

Staff Report 22

APPLICANT:

Bridge Marina Yacht Club

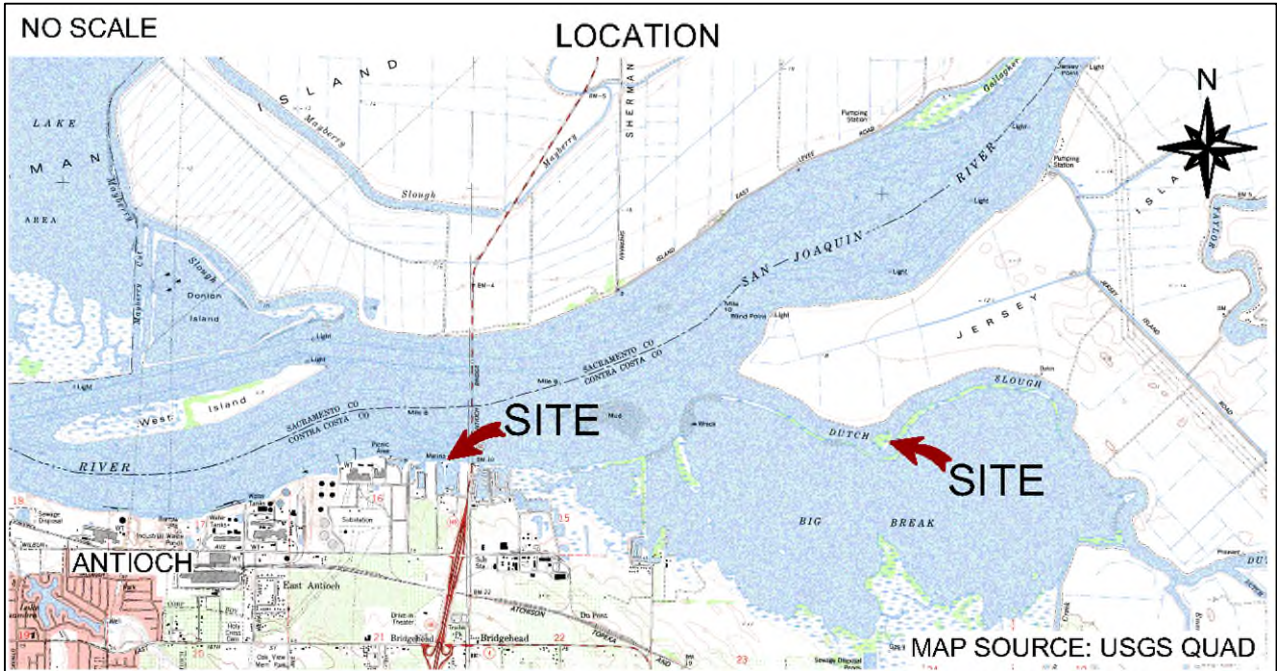
PROPOSED ACTION:

Issuance of a General Lease – Commercial Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the San Joaquin River, adjacent to 20 Fleming Lane, Antioch, Contra Costa County; and in Dutch Slough, adjacent to Contra Costa County Assessor's Parcel Number 037-191-016-7, Contra Costa County (as shown in Figure 1).

