

Staff Report 53

LESSEE/ASSIGNOR:

Kyu Sung Kim and Beth Ann Green Kim, Trustees of the 2018 Kim Irrevocable Trust dated June 7, 2018

APPLICANT/ASSIGNEE:

Jim D. Phong

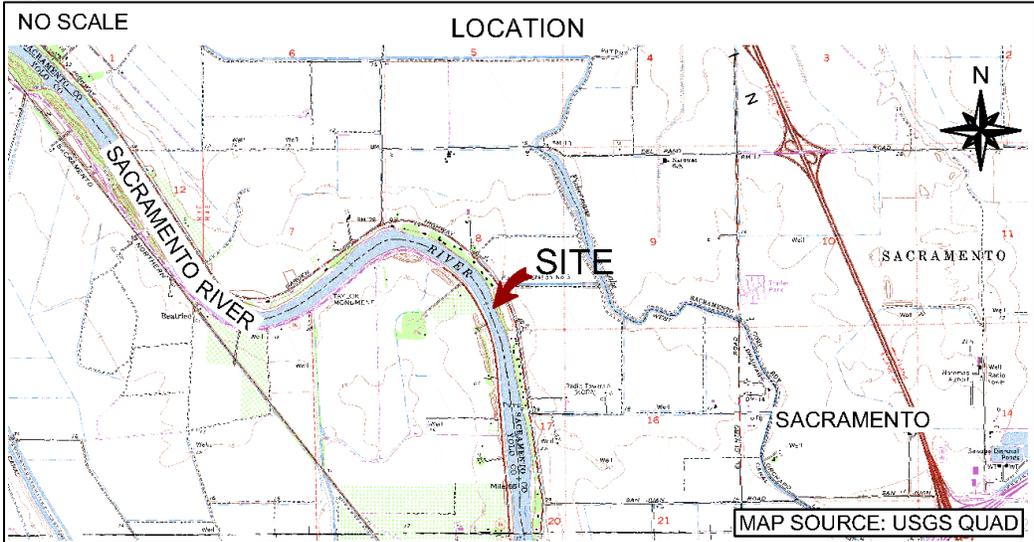
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 4007 Garden Highway, Sacramento, Sacramento County (as shown in Figure 1).

