

Staff Report 20

APPLICANT:

Dennis Szoke and Martha Szoke

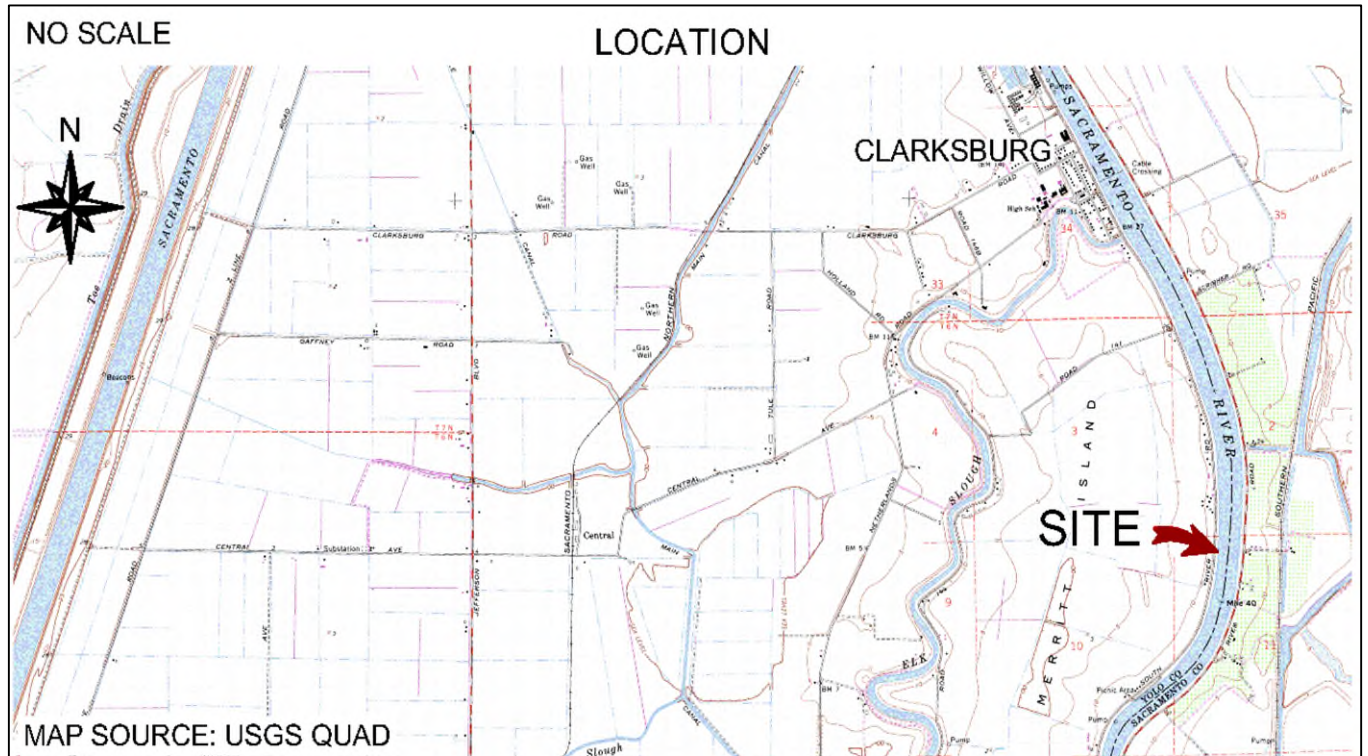
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 37600 South River Road, near Clarksburg, Yolo County (as shown in Figure 1).