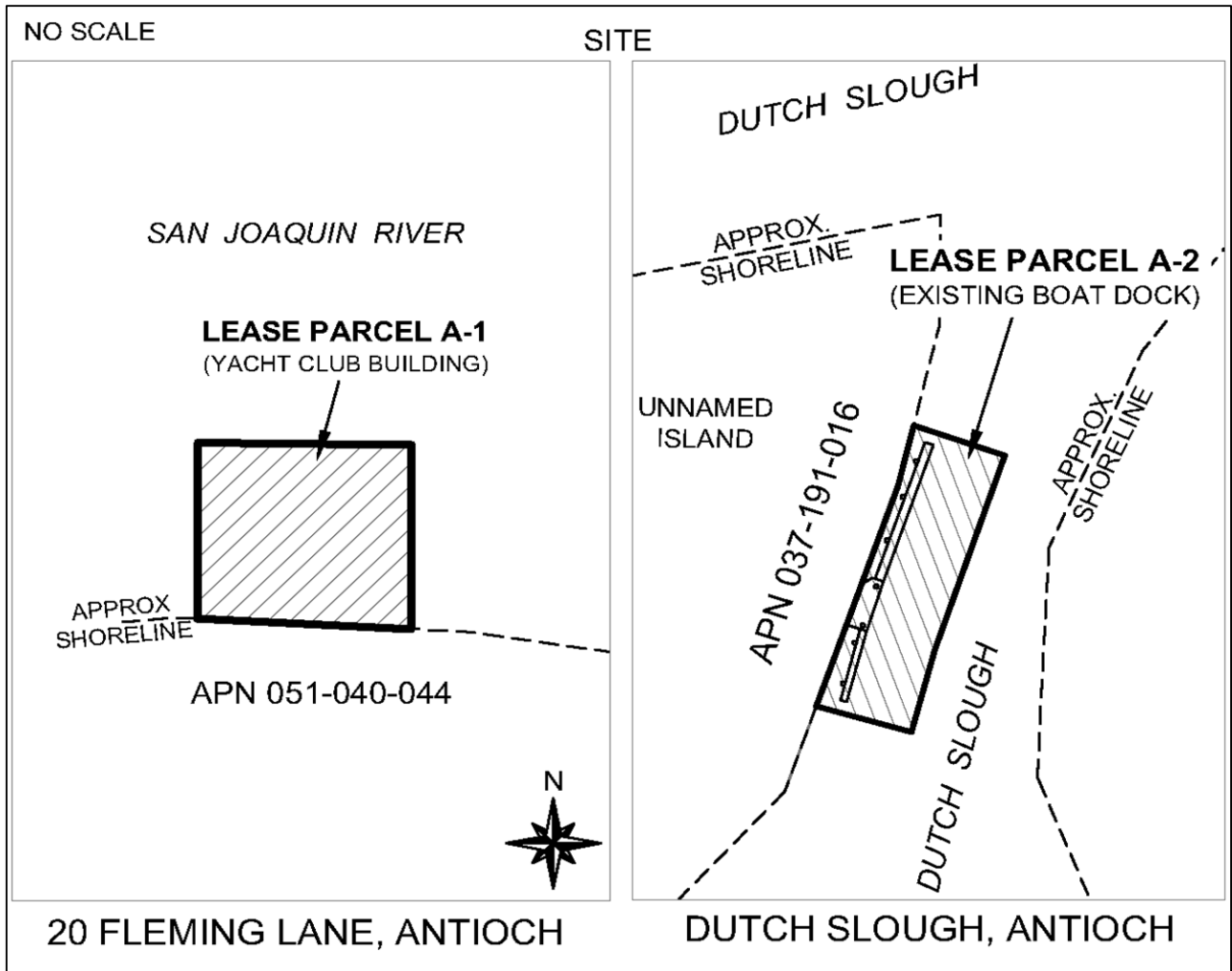
Figure 1. Location



AUTHORIZED USE:

Use of an existing yacht club clubhouse and boat dock with shade structure (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 March 1, 2025.

CONSIDERATION:

\$6,759 per year, with an annual Consumer Price Index adjustment; and \$2,926 for the unauthorized occupation of State land prior to March 1, 2025.

SPECIFIC LEASE PROVISIONS:

- No refueling or maintenance of vehicles, equipment, or watercraft shall take place within 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 February 21, 2014, the Commission authorized a General Lease – Recreational Use to Bridge Marina Yacht Club for the use of an existing yacht club clubhouse located in the San Joaquin River, adjacent to 20 Fleming Lane, Antioch, Contra Costa County; and a boat dock with a shade structure located in Dutch Slough adjacent to an unnamed island identified by Contra Costa County Assessor's Parcel Number 037-191-016, Contra Costa County ([Item 42, February 21, 2014](#)).

On October 2, 2017, the authorized clubhouse was struck by a barge and suffered significant damage. The clubhouse was subsequently renovated and rebuilt before returning to use in 2018. On August 23, 2019, pursuant to lease terms and conditions, staff performed a revision of rent for this lease which resulted in modification of rent from \$3,870 per year to \$4,286 per year ([Item 18, August 23, 2019](#)). This lease expired on September 23, 2024.

The Applicant is now applying for a General Lease – Recreational Use for use of the existing yacht club clubhouse and boat dock with shade structure. Although the previous lease was for a General Lease – Recreational Use, staff has reviewed the Applicant's financial statements and use of the subject improvements and determined that the Applicant's transactions and usage are sufficiently commercial in nature for the proposed lease to be classified as Commercial Use. Therefore, staff recommends issuance of a General Lease – Commercial Use to the Applicant, to take effect on March 1, 2025.

It should be noted that the Applicant does not own the upland adjacent to the lease premises; however a 1967 sublease (approved by the Commission in 1968; [Item 28, January 26, 1968](#)) recorded by the County included a non-exclusive easement allowing access and parking on the upland for the Applicant's

members, guests, and commercial vehicles that have business with the Applicant. Additionally, owners and managers of the upland have previously provided staff with letters asserting that the Applicant has a prescriptive easement to access the lease premises through the upland parcel. As such the Applicant has the right to access the lease premises.

The clubhouse on the lease premises includes a commercial kitchen, a bar, a dining room with a dance floor, and outdoor seating and dining areas. The clubhouse provides a meeting place for the Applicant's members and guests, facilitates regular dinners for said members and guests, and is available for rent by the general public as an event venue. Much of the clubhouse's use serves to support recreational boating and enjoyment of State sovereign land by providing a destination for boaters in the area, through direct promotion of recreational boating, and by providing a publicly rentable dining and event facility on sovereign land.

The boat dock with shade structure on the lease premises is used for the docking and mooring of recreational vessels owned by the yacht club members. As such, this improvement accommodates and promotes recreational boating in the area. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust doctrine and the California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The Applicant has occupied State land without authorization since the previous lease expired. Therefore, staff recommend collecting compensation for the unauthorized occupation of State land in the amount of \$2,926 for the time period of September 24, 2024 through February 28, 2025.

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 will have no significant impact on Public Trust-consistent uses or resources in the area. Upon termination of the lease, the lessee may be required to remove any improvements from State land and restore the lease premises to their original condition. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

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 two separate parcels in the San Joaquin River and Dutch Slough. Both locations are tidally influenced sites 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 San Joaquin River and Dutch 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 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 yacht club house and for the pilings that protect and keep the boat dock in position on the riverbed. 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 in Dutch Slough is adaptable to higher water levels allowing it to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but the dock 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 yacht club house on pilings in the San Joaquin River is 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.

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 believe 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; 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 Applicant must remove the improvements and restore the

property to its 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 recommend 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 existing boat dock with shade structure 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, for a limited period, continuing use of the existing yacht club clubhouse is not generally consistent with the common law Public Trust Doctrine, but does not substantially interfere with the Public Trust.
3. Find that issuing the proposed lease is in the best interest of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,926 for unauthorized occupation of State land for the period prior to March 1, 2025.
2. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning March 1, 2025, for a term of 10 years, for the use of an existing yacht club clubhouse and boat dock with shade structure; annual rent in the amount of \$6,759, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.