

Meeting Date: 08/21/25
Lease Number: 8905
Staff: M. Waldo

Staff Report 33

LESSEE:

Keith Nelson and Shelly Nelson, Trustees of the 2022 Nelson Family Trust dated August 10, 2022

APPLICANT:

G. Lawrence Keller III and Natalie Mussi Keller, Trustees of the G. Lawrence Keller III and Natalie Mussi Keller Revocable Family Trust dated October 2, 2010

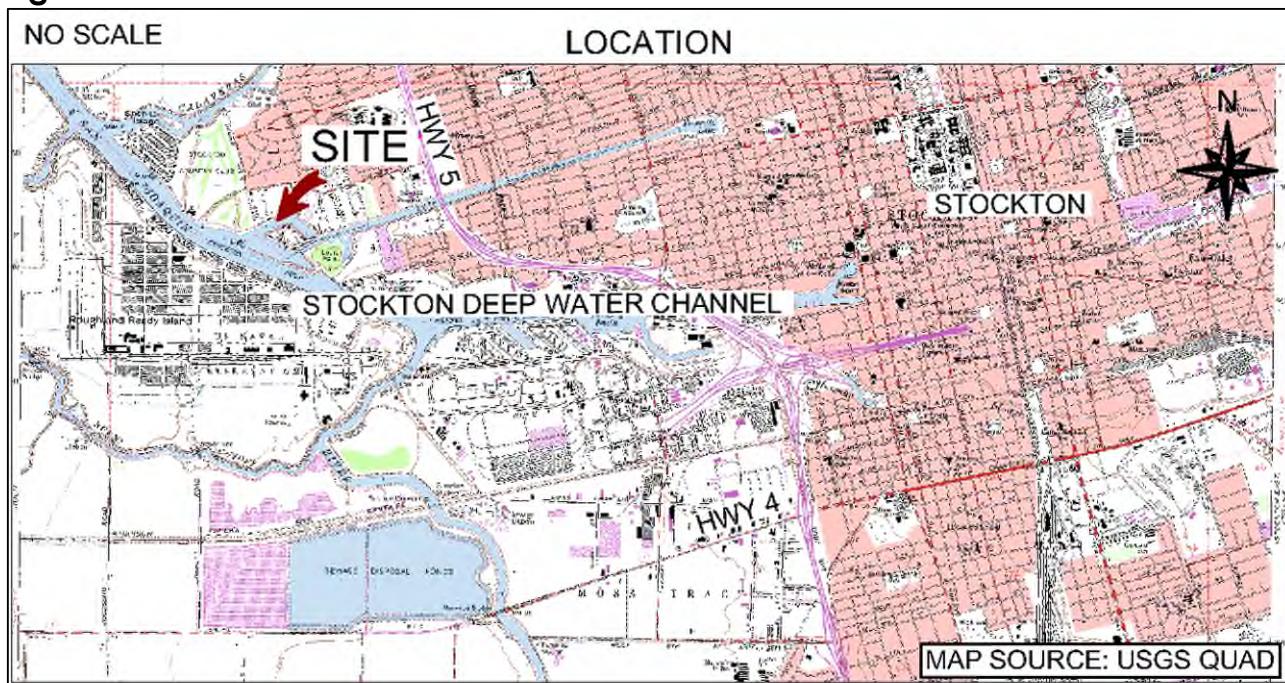
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