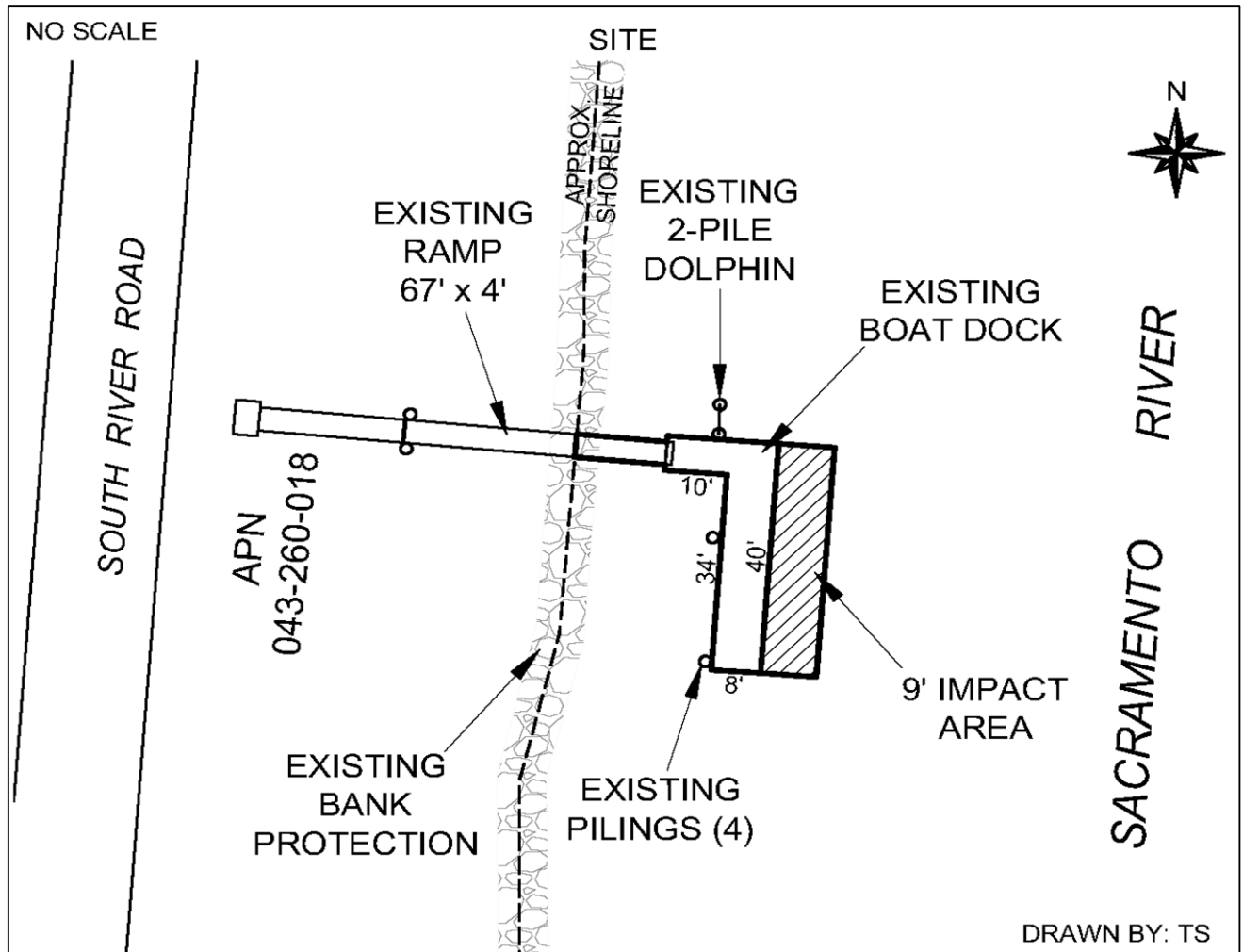
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, appurtenant facilities, 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 21, 2025.

CONSIDERATION:

\$338 per year, with an annual Consumer Price Index adjustment; and \$243 for the unauthorized occupation of State land for the period prior to August 21, 2025.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from March 19, 2024 to August 20, 2025.

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, section 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 23, 2021, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to Wolfgang R. Fricke, for the use and maintenance of an existing boat dock, ramp, two-pile dolphin, and four pilings previously authorized by the Commission; and existing bank protection not previously authorized by the Commission ([Item 22, February 23, 2021](#)). In the application process it was discovered that there were only two pilings on sovereign land, so the correction is being made for this lease.

The Lessee has since passed away. On March 19, 2024, Dennis Szoke and Martha Szoke acquired ownership interest in the upland parcel. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use of an existing boat dock, appurtenant facilities, and bank protection.

Staff recommends that the Commission accept compensation from the Applicant in the amount of \$243 for the unauthorized occupation of State land for the subject facilities for the period prior to August 21, 2025. Additionally, the lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, from March 19, 2024 to August 20, 2025, ensuring the State is protected.

The proposed lease will not interfere with navigation or substantially interfere with any Public Trust needs at this time or for the term of the lease.

The boat dock and appurtenant facilities serve to 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 land. (Pub. Resources Code, § 6503.5.)

The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River will have additional protection from wave action provided at no extra cost to the public. The bank protection will protect the upland property and maintain and improve the integrity of the riverbank, which helps protect Public Trust resources for recreational use by the public.

