

Staff Report 28

APPLICANT:

Snug Harbor RV, LP, a Delaware Limited Partnership

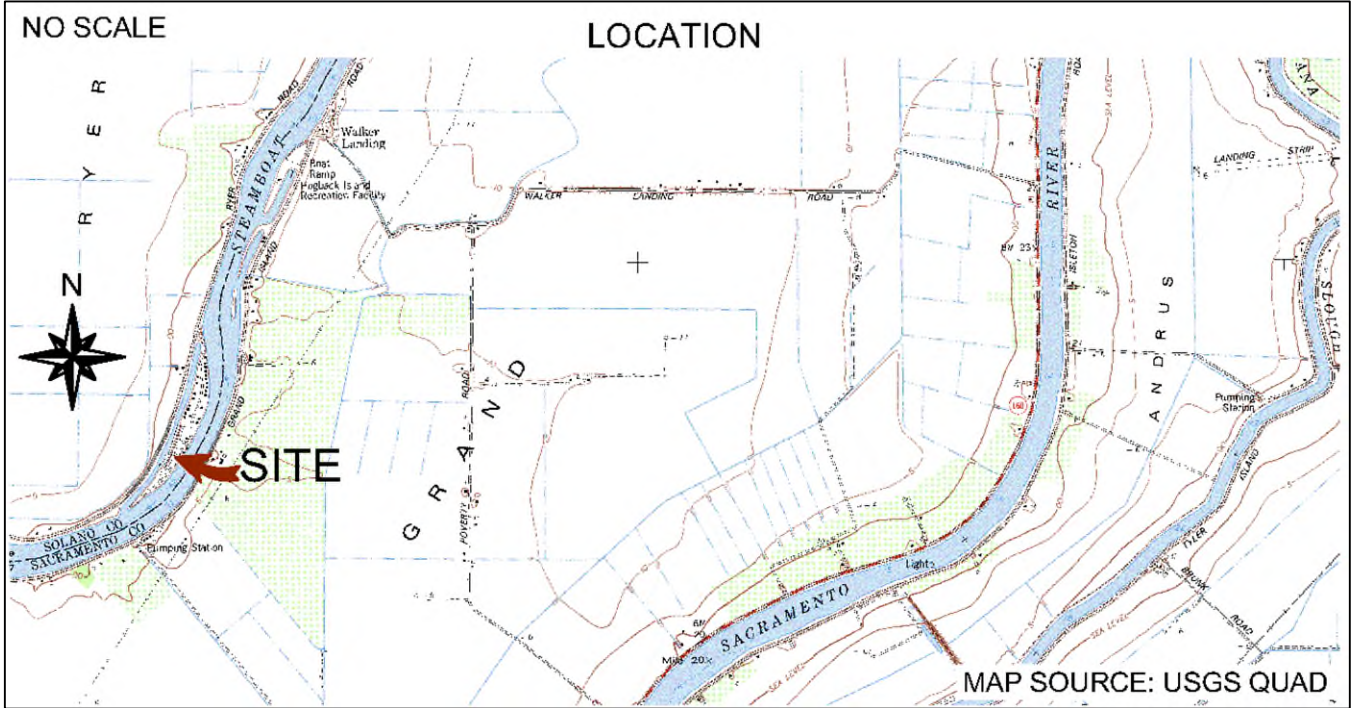
PROPOSED ACTION:

Void invoice number 54155; and issuance of a General Lease – Commercial Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Steamboat Slough, adjacent to 3356 Snug Harbor Drive, near Walnut Grove, Solano County (as shown in Figure 1).

