

# Staff Report 40

## APPLICANT:

David M. White

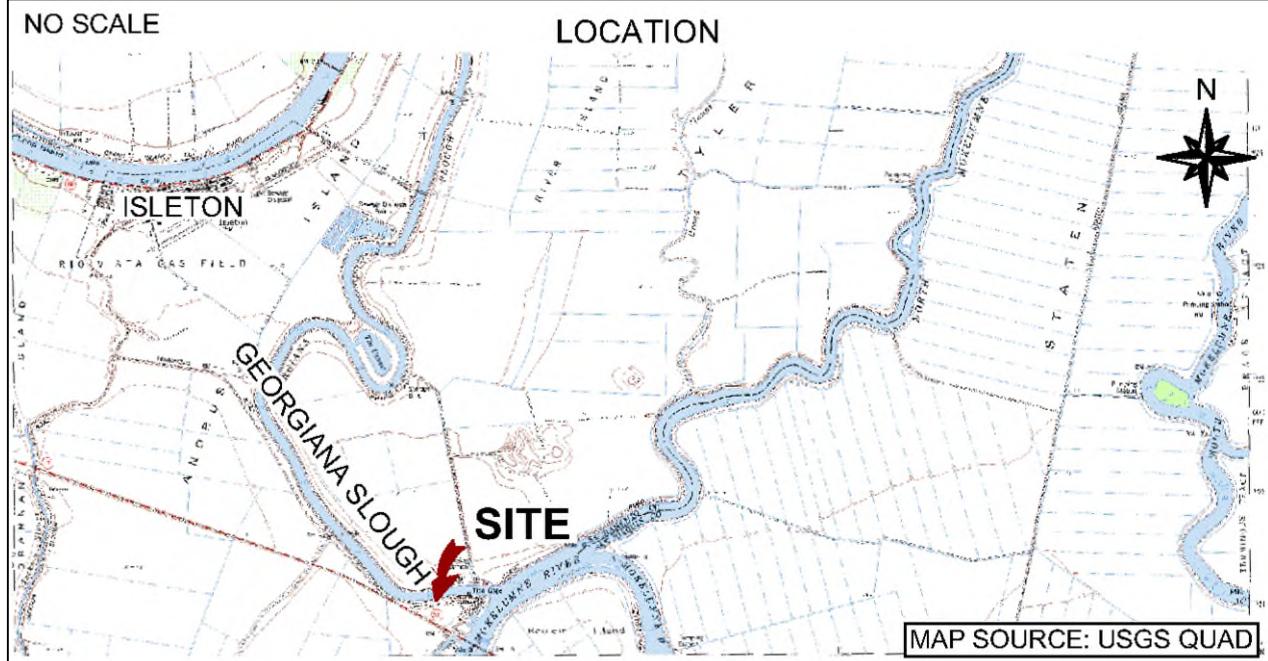
## PROPOSED ACTION:

Issuance of a General Lease - Recreational Use.

### AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Georgiana Slough, 455 West Willow Tree Lane, near Isleton, Sacramento County (as shown in Figure 1).