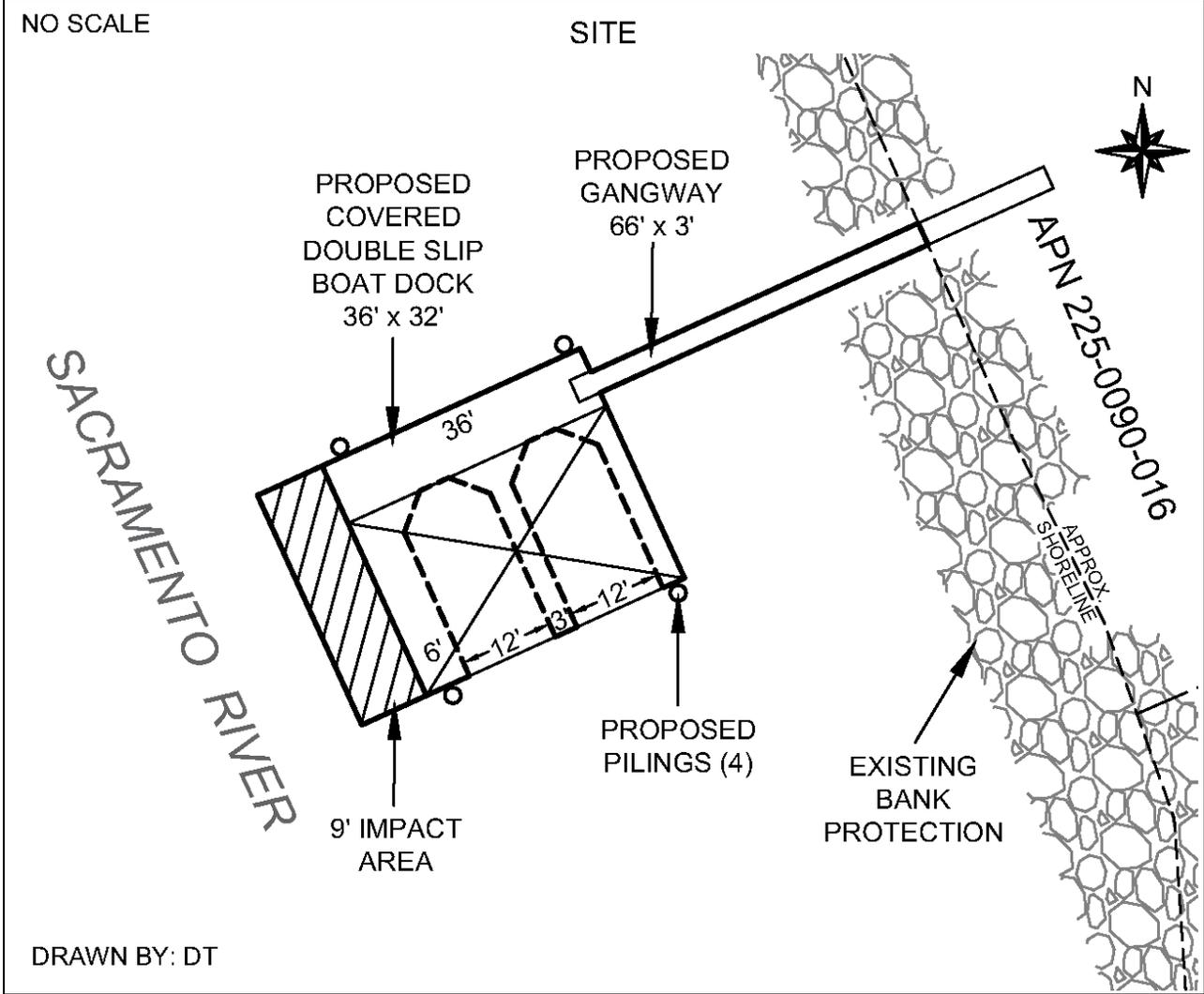
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of existing bank protection, and construction, use, and maintenance of a covered boat dock, gangway, concrete landing, and four 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 March 1, 2023.

CONSIDERATION:

\$505 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.
- Lessee agrees and acknowledges that the boat dock and boathouse are used for docking and mooring purposes only. This does not include swimming floats or platforms, swim areas, fishing platforms, residential, storage or eating facilities or areas attached or adjacent to the authorized improvements, or any other facilities not constructed for the docking of boats.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of “as-builts” plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee, and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

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 28, 2023, the Commission authorized the issuance of a General Lease – Recreational and Protective Structure Use to Kyu Sung Kim and Beth Ann Green Kim, Trustees of the 2018 Kim Irrevocable Trust dated June 7, 2018, for the use and

maintenance of existing bank protection, and the construction, use, and maintenance of a covered boat dock, gangway, concrete landing, and four pilings ([Item 56, February 28, 2023](#)). The lease will expire on February 28, 2033.

On May 2, 2025, Jim D. Phong (also known as Jimmy Phong) obtained ownership of the upland property from the Lessee. The parties are now applying for an Assignment of Lease 9719, effective May 2, 2025, to coincide with the ownership transfer of the upland property, for the use of existing bank protection and the construction of a covered boat dock with appurtenant facilities.

The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the state's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed assignment does not alienate the State's fee simple interest or permanently impair public rights.

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 and proposed structures 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 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 ([Fifth National Climate Change Assessment: Southwest Region, 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](#).

The lease is a 10-year General Lease – Recreational and Protective Structure Use that began on March 1, 2023, and may be subject to the climate change effects and projected sea level rise scenarios provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities would be assessed if a new lease is considered in 2033, and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes approval of this lease assignment will not substantially interfere with Public Trust needs at this location, at this time, and for the remaining term of the 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 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 lease would not be assigned. The assignee 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. Assignment of lease is not a project as defined by the California Environmental Quality Act 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).

FINDINGS AND AUTHORIZATION:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 9719, a General Lease – Recreational and Protective Structure Use of sovereign land, from Kyu Sung Kim and Beth Ann Green Kim, Trustees of the 2018 Kim Irrevocable Trust dated June 7, 2018, to Jim D. Phong.