

Staff Report 40

APPLICANT:

Freeport Marina, Inc.

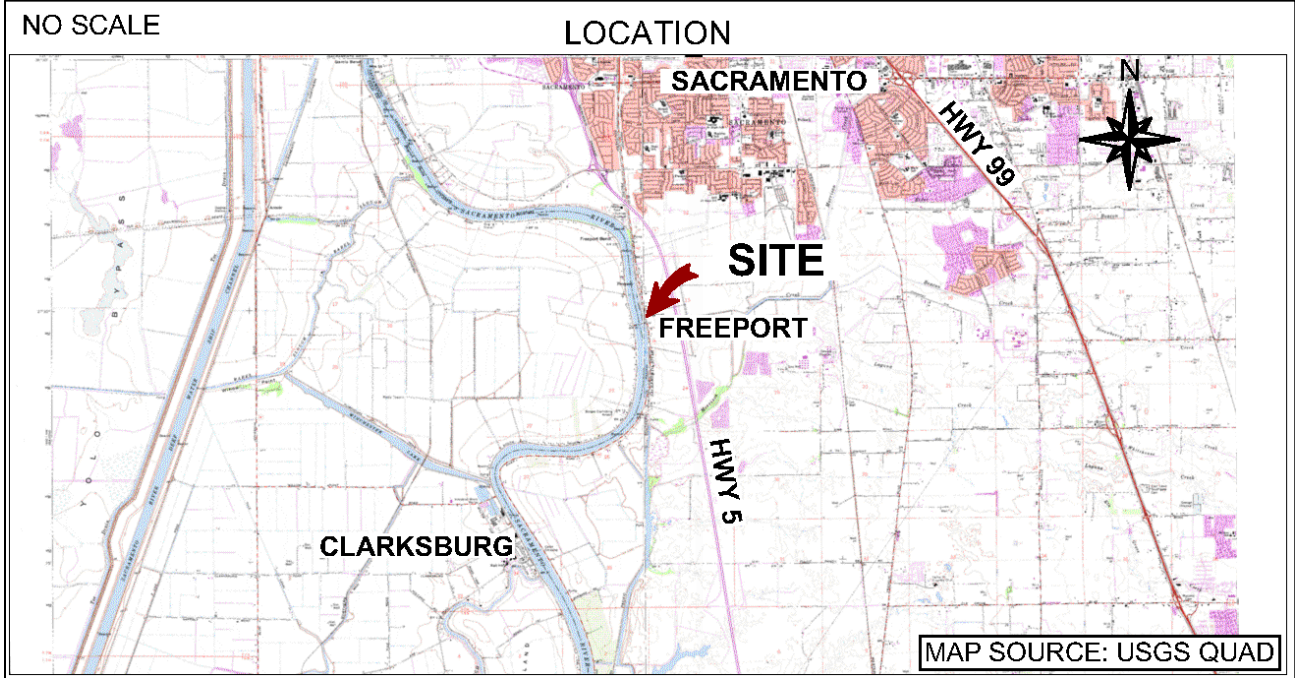
PROPOSED ACTION:

Issuance of a General Lease – Commercial Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 8250 Freeport Boulevard, near Freeport, Sacramento County (as shown in Figure 1).