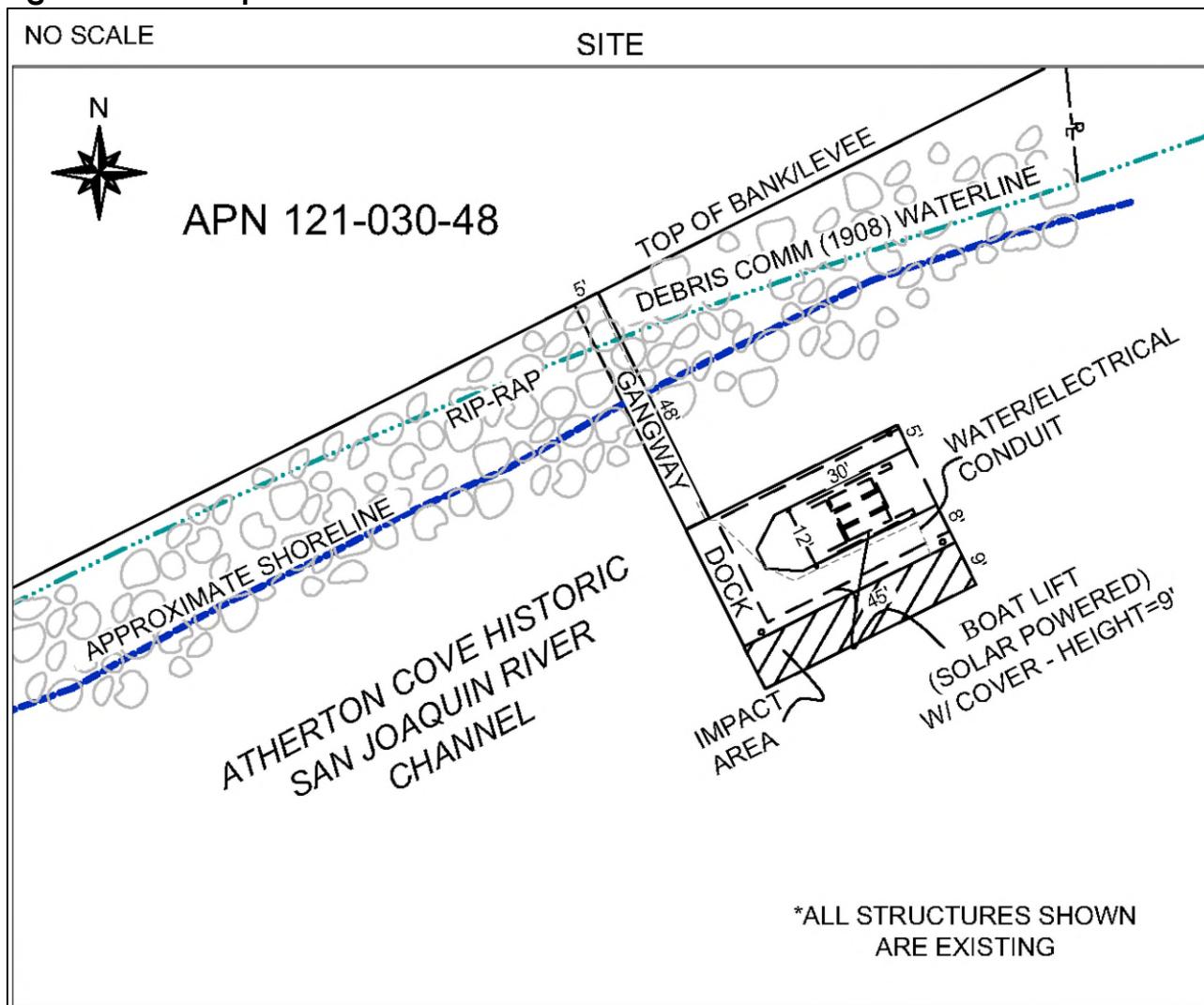
Sovereign land in the San Joaquin River, Atherton Cove, adjacent to 3614 Country Club Boulevard, Stockton, San Joaquin County (as shown in Figure 1, below).

Figure 1. Location



AUTHORIZED USE:

Use of an existing covered boat dock, appurtenant facilities, and bank protection (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 August 21, 2025.

CONSIDERATION:

\$457 per year, with annual Consumer Price Index adjustment; and \$219 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.
- Lessee agrees the provisions of Section 3. Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of State-owned land from July 26, 2024 through August 21, 2025.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 28, 2023, the Commission authorized the acceptance of a Lease Quitclaim Deed from Parke M. Berolzheimer, Trustee of the Parke M. Berolzheimer Declaration of Trust dated December 10, 2008, and the issuance of a General Lease – Recreational and Protective Structure Use to Keith Nelson and Shelly Nelson, Trustees of the 2022 Nelson Family Trust dated August 10, 2022, for the use of an existing covered boat dock, gangway, utility conduits, solar-powered boat lift, and bank protection ([Item 46, February 28, 2023](#)).

On July 26, 2024, ownership interest in the upland property was transferred from Keith Nelson and Shelly Nelson, Trustees of the Nelson 2022 Family Trust dated August 10, 2022, to G. Lawrence Keller III and Natalie Mussi Keller, Trustees of the G. Lawrence Keller III and Natalie Mussi Keller Revocable Family Trust dated October 2, 2010. Staff was not notified of this ownership transfer at the time of the sale, therefore staff recommends terminating the lease effective August 20, 2025 (the day preceding issuance of the proposed lease).

The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use of the existing covered boat dock, gangway, utility conduits, solar-powered boat lift, and bank protection.

Staff recommend that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$219 for the period prior to August 21, 2025. The lease provisions regarding indemnity will apply from July 26, 2024 (the day the Applicant took ownership of the upland property)

through August 20, 2025 (the day before issuance of the new lease) ensuring the state is protected.

The Applicant owns the upland adjoining the lease premises. The existing covered boat dock, three pilings, gangway, utility conduits, and solar-powered boat lift are privately owned and maintained and are used for the mooring of boats 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 land (Pub. Resources Code, § 6503.5).

The bank protection, which has existed for many years at this location, is located directly waterward of the upland property and occupies a relatively small area of the riverbank. The bank protection is not used for the docking and mooring of boats; however, the bank protection does not substantially interfere with the public's right of navigation or access. The bank protection will protect the upland property and maintain and improve the integrity of the San Joaquin River, which will help protect the Public Trust resources for recreational and navigational 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 proposed 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 covered boat dock, pilings, gangway, utility conduits, solar-powered boat lift, and bank protection subject to the proposed lease, located on the San Joaquin 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 6, 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. 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.

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 issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable

term of the proposed lease; is 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 the 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 may be required to remove the existing 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. Termination of the lease 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).

4. 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:

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:

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 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 bank protection does not substantially interfere with Public Trust needs and values at this location, at this time.
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective August 20, 2025, of Lease Number 8905, a General Lease – Recreational and Protective Structure Use, issued to Keith Nelson and Shelly Nelson, Trustees of the 2022 Nelson Family Trust dated August 10, 2022.
2. Authorize acceptance of compensation from the Applicant in the amount of \$219 for unauthorized occupation of State lands for the period prior to August 21, 2025.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning August 21, 2025, for a term of 10 years, for the use of an existing covered boat dock, appurtenant facilities, and bank protection; annual rent in the amount of \$457, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.