

Staff Report 15

APPLICANT:

Rockk Properties, LLC, a California limited liability company

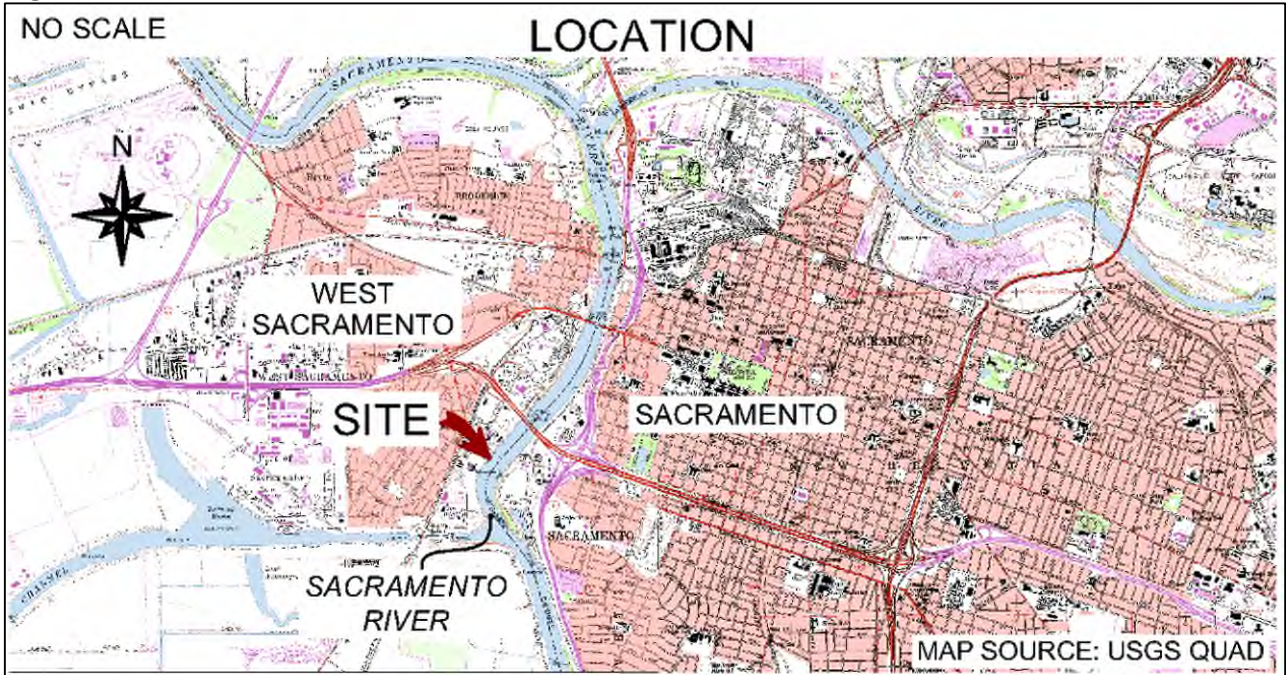
PROPOSED ACTION:

Issuance of a General Lease – Other.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 1555 South River Road, near West Sacramento, Yolo County (as shown in Figure 1).

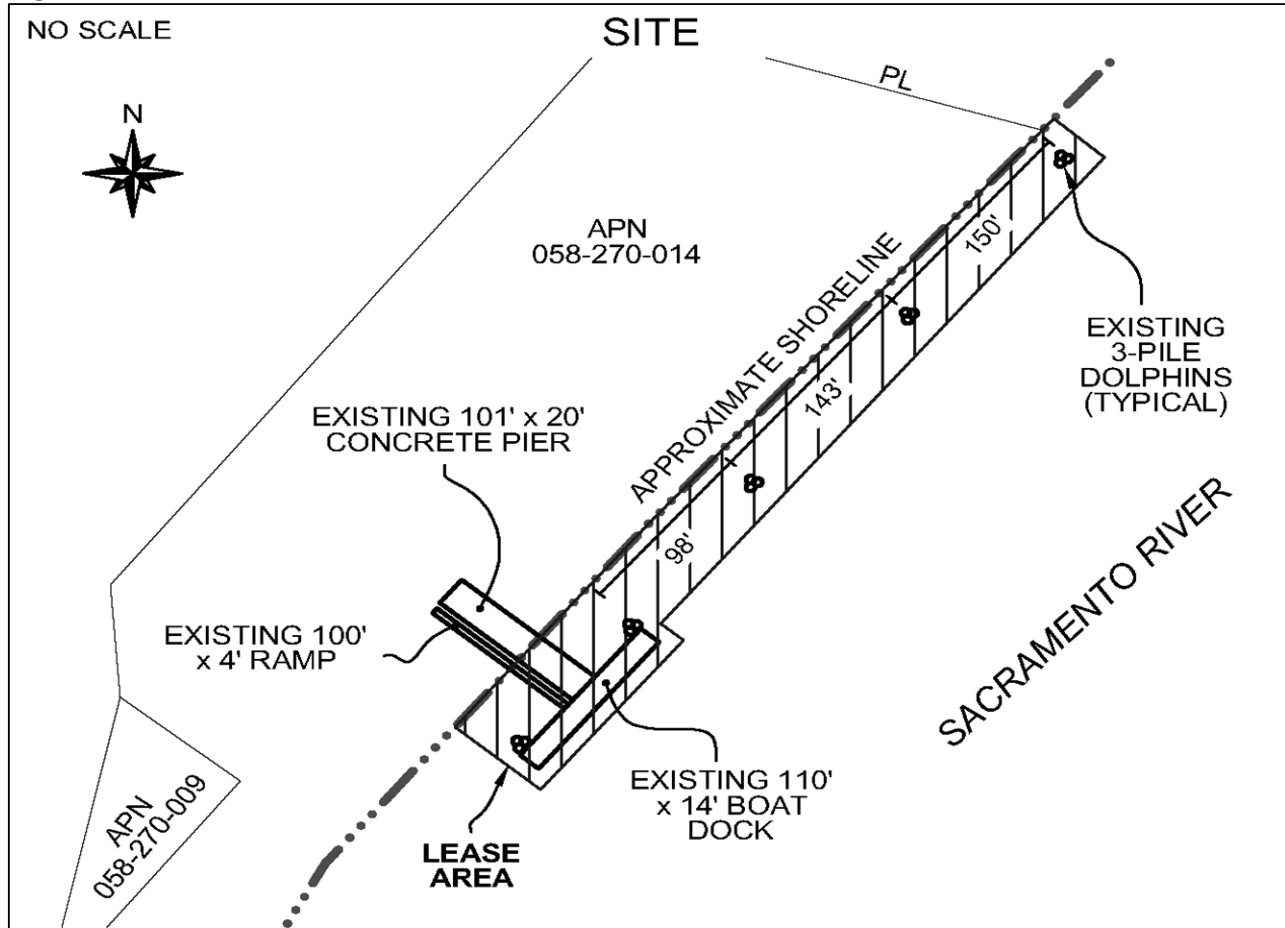
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, concrete pier, ramp, and five three-pile dolphins (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 15, 2024.