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:

INTRODUCTION:

The climate crisis and rising sea levels are impacting California's coastal and inland waterways now. Likely impacts to the lease premises include, but are not limited to, sea level rise, saltwater intrusion, prolonged drought, extreme heat, and changes to the intensity and timing of precipitation events. These impacts can exacerbate natural hydrological processes such as erosion, scour, and sedimentation. These impacts may affect the existing boat dock, ramp, dolphin, pilings, and bank protection subject to the proposed lease, located on the Sacramento River.

DATA & PROJECTIONS:

Water levels in tidally-influenced rivers will rise as sea levels rise. The California Ocean Protection Council updated the [State of California Sea Level Rise Guidance](#) in 2024 to provide a synthesis of the best available science on sea level rise projections and rates for multiple emissions scenarios. Commission staff evaluated the "intermediate-high" and "high" scenarios due to the vulnerability and exposure

of the lease location and the continued global reliance on fossil fuels. 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	Intermediate-High (feet)	High (feet)
2040	0.7	0.8
2050	1.0	1.3
2070	2.2	2.9
2100	4.8	6.5

Source: Table 12, State of California Sea Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

In addition to rising seas, warmer temperatures have led California and the Southwest region to experience a megadrought from 2000 to 2022, measured as the driest 22 years in the past 1200 years, and more megadroughts are projected through the end of the century ([U.S. Global Change Research Program, Ch. 28. Southwest. In: Fifth National Climate Assessment. 2023.](#)). Hotter and drier conditions have led to declines in snowpack volumes, higher-elevation snow lines, earlier snowmelt, and reduced overall runoff. Streamflow and river volumes are lower and will be drawn down farther as temperatures continue to rise and demand for water increases withdrawals. Despite the region's increasing aridity, flooding from extreme precipitation events is projected to increase, attributed to earlier snowmelt, sea level rise, and more intense and frequent atmospheric rivers. Minor and moderate flooding (flooding events defined as disruptive to damaging), attributed to higher water levels, is expected to increase five to ten orders of magnitude by 2100, according to [NOAA's 2022 Sea Level Rise Technical Report](#).

ANALYSIS:

The lease premises are likely to experience more extreme conditions over the lease term than in the past, due to climate change. Changes to the timing and amount of runoff from the higher elevations of the watershed, stronger storm surge, and rising water levels will result in higher flood risks. Bank stability may be compromised due to increased channel erosion and undercutting from more intense precipitation and floods. Structures on the lease premises may be exposed to saltier water and corrode faster than before. Conversely, drought could lower water levels for longer portions of the year and expose structures that were historically designed to be submerged to air, wind, and heat. They could cease to function as

intended, as water-related, water-dependent infrastructure (e.g., fixed docks could become disconnected from the water). Floating structures may be more adaptable to changing water levels than those that are fixed, but all structures may be at increased risk for damage from exposure to extreme heat and floods.

RECOMMENDATIONS:

To reduce the likelihood of adverse impacts to the lease premises and improvements, the lessee should consider the following adaptation strategies to improve resiliency to climate change: 1) reduce erosion along the riverbank by enhancing the bank protection structure(s) by planting or restoring native vegetation (shrubs, trees); 2) inspect fixed structures frequently and monitor for degradation, replacing damaged parts when necessary and elevating or relocating structures when exposure to flooding compromises structural function and integrity; and 3) monitor floating structures for corrosion and degradation, especially joints, brackets, hinges, and piling hoops, and replace as necessary. Any future construction or activities on State land would require a separate authorization from the Commission. For more information regarding nature-based strategies, please refer to the [2023 Shoreline Adaptation and the Public Trust](#) report.

CONCLUSION:

For all the reasons above, staff believe the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the proposed lease; and is in the best interest of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is 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, as prior lessee, may be required to remove the subject 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 this 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 INTEREST:

1. Find that the existing and, for a limited period, continuing use of the existing boat dock and appurtenant facilities do not substantially interfere with the common law Public Trust Doctrine.
2. Find that the existing and, for a limited period, continuing use of the existing bank protection is not generally associated with the Public Trust Doctrine, but the current use does not substantially interfere with the Trust at this time.
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 \$243 for the unauthorized occupation of State land for the period prior to August 21, 2025.
2. Authorize issuance of a General Lease – Recreational Use and Protective Structure Use to the Applicant beginning August 21, 2025, for a term of 10 years, for the use of a boat dock, appurtenant facilities, and bank protection in the Sacramento River; annual rent in the amount of \$338 with an annual Consumer

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