Meeting Date: 10/21/26
Lease Number: 6184
Staff: M. Harless

Staff Report 33

APPLICANT:

Diablo Water Ski Club, a California Corporation

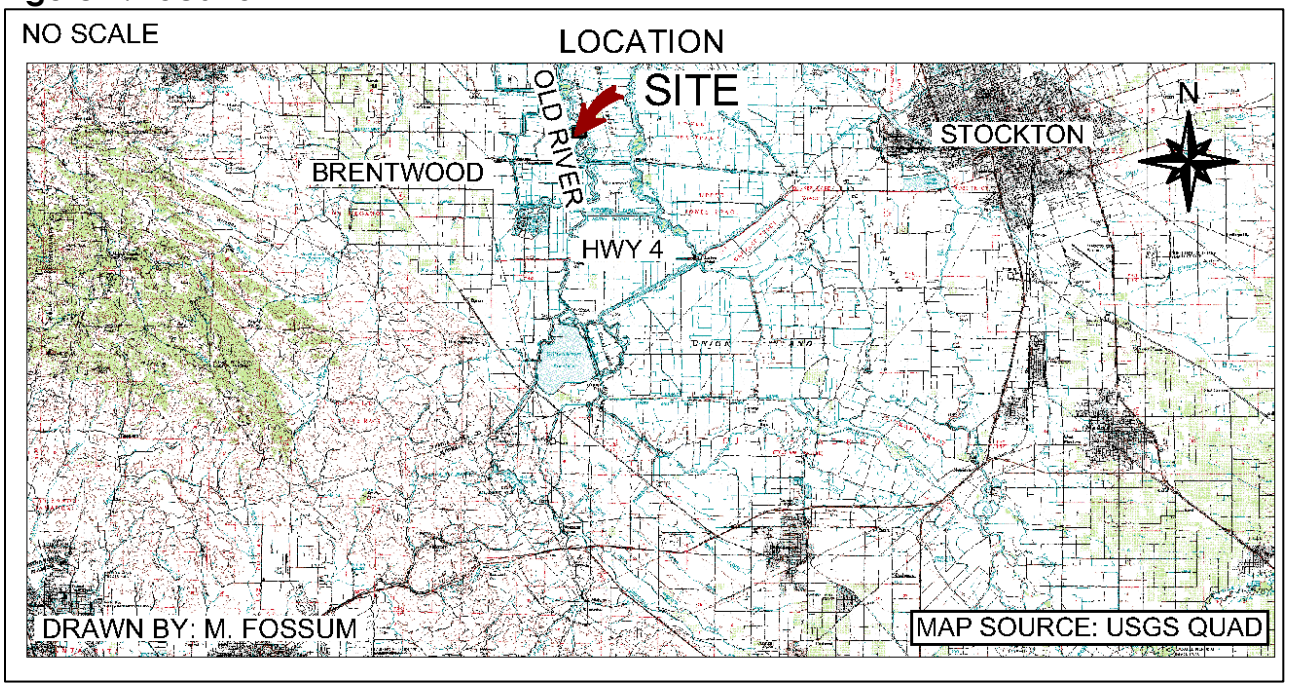
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

0.60 acres, more or less, of tide and submerged land located in Old River and Berm "N", adjacent to Bacon Island, San Joaquin County (as shown in Figure 1).

Figure 1. Location



AUTHORIZED USE:

Use of five existing boat docks, two clubhouses, slalom course, and appurtenant facilities (as shown in Figure 2).

Figure 2. Site Map (1/2)

