

Staff Report 25

LESSEE:

Susan V. Carson, Trustee of the Susan V. Carson Trust D/D/T dated October 19, 1994

APPLICANT:

Bradley Delk and Danielle Rena Delk

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the historic bed of the San Joaquin River at Atherton Cove, adjacent to 1 Atherton Island, near Stockton, San Joaquin County (as shown in Figure 1).

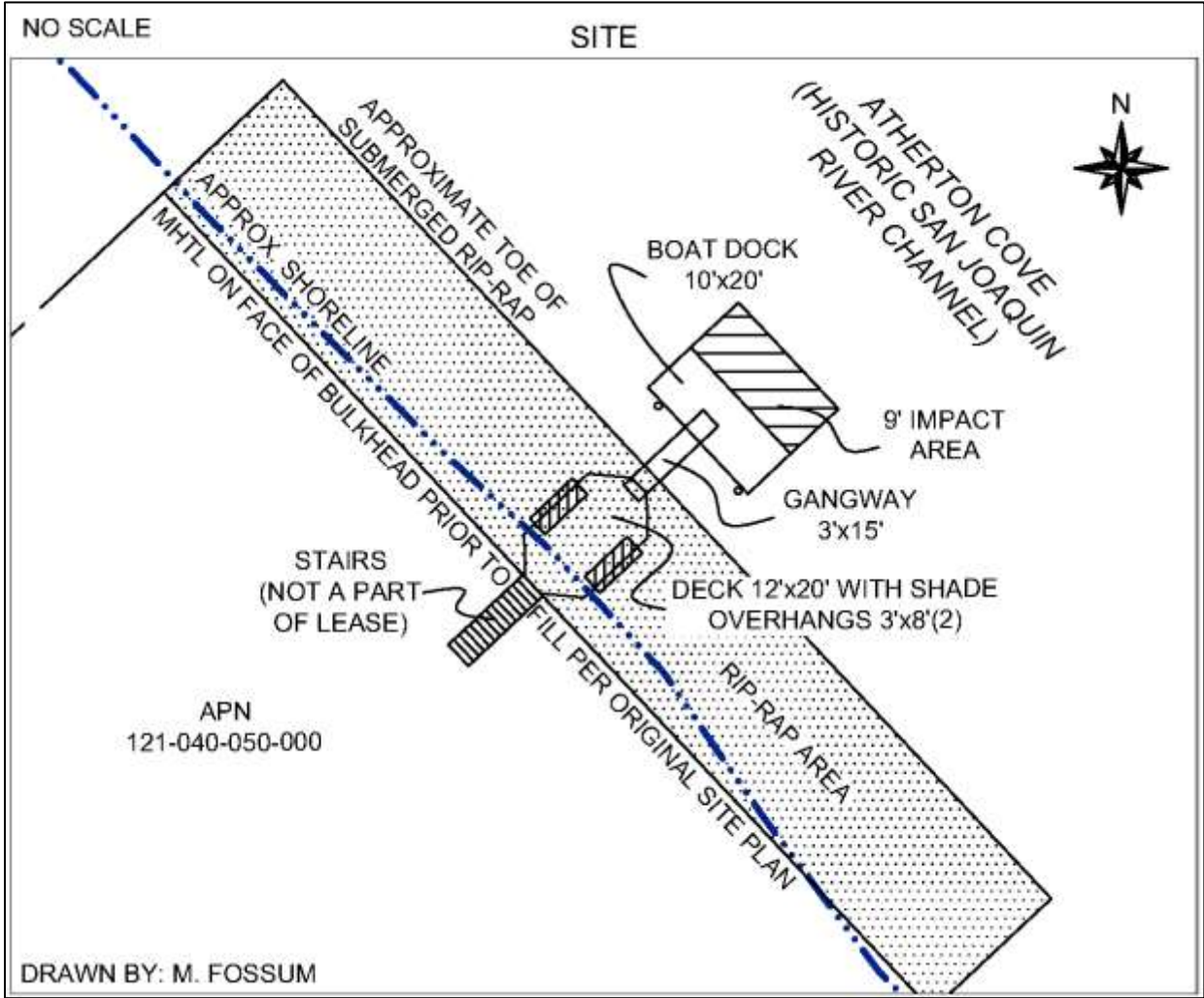
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, appurtenant facilities, deck, bulkhead, 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 April 7, 2026.

CONSIDERATION:

\$303 per year, with an annual Consumer Price Index adjustment; and \$62 for the unauthorized occupation of State land for the period prior to April 7, 2026.

SPECIFIC LEASE PROVISIONS:

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public's right of access for navigation, fishing, and Public Trust-consistent recreational uses.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of State-owned lands, from February 7, 2025, to April 6, 2026.

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 October 22, 2020, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to Susan V. Carson, Trustee of the Susan V. Carson Trust D/D/T dated October 19, 1994, for the use and maintenance of an existing boat dock, gangway, bulkhead, and bank protection previously authorized by the Commission and an existing deck not previously authorized by the Commission ([Item 21](#)). That lease will expire on October 21, 2030.

On February 7, 2025, Bradley Delk and Danielle Rena Delk acquired the upland parcel. Staff recommends terminating the lease because the Lessee did not notify staff of the sale of the upland parcel or sign a quitclaim deed. The proposed termination date is October 21, 2025, the date which the lessee paid rent through.

The Applicant is now applying for issuance of a General Lease – Recreational and Protective Structure Use for an existing boat dock, appurtenant facilities, deck, bulkhead, and bank protection.

Staff recommends that the Commission accept compensation in the amount of \$62 for the unauthorized use of State Land for the period prior to April 7, 2026. Additionally, the proposed lease will require the Applicant to indemnify the State

for the entire period of unauthorized occupation prior to April 7, 2026, ensuring the State is protected.

The Applicant owns the uplands adjoining the lease premises. The subject 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 bank protection and bulkhead will mutually benefit both the public and the Applicant. The bank of historic bed of the San Joaquin 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 deck is considered non-water dependent uses that are not traditional Public Trust consistent uses. However, where improvements have existed for a long time and they do not substantially interfere with Public Trust needs and values, these uses have been permitted for the limited time of the lease. Here, the deck occupies a relatively small area and does not result in a significant change in the use of, or impact to, Public Trust resources at this location.

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 structures subject to the proposed lease, located on 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 ([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](#).

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 more 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 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 may be required to remove the improvements and return 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

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 14, section 15301.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

1. Find that the existing boat dock and appurtenant facilities 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, and are consistent with the common law Public Trust Doctrine.
2. Find that the existing and continuing use of the deck, bulkhead, and bank protection is not generally a Public Trust consistent use, but the current use 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. Accept compensation from the Applicant for the unauthorized occupation of State Land in the amount of \$62 for the period prior to April 7, 2026.
2. Authorize termination, effective October 21, 2025, of Lease 6047, a General Lease – Recreational and Protective Structure Use, issued to Susan V. Carson, Trustee of the Susan V. Carson Trust D/D/T dated October 19, 1994.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning April 7, 2026, for a term of 10 years, for the use of an existing boat dock, appurtenant facilities, deck, bulkhead, and bank protection; annual rent in the amount of \$303, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.