

Staff Report 31

APPLICANT:

Elisabeth A. Claytor, Joseph G. Rehrmann, and Stephen T. Rehrmann, as co-trustees of the Long Island 2020 Irrevocable Trust

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 17468 Grand Island Road, Long Island, near Isleton, Sacramento County (as shown in Figure 1).

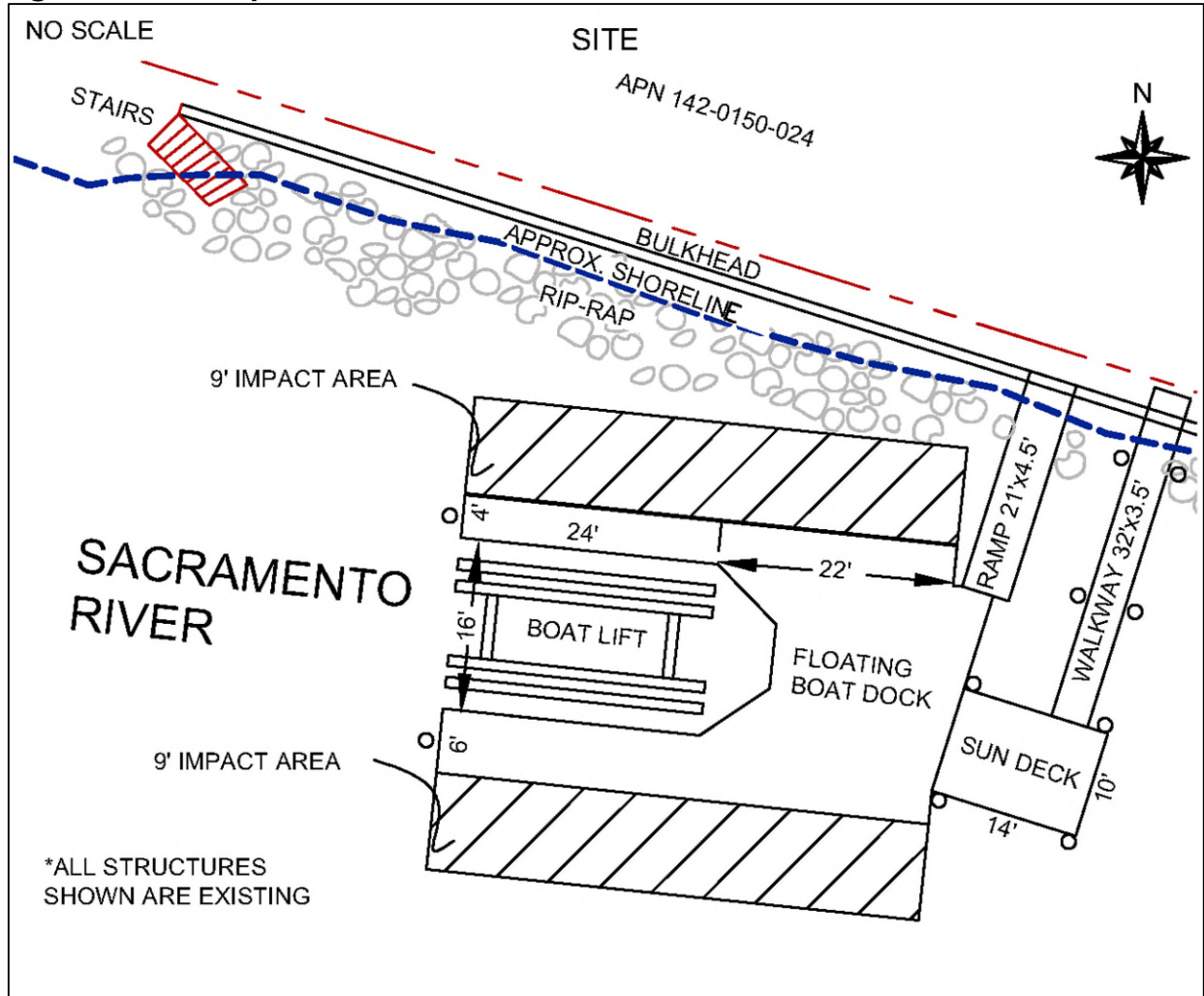
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock with boat lift, ramp, sundeck, walkway, stairs, and bank protection (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, 2024.