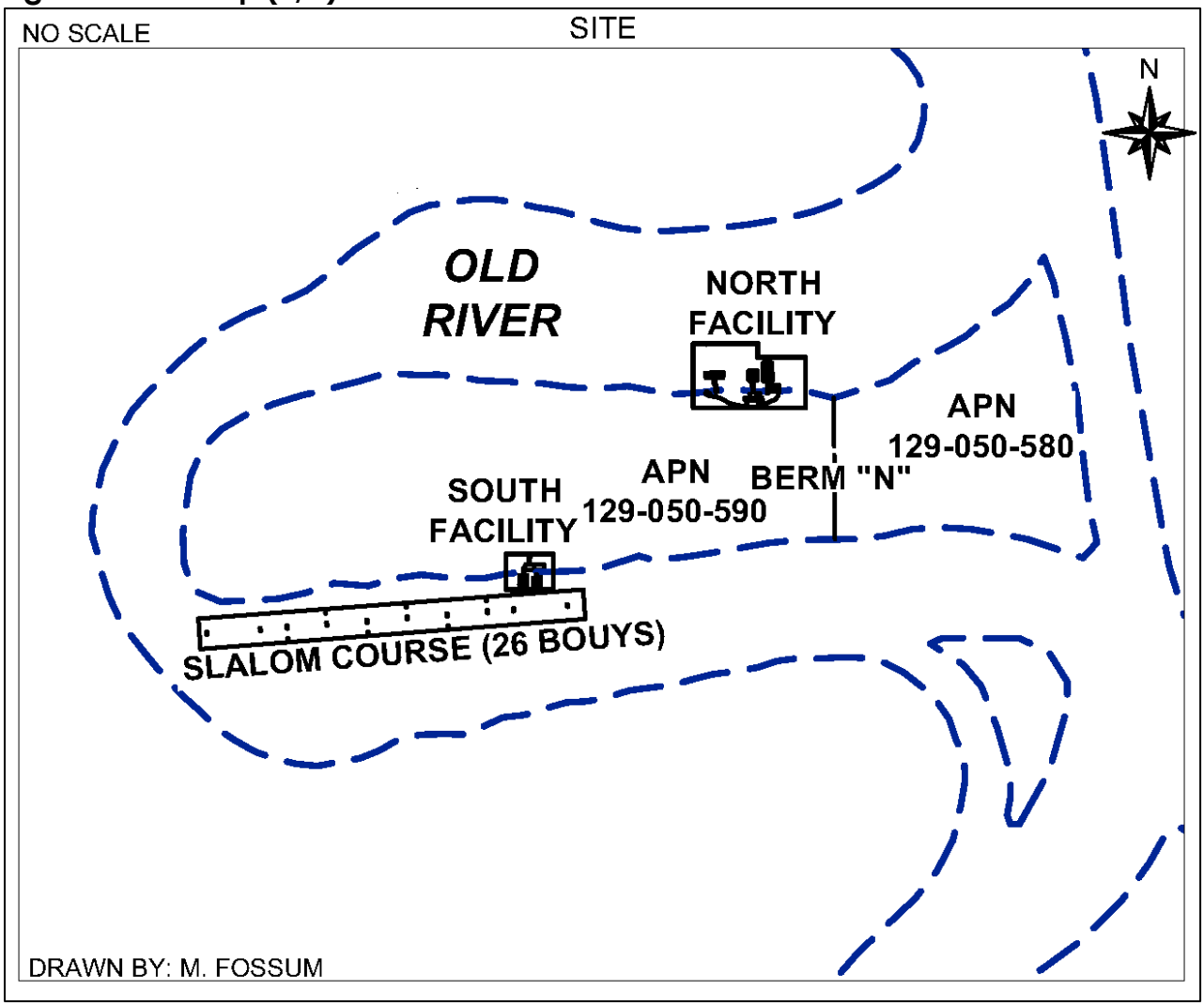
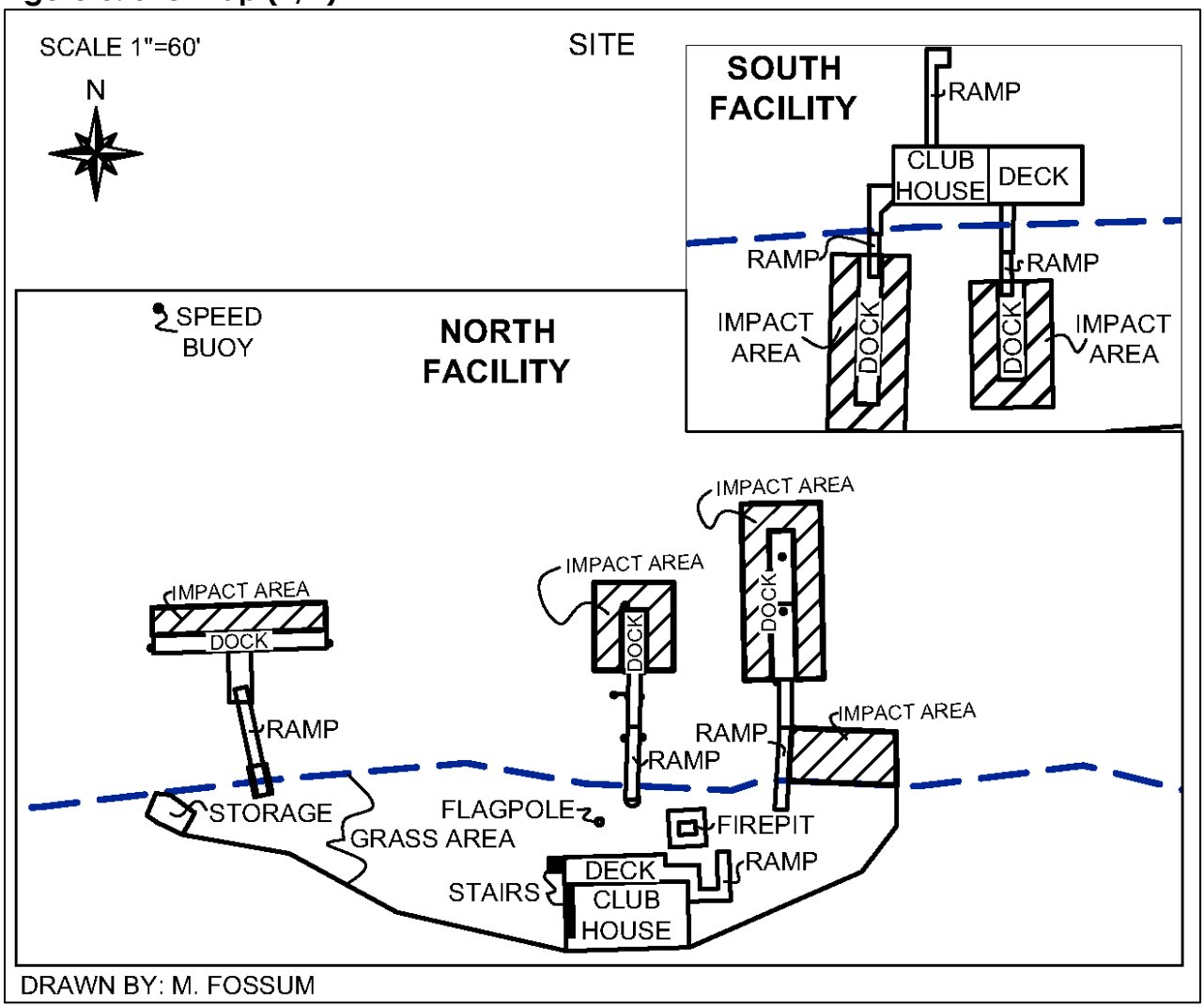


