

# Staff Report 26

**LESSEE:**

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Brent J. Cohn and Hope Cohn, Trustees of the Cohn Family Trust dated August 9, 2005, a Trust

**APPLICANT:**

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John D. Cronin Jr. and Jane Marie Cronin, as Trustees of the Cronin Family Trust, under Declaration of Trust, dated March 25, 2021

**PROPOSED ACTION:**

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Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Sacramento River, adjacent to 511 River Road, near Rio Vista, Solano County (as shown in Figure 1).

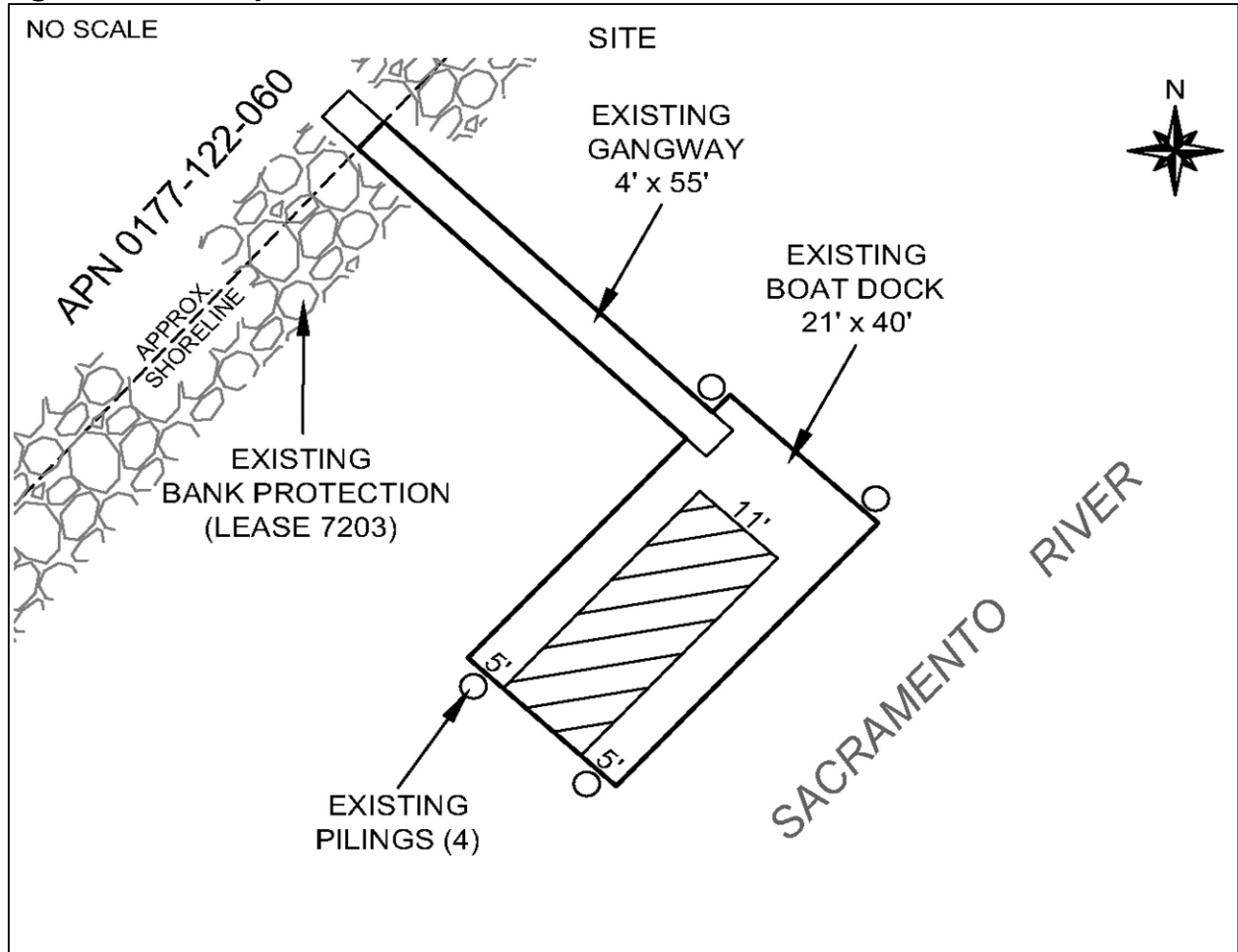
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing boat dock with a single slip and appurtenant facilities (as shown in Figure 2 below).

**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 17, 2024.

**CONSIDERATION:**

\$173 per year, with an annual Consumer Price Index adjustment, and \$148 to compensate for the unauthorized occupation of state sovereign land prior to October 17, 2024.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands, prior to October 17, 2024.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**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 June 28, 2019, the Commission authorized a General Lease – Recreational Use to Brent J. Cohn and Hope Cohn, Trustees of the Cohn Family Trust dated August 9, 2005, a Trust for the use and maintenance of an existing boat dock and appurtenant facilities, adjacent to 513 River Road, near Rio Vista, Solano County ([Item 28, June 28, 2019](#)). The lease expires August 10, 2029. The bank protection shown in Figure 2, Site Map. is under a different lease.

On August 29, 2023, the lessee deeded the upland property to AHST 318 LLC, a California limited liability company. Staff was not notified of the change in ownership. On December 8, 2023, AHST 318 LLC, a California limited liability company deeded the upland property to John D. Cronin Jr. and Jane Marie Cronin, as Trusees of the Cronin Family Trust, under Declaration of Trust, dated March 25, 2021.

The upland property is a duplex containing 511 River Road and 513 River Road. For the purpose of this lease, the lease will use 511 River Road as the primary address as identified by the Applicant.

The Lessee is quitclaiming the existing lease, and the Applicant is now applying for a General Lease – Recreational Use for use of the existing improvements. Staff recommend acceptance of a Lease Quitclaim Deed for the current lease concurrent with the issuance of a new lease to the Applicant.

The Lessee paid rent through August 10, 2023. Due to the Applicant attaining ownership of the upland property on December 8, 2023, staff recommends the

Commission accept compensation from the Applicant for unauthorized occupation of State land in the amount of \$148, to compensate for the period of unauthorized occupancy prior to October 17, 2024.

The lease provisions regarding indemnity will be extended to apply from December 8, 2023, when the Applicant took ownership of the upland, through October 16, 2024, the day before the beginning of the new lease.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are located directly waterward of the upland property, occupy a relatively small area, 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 lands (Pub. Resources Code, § 6503.5).

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 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.

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 combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease area 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 facilities within the lease area. 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 dock and gangway are adaptable to higher water levels allowing them to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but they may require more frequent maintenance or replacement to ensure continued function during and after storm

seasons and to avoid dislodgement of the facilities. The 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.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are in an area that may be subject to the effects of climate change, including sea level rise.

**CONCLUSION:**

For all the reasons above, staff believes approval of this lease will not substantially interfere with Public Trust needs 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.

**OTHER PERTINENT INFORMATION:**

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1. The existing bank protection is covered under Lease 7203, with the Central Valley Flood Protection Board.
2. 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 existing improvements and restore the lease premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.
3. 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.
4. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that issuance of the lease 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 issuance of the proposed lease will not substantially interfere with 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. Accept a Lease Quitclaim Deed for Lease 8832, effective October 17, 2024.
2. Accept compensation from the Applicant in the amount of \$148, for the unauthorized occupation of State land for the period prior to October 17, 2024.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 17, 2024, for a term of 10 years, for the use of an existing boat dock and appurtenant facilities; annual rent in the amount of \$173, with an

annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.