CONSIDERATION:

\$798 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.
- The existing sundeck with walkway, as shown in Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 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 February 20, 2015, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to George H. Rehrmann and Donna R. Rehrmann, Co-Trustees of the George and Donna Rehrmann Trust dated May 22, 1990, for the continued use and maintenance of an existing boat dock, gangway, pier, 10 wood pilings, access ramp, access ladder, retaining wall, and bank protection ([Item 32, February 20, 2015](#)). The lease expired July 31, 2024.

The property was transferred to the Applicants on January 8, 2021; all invoices have been paid through July 31, 2024. Several years ago, the previously approved access ladder was replaced with stairs and the retaining wall was subsequently determined by staff to not extend on to state lands. Staff recommend classifying a portion of the existing structure (east of the boat dock) as a sundeck because the structure is elevated and fully enclosed with railing making it impossible to moor boats and the walkway connects the structure directly to the house and not to the boat dock. The Applicant is applying for a General Lease Recreational and Protective Structure use for a boat dock with appurtenant facilities, and bank protection.

The Applicant owns the upland parcel adjoining the lease premises, and the existing docking facilities and bank protection have been under lease for many years. 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)

Although the sundeck and walkway do not facilitate water recreation, the sundeck is built on tall pilings that do not negatively impact public access underneath the structures and does not expand the footprint of the subject facilities from that previously authorized. While new sundecks are not generally authorized, sundecks that have been in place for many years have been permitted, so long as they do not significantly interfere with Public Trust needs or activities.

The bank protection protects the upland property and maintains 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 the boat dock and appurtenant facilities 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 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 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.

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 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 foundations and supports/pilings of the dock, deck, and bulkhead. 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, gangway, and access ramp are adaptable to variable 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. However, the sundeck, pilings, bulkhead, and bank protection are fixed and therefore more vulnerable to sea level rise and more frequent flood events. These structures may need maintenance, due to increased flood exposure and more frequent storm events, to ensure they do not become dislodged or degraded and to reduce risks to public safety and navigation.

The bank is protected with a concrete bulkhead and rock riprap which is at risk of scouring, loss of backfill, slope failure, and accelerated deterioration from currents, floods, and increased precipitation. As sea levels rise, the bulkhead and riprap will provide decreasing protection against flood waters, increasing the vulnerability of the bulkhead and upland parcel. The concrete bulkhead may also increase the vulnerabilities of riparian habitat and species. Compared to naturally vegetated riverbanks, the flat and vertical design of the bulkhead can increase river flow rates along the bank and accelerate erosion of the bank immediate downriver of the bulkhead, potentially damaging fish and wildlife habitat. Alternative bank protection strategies, such as bank restoration and revegetation, may be required 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). Additionally, maintaining a wide buffer between the bank and upland improvements will minimize potential impacts from flooding and erosion. Any future construction or activities on state land would require a separate authorization from the Commission.

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 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 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

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 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the existing and, for a limited period, continuing use of the boat dock with boat lift, ramp, and stairs 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 continuing use of the sundeck with walkway is not generally associated with Public Trust uses, but the current use does not substantially interfere with Public Trust needs and values at this location, at this time.
3. Find that the existing and, for a limited period, continuing use of the bank protection is not inconsistent with the Public Trust Doctrine and does not substantially interfere with the trust.
4. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning August 1, 2024, for a term of 10 years, for the use of an existing boat dock with boat lift, ramp, sundeck, walkway, stairs, and bank protection; annual rent in the amount of \$798, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.