CONSIDERATION:

\$1,010 per year, with an annual Consumer Price Index adjustment as specified in Paragraph 2.6 of Section 3 - General Provisions, and \$1,895 to compensate for the unauthorized occupation of state sovereign land for the existing facilities for the period prior to August 15, 2024.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000.
- Surety bond (or similar form of security) in the amount of \$20,000.
- Lessee agrees the indemnity provisions of Section 3, Paragraph 11 of the lease shall also be extended to the period of Lessee's unauthorized occupation of State-owned lands from for the period prior to August 15, 2024.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On September 20, 2013, the Commission authorized issuance of a 10-year General Lease – Industrial Use to W. Kent Ramos and Kyle Ramos, for the continued use and maintenance of an industrial transient accommodation dock and appurtenant facilities in the Sacramento River ([Item 11, September 20, 2013](#)). On August 17, 2017, the Commission authorized a revision to the annual rent from \$961 per year to \$1,034 per year, effective October 1, 2017 ([Item 30, August 17, 2017](#)). The lease expired on September 30, 2022. On April 27, 2023, the Lessee transferred title of the upland parcel to their LLC known as Rockk Properties, LLC, a California limited liability company. The Applicant is applying for a new General Lease – Other for the use of an existing boat dock, concrete pier, ramp, and five three-pile dolphins in the Sacramento River.

Staff is requesting compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,895 for the period prior to August 15, 2024, the starting date of the lease. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation from October 1, 2022 through August 14, 2024, ensuring the State is protected. In addition, the compensation ensures that the State is made whole for the Lessee's occupation.

The existing improvements facilitate navigation of the State's waterway and enjoyment of the river by the Applicant and its employees. The dock and appurtenant facilities are used for scenic viewing and recreational activities such as fishing. Fishing is a water-dependent use which is generally consistent with the

common law Public Trust Doctrine. The adjacent upland is owned and maintained by the Applicant. The proposed lease includes certain provisions intended to protect the waterway and resources within the lease area, including a limited lease term of 10 years. The facilities have existed at this location for many years; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Furthermore, the lease requires that the lessee insure the lease premises. 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 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.

Sea level rise 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 combination of these projected conditions could increase the likelihood of damage and affect access to 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 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. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear and tear on the pilings, metal brace attachments, and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating boat dock, concrete pier, and adjustable ramp are adaptable to higher water levels allowing them to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but it may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement of the facilities. However, the dolphins 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.

The bank (not under the Commission's jurisdiction) is vegetated, which provides additional stability and will reduce the amount of erosion and scour pressure experienced during future events because of the underground root system. However, the bank remains at risk of accelerated deterioration from currents and floods and any exposed portions of the existing protective structure could be vulnerable to future events. An alternative bank protection strategy, such as bank restoration, may be required in the future to protect the anchoring points of the

other structures in the lease premise and reduce flood impacts to the upland parcel (not within the lease area).

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 stated above, staff believes that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the proposed lease; is consistent with the 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 improvements and restore 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 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

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 the Public Trust needs and values at this location, at this time, and for the 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 acceptance of compensation from the Applicant in the amount of \$1,895 for the unauthorized occupation of State land for the period prior to August 15, 2024.
2. Authorize issuance of a General Lease – Other to the Applicant beginning August 15, 2024, for a term of 10 years, for the use of an existing boat dock, concrete pier, ramp, and five three-pile dolphins; annual rent in the amount of \$1,010, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence, and surety bond (or similar form of security) in the amount of \$20,000.