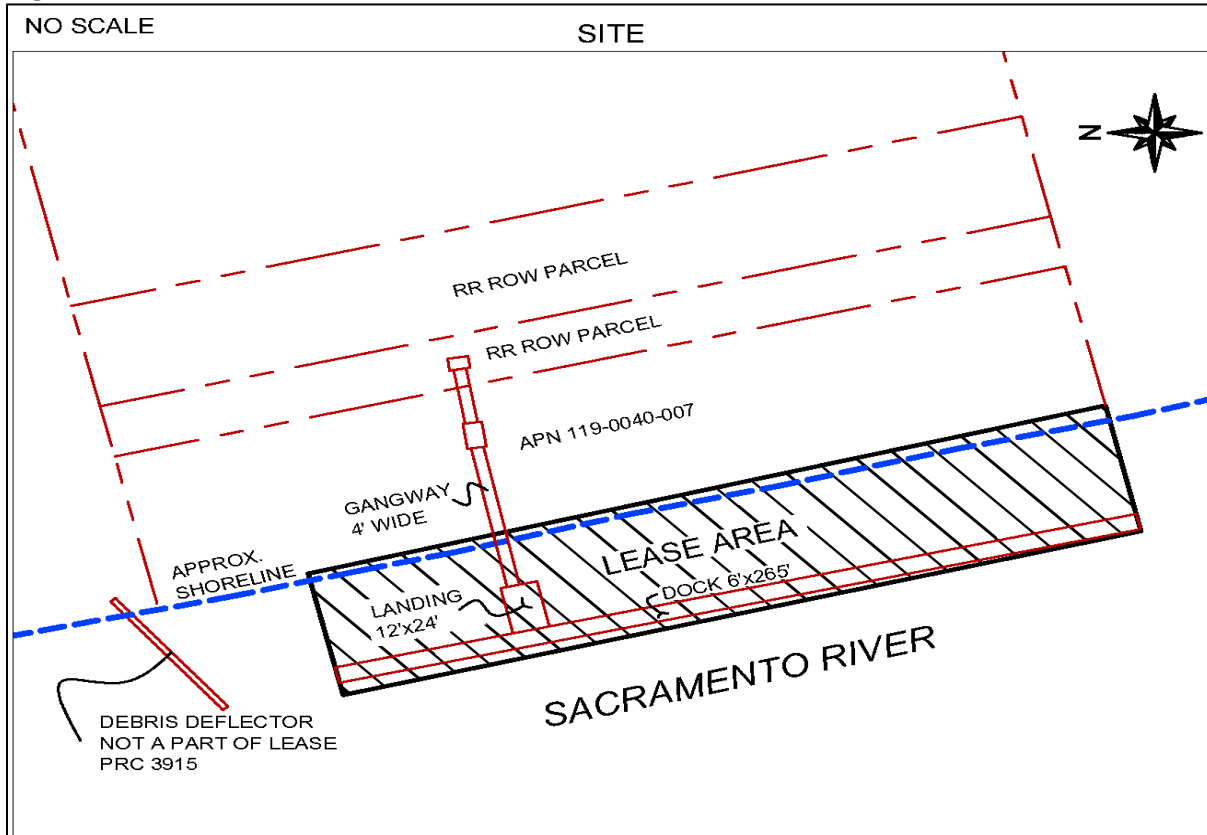
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of a commercial marina, consisting of a side-tie dock, five pilings, and gangway (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:

20 years, beginning January 1, 2007.

CONSIDERATION:

\$1,501 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 combined single limit.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 14, 2006, the Commission authorized a 20-year General Lease – Commercial Use to Freeport Ventures LLC for the reconstruction, use, and maintenance of a commercial marina ([Item 16, December 14, 2006](#)). The subject improvements are in the Sacramento River, adjacent to Assessor's Parcel Number 119-0040-007 in Freeport, Sacramento County. The improvements consist of a side-tie dock, five pilings, and gangway on sovereign land in the river. On October 14, 2014, staff performed a rent review as directed by lease terms and conditions. This resulted in a rent adjustment from \$1,305 per year to \$1,501 per year, effective January 1, 2015 ([Item 5, October 14, 2014](#)). On September 6, 2022, the upland and marina were transferred to 6423 Elvas Avenue Investors, LLC, a California limited liability company (the Applicant's prior business name). On April 26, 2023, the Applicant updated its business name to 8150 Freeport LLC, a California limited liability company. The Applicant is applying for an Assignment of Lease PRC 3915, a General Lease – Commercial Use. The current Lessee supports the assignment of lease to the new owner.

Staff recommends an assignment of lease to reflect the change in ownership from Assignor to Assignee. The effective date of the assignment would be September 6, 2022, to coincide with the Assignee's purchase of the upland property. The Applicant is qualified to hold the lease. The lease is in good standing, and staff has not discovered any information that would provide a basis for withholding the assignment. 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.

Under the terms of the current lease, the lessee holds liability insurance and a surety bond. These amounts are subject to increase over the lease term and serve to mitigate costs that might otherwise be shouldered by the State, including when the State must take restorative actions on the leased premises upon lease termination or abandonment of the lease premises. The surety bond will be reviewed at the

time the Commission considers a new lease. The lease terms and conditions include indemnification and protection of the State's interest.

The lease premises are improved and used for water-dependent activities such as boating and fishing. These activities are consistent with Public Trust use. Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the remaining term of the lease. For these reasons, staff recommends finding the proposed actions are in the best interests of the State.

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 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 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 20-year General Lease – Commercial Use that began on January 1, 2007, and may be subject to the climate change effects and projected sea level rise scenarios 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 would be assessed if a new lease is considered in 2027 and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, Commission staff believes the approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for assignment of lease 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 a trustee of the State's Public Trust lands authorized by law. The Lessee has no right to a new lease or to renewal of any previous lease.
2. Assignment of 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).

3. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-25 Strategic Plan.

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of 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 remaining term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize assignment of Lease PRC 3915, a General Lease – Commercial Use, from Freeport Ventures LLC to 8150 Freeport LLC, a California limited liability company, effective September 6, 2022, to coincide with the Applicant's acquisition of the upland property.