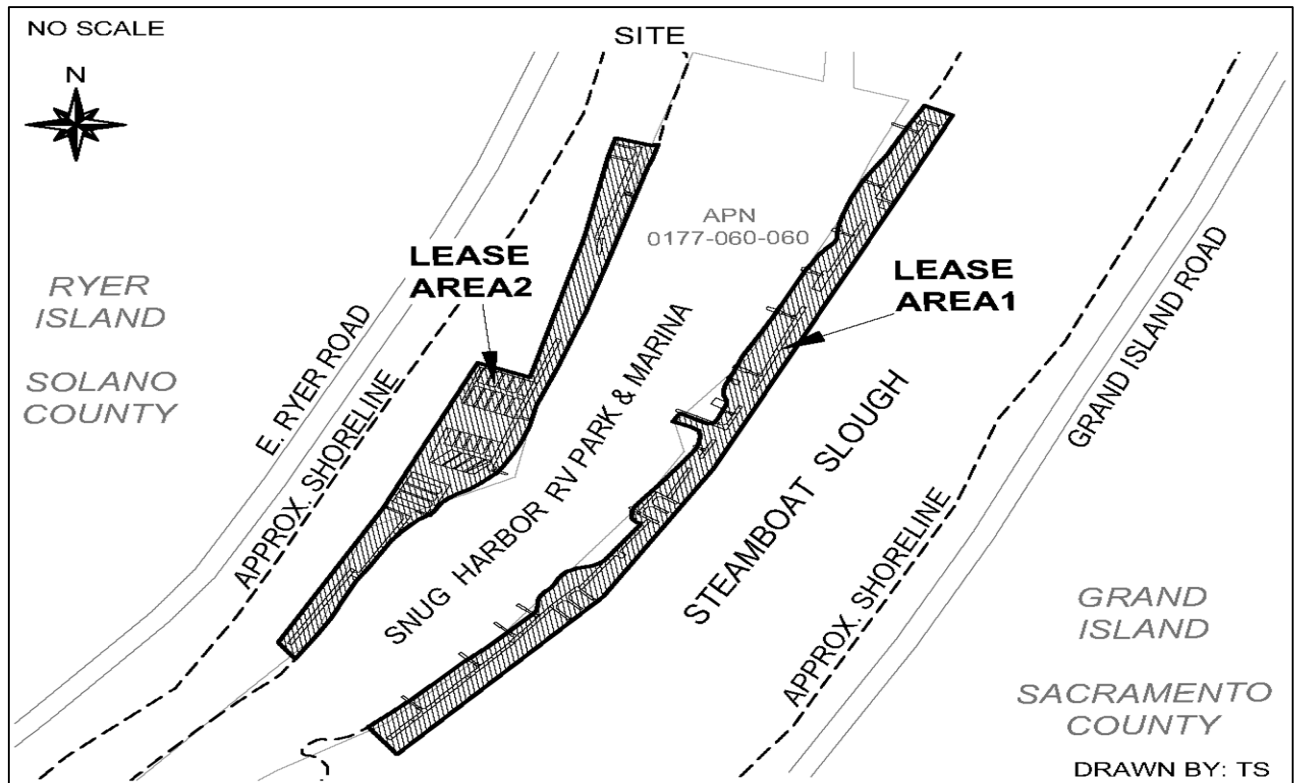
Figure 1. Location



AUTHORIZED USE:

Operation and use of an existing commercial marina, known as Snug Harbor RV Park & Marina, consisting of 75 existing covered berths, 40 open berths, 60-foot gas dock, boat launch ramp, guest docking, and storage of a 51-foot by 102-foot dredge (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:

20 years, beginning September 23, 2024.

CONSIDERATION:

\$4,960 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; and \$6,737 to compensate for the unauthorized occupation of state sovereign land for the existing facilities for the period prior to September 23, 2024.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 per occurrence.
- Surety which reaches the full value of \$100,000 with supplemental deposits during the lease term.
- The lease contains provisions requiring implementation of the Commission’s “Best Management Practices for Marina Owners/Operators” and encouraging implementation of the Commission’s “Best Management Practices for Berth Holders and Boaters,” including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.
- Lessee or its operators may issue, without Lessor’s prior approval, individual berth subleases in conjunction with normal commercial marina subleasing practices for terms of one year or less.

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 June 19, 1998, the Commission authorized termination of a 20-year General Lease – Commercial Use and issuance of a 25-year General Lease – Commercial Use (and Encumbrance of Lease) to Snug Harbor Resorts, a California limited liability company (prior lessee), for the reconstruction of an existing Commercial Use marina in Steamboat Slough and execution of an Agreement and Consent to Encumbrance of Lease ([Item 12, June 19, 1998](#)). On November 9, 2021, the property transferred from the prior owner to the Applicant. The prior lease expired on September 22, 2023. The Applicant is applying for a General Lease – Commercial Use for the operation and use of an existing commercial marina, known as Snug Harbor RV Park & Marina, consisting of 75 existing covered berths, 40 open berths, 60-foot gas dock, boat launch ramp, guest docking, and storage of a 51-foot by 102-foot dredge in Steamboat Slough.

The prior lessee transferred title without notification to staff and without a lease quitclaim deed, thereby abandoning the lease premises in Steamboat Slough. In

review of the Commission's accounting records, the prior lessee/prior owner paid annual rent through December 31, 2021, but did not pay invoice number 54155 for the period from January 1, 2022, to December 31, 2022, during which time it did not own the property. Staff recommends voiding invoice number 54155 dated November 3, 2021, in the amount of \$3,450.00, for Lease PRC 6109. The prior lessee did not own the property during the lease year 2022. Further, staff believes that the long-term cost of collection measures will exceed the rental balance due.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation from November 9, 2021, through September 22, 2024, ensuring the State is protected. Staff is requesting compensation from the Applicant in the amount of \$6,737, for the period of unauthorized occupation prior to the start of the proposed lease. Staff recommends the proposed lease begin on September 23, 2024, to coincide with the lease anniversary date.

The subject marina directly promotes Public Trust uses and waterborne activities. The marina facilities accommodate, promote, and foster the public's need for maritime services and the public's enjoyment of the State's waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is developed as a commercial marina and parking area for recreational vehicles.

The proposed lease includes certain provisions and BMPs intended to protect the public use of the proposed lease area, including a limited lease term of 20 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 and provide a performance surety which reaches the full value of \$100,000. 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 in the Steamboat Slough (a tributary of 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 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 steel pilings that protect and keep the 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 existing docks and gangways 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. However, the boat launch ramp and pilings 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 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 could be vulnerable to future events. In addition, the bank may suffer increased erosion from sea level rise and storm flooding. In the future, if erosion requires modifications to the bank, Commission staff suggest the lessee consider nature-based solutions such as native vegetation to stabilize the sediment. 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 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; consistent with the common law 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 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 "Meeting Evolving Public Trust Needs, and "Leading Climate Activism" Strategic Focus Area 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. Void annual rent invoice number 54155.
2. Authorize acceptance of compensation from the Applicant in the amount of \$6,737 for the unauthorized occupation of state sovereign land for the period prior to September 23, 2024.
3. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning September 23, 2024, for a term of 20 years, for the operation and use of an existing commercial marina, known as Snug Harbor RV Park & Marina, consisting of 75 existing covered berths, 40 open berths, 60-foot gas dock, boat launch ramp, guest docking, and storage of a 51-foot by 102-foot dredge; annual rent in the amount of \$4,960, with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$3,000,000 per occurrence; and a surety which reaches the full value of \$100,000.