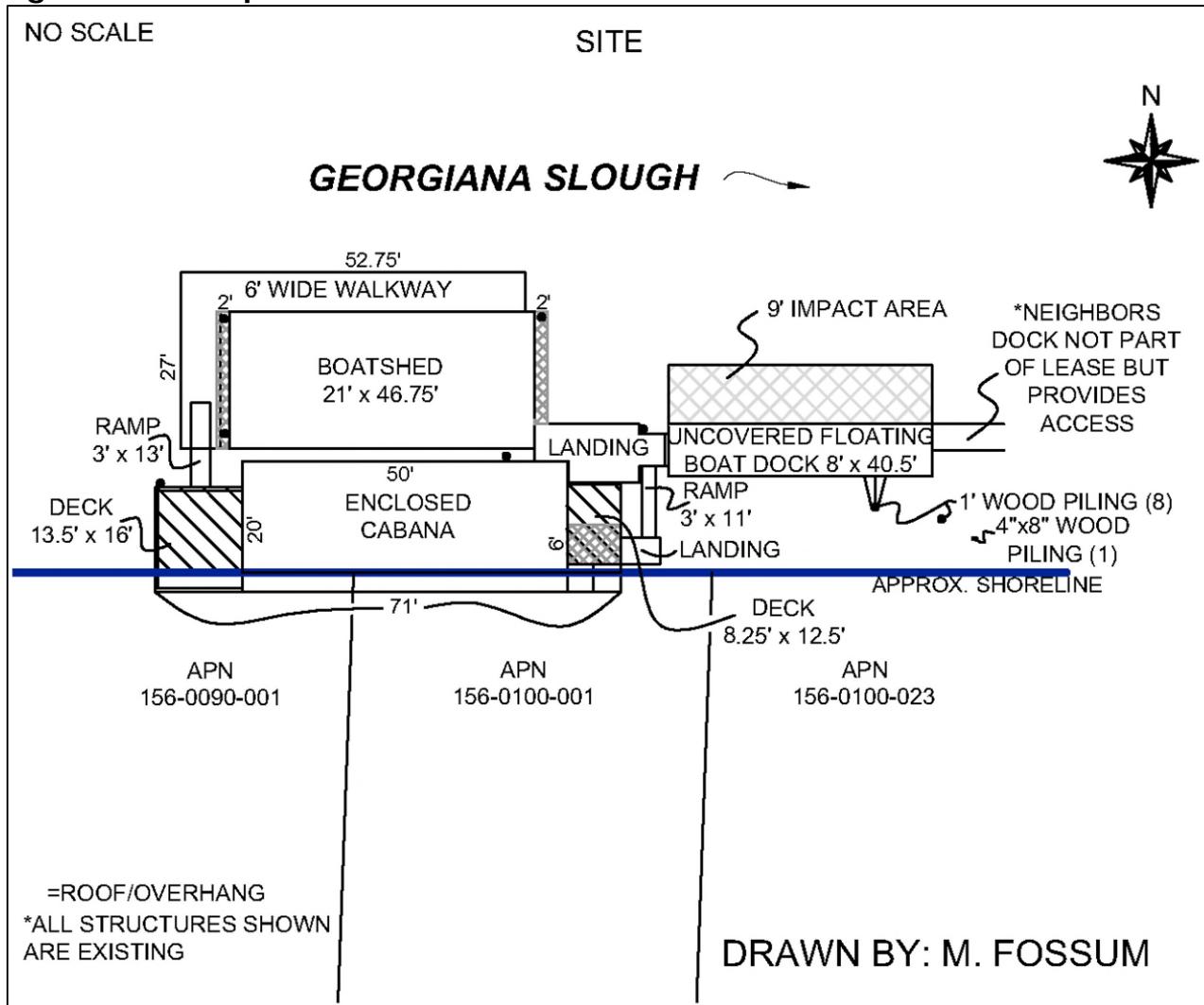
**Figure 1. Location**



## **AUTHORIZED USE:**

Use of an existing boatshed, enclosed cabana, boat dock, two decks, appurtenant facilities, and two unattached pilings (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 May 1, 2025.

## CONSIDERATION:

\$2,210 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.
- During the lease term, there shall be no expansion or improvement of the cabana or decks. And if the cost to repair the cabana or decks exceeds 50 percent of the base value, then the improvements must be removed.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 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 April 5, 2016, the Commission authorized issuance of a General Lease – Recreational Use to Aloisia R. Fouche, Trustee, Fouche Trust, dated September 17, 1991, for the use of an existing boatshed, enclosed cabana, boat dock, two decks, two ramps, two landings, walkway, seven pilings, and two unattached pilings ([Item 27, April 5, 2016](#)). Ownership of the upland property was transferred to the Applicant on April 3, 2025. The lease expired on April 30, 2025.

The Applicant is now applying for a General Lease – Recreational Use for the use of an existing boatshed, enclosed cabana, boat dock, two decks, appurtenant facilities, and two unattached pilings.

The Commission's accounting records show the Applicant has paid rent through April 30, 2025. The lease provisions regarding indemnity will be extended to apply from April 3, 2025, when the upland parcel was deeded to the Applicant, through April 30, 2025, the day before the beginning of the new lease.

The Applicant owns the uplands adjoining the lease premises. The subject boatshed, boat dock, and appurtenant facilities are privately owned and maintained 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 two decks and cabana are not associated with traditional Public Trust uses. While new decks are generally disfavored, decks that have been in place for years

have been permitted, if, as in this instance, they do not significantly interfere with Public Trust needs and do not substantially interfere with the public right of navigation or access. However, the lease includes provisions that the deck may not be expanded or rebuilt if substantially destroyed.

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 boatshed, enclosed cabana, uncovered floating boat dock, two decks, two ramps, two landings, a walkway, seven pilings, and two unattached pilings subject to the proposed lease, located on Georgiana Slough, Sacramento County.

### **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. More information regarding nature-based strategies can be found in the Commission's [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 the Public Trust needs at this location, at this time, and for the term of the lease; and in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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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 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:**

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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 continuing use of the existing boat dock and appurtenant facilities 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 continuing use of the existing decks and cabana, for a limited duration, does not substantially interfere with the Public Trust Doctrine uses.
3. Find that issuing the proposed lease is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning May 1, 2025, for a term of 10 years, for the use of an existing boatshed, enclosed cabana, boat dock, two decks, appurtenant facilities, and two unattached pilings; annual rent in the amount of \$2,210, with an annual Consumer

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