Figure 3. Site Map (2/2)



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 October 21, 2026.

CONSIDERATION:

$6,364 per year, with an annual Consumer Price Index adjustment and $3,017 to compensate for the unauthorized occupation of state sovereign land prior to October 21, 2026.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than $1,000,000 per occurrence.
- $10,000 surety bond or other form of security as provided in the lease.
- The lease contains provisions that the Lessee must require implementation of the Commission's "Best Management Practices for Berth Holders/Guest Dock Users/Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate. The "Best Management Practices for Berth Holders/Guest Dock Users/Boaters" must be posted in prominent places within the lease premises.
- Lessee understands and agrees that the slalom marker buoys and anchors authorized herein shall be utilized in the Lease Premises for a period of only five months, during any year of the term of this lease, beginning May 1st and ending September 30th each year, and that the buoys and anchors shall be completely removed from the Lease Premises during the remaining months on non-utilization of the slalom area. Lessee's failure to obtain additional authorization from Lessor to extend use of the slalom marker buoys and anchors shall be grounds for termination of this Lease.
- Improvements on the Lease premises shall not be used as a residence or for the purposes of mooring a floating residence. For purposes of the Lease, a residence or floating residence may include, but is not limited to, boats, barges, houseboats, or other such watercraft providing overnight accommodations to Lessee or others.
- Lessee shall not expand any facilities on Berm "N" and there will be no further encroachment into the interior of Berm "N".
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of State-owned lands, from May 1, 2026 through October 20, 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 December 14, 2006, the Commission authorized issuance of a General Lease – Recreational Use to Diablo Water Ski Club, a California Corporation, for the continued use and maintenance of existing uncovered floating boat docks and club facilities, all utilized for recreational purposes, and slalom marker buoys (Item 26). The Commission authorized a revision of rent on February 8, 2011 (Item 6), resulting in an increase from $2,825 per year to $3,391 per year. The Commission authorized another revision of rent on June 29, 2021 (Item 24). The lease expired on April 30, 2026.

The Applicant is now applying for a General Lease – Recreational Use, for the use of five floating boat docks, two clubhouses, slalom course, and appurtenant facilities. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on October 21, 2026.

Staff recommends that the Commission require compensation in the amount of $3,017 for the unauthorized use of State Land for the period prior to October 21, 2026. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, ensuring the State is protected.

The subject facilities have existed for many years and are privately owned and maintained by the Applicant. The boat docks and slalom course serve to 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. Res. Code § 6503.5)

Although the two clubhouses with decks and grass area are not considered Public Trust consistent uses, the proposed lease for the subject facilities would not substantially interfere with Public Trust needs and values at this time and for a limited term. The proposed lease will not result in a change in the use of or impact to Public Trust resources. Based upon the particular facts at this location, staff recommends the Commission find that the proposed lease would not result in a substantial interference with Public Trust needs and values at this time and 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 five floating boat docks, two clubhouses, decks, a storage room, covered patio, and slalom marker buoys with anchors subject to the proposed lease, located on the Old River, San Joaquin 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" scenario due to the lower vulnerability and exposure of the lease location and the adaptability of the improvements. The Port Chicago 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 Port Chicago

Year	Intermediate (feet)
2040	0.6
2050	0.8
2070	1.4
2100	3.1

Source: Table 4, 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 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 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 the use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands. 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. 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:

1. Find that the existing and, for a limited period, continuing use of the existing boat docks. appurtenant facilities and slalom course, 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 two clubhouses with decks and grass area are not generally associated with Public Trust uses, 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 in the amount of $3,017, for the unauthorized occupation of State land for the period prior to October 21, 2026.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 21, for a term of 10 years, for use of five existing boat docks, two clubhouses, slalom course, and appurtenant facilities; annual rent in the amount of $6,364, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than $1,000,000 per occurrence; and surety in the amount of $10,000 ($5,000 due within 90 days of lease authorization, with an additional $5,000 increases due in 2031).