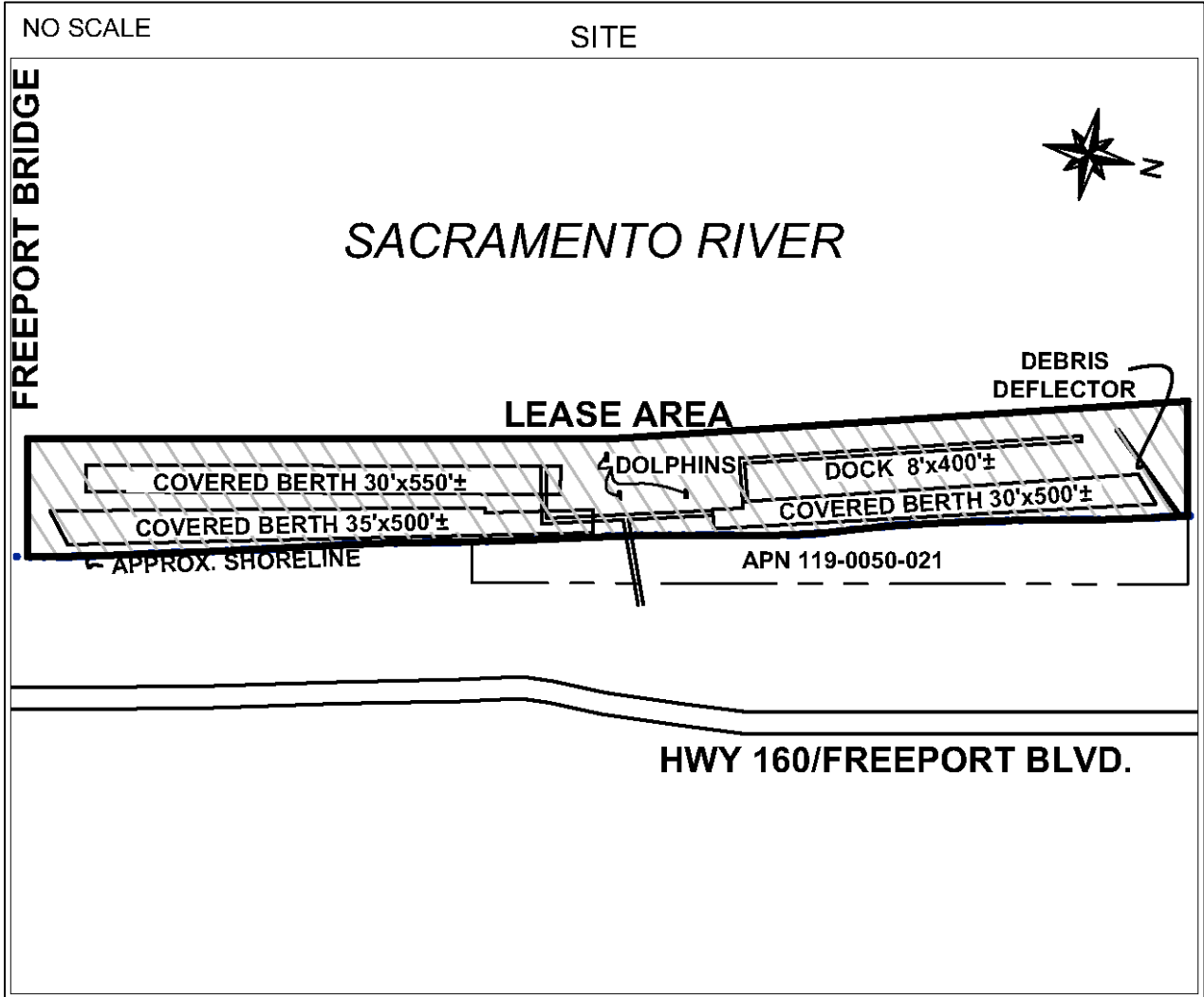
Figure 1. Location



AUTHORIZED USE:

Operation and use of an existing commercial marina consisting of three covered berths, accommodation dock, and appurtenant facilities (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:

20 years, beginning June 23, 2026.

CONSIDERATION:

\$11,305 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; and \$16,662 to compensate for the unauthorized occupation of state sovereign land for the period prior to June 23, 2026.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 per occurrence.
- Surety of other security instruments in the amount of \$30,000.
- The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encouraging implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.
- Lessee or its operators may issue, without Lessor's prior approval, individual berthing subleases in conjunction with normal commercial marina subleasing practices for terms of one year or less.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 14, 1999, the Commission authorized issuance of a General Lease – Commercial Use to Freeport Properties, a California Limited Partnership, for the continued use of an existing commercial marina containing 121 boatslips, fuel dock, watchman residence, marina office, and canvas shop ([Item 20](#)).

On December 3, 1999, the Commission approved an Assignment of Lease from Freeport Properties, a California Limited Partnership, to Freeport Marina Inc. and Agreement and Consent to Encumbrance of Lease. In the summer of 2008, the Lessee removed a boat dock and the fuel dock without Commission approval. Commission staff became aware that these improvements were removed while

processing of the current application. Staff is not aware of documented adverse environmental impacts associated with the removal. The marina office, watchman residence, and the canvas shop do not extend onto state lands and will not be included in the lease area. The lease expired on December 31, 2023.

Rent was paid in holdover through the end of 2024. Staff recommends the Commission accept compensation for the unauthorized occupation of sovereign land in the amount of \$16,662 based on an adjusted value of the proposed lease's rent amount covering the period from January 1, 2025 through June 22, 2026. The provisions from the proposed lease regarding indemnity will apply from the time the original lease expired and will extend to the day before the beginning of the new lease, ensuring the State is protected.

The subject marina is open to the public, provides free guest docking, and directly promotes Public Trust uses. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine.

The proposed lease includes certain provisions and best management practices intended to protect the public use of the proposed lease area, including a limited lease term of 20 years. The facilities have existed at this location for many years; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

Furthermore, the lease requires that the lessee insure the lease premises and provide a bond or other form of financial security for the faithful performance of the lease obligations. The proposed agreement would require the lessee to provide surety in the amount of \$30,000. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. Annual rent for the lease premises was calculated with regard to the public use and benefit of the marina and its facilities.

CLIMATE CHANGE:

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 an existing commercial marina subject to the proposed lease, located on the Sacramento River, near Freeport, 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 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 higher 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.

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 stated above, staff believe that issuance of the proposed lease 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 is consistent with the Public Trust Doctrine; and 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 must remove the improvements and restore the property to its 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 "Meeting Evolving Public Trust Needs, and "Leading Climate Activism" Strategic Focus Area 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:

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:

Find that the proposed lease 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 lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning June 23, 2026, for a term of 20 years, for the operation and use of an existing commercial marina; annual rent in the amount of \$11,305 with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$3,000,000 per occurrence; and a bond or other security instrument in the amount of \$30,000.
2. Authorize acceptance of compensation from the Applicant in the amount of \$16,662 for unauthorized occupation of State land for the period prior to June 23, 2026.