Meeting Date: 10/21/26
Lease Number: 2856
Staff: J. Bryant

Staff Report 59

LESSEE:

Windmill Cove Resort and Marina, LLC

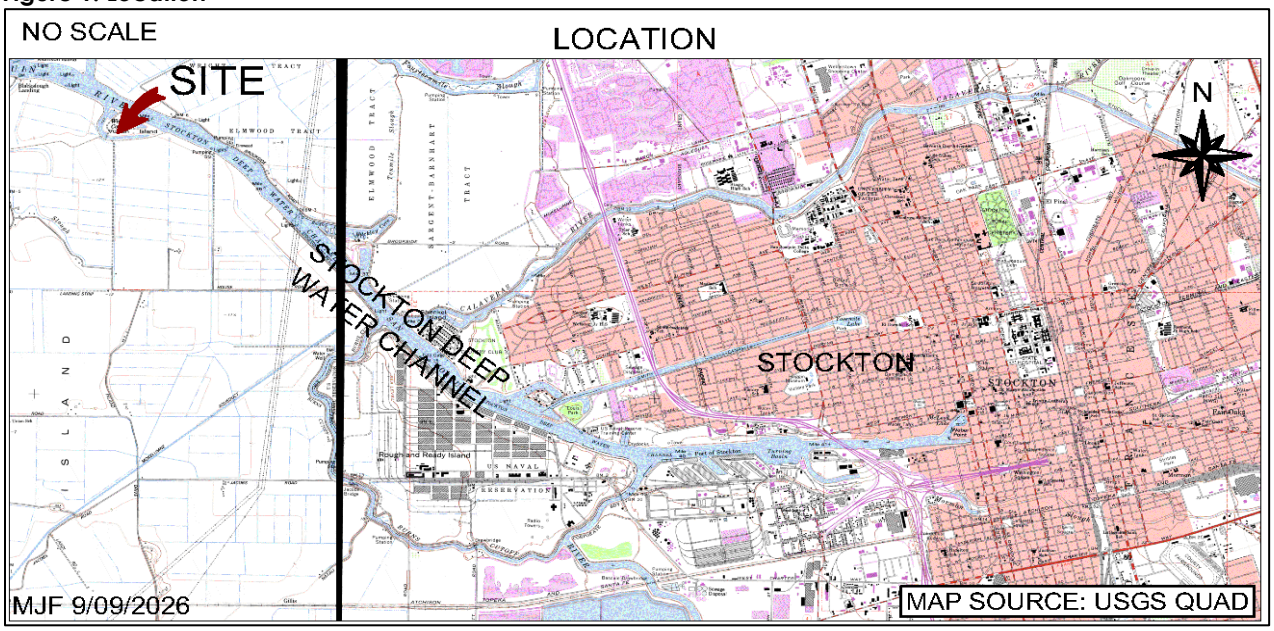
APPLICANT:

Windmill Cove Resort and Marina, Inc.

BACKGROUND:

Windmill Cove Resort and Marina is located 15 miles northwest of Stockton in the historic bed of the San Joaquin River, at Vulcan Island, adjacent to 7600 Windmill Cove, San Joaquin County.

Figure 1. Location



The original lease for the marina and campsites at this location dates to 1962. On March 8, 1993, the Commission authorized the issuance of a 25-year General Lease – Commercial Use to Larry and Nora Neuner, dba Windmill Cove Marina and R.V. Park, and Raymond E. Everitt, for the operation and use of an existing commercial marina, recreational vehicle park, and access roads (Item 13). On February 21, 2003, the Commission authorized an assignment and amendment of lease (Item 11) to John C. Bresciani, effective March 1, 2003, which extended the lease term to December 31, 2034; settled outstanding rent issues; and revised the minimum annual rent against a percentage of gross. The business was subsequently sold in 2008 to Windmill Cove Resort and Marina, LLC. At the time of the sale, the lease was in default for unauthorized uses, including: derelict marina improvements, permanent liveaboards, inappropriate residential use of RVs, and unauthorized improvements placed throughout the lease area. On March 25, 2008, the Commission authorized the assignment and amendment of lease (Item 31) to Windmill Cove Resort and Marina, LLC because the new owner agreed to immediately start curing the defaults. Paragraph 2 of the 2008 lease amendment clearly states that residential use is prohibited, however the Lessee continued to allow ongoing residential use of the lease premises without authorization. Additionally, the lease contained specific provisions including but not limited to, paying for a survey of the lease premises and submittal of a repair and renovation plan within a specified timeframe.

Over the subsequent years, Commission staff attempted to work with the Lessee to bring the lease into compliance, but staff was ultimately unsuccessful. Staff conducted multiple inspections of the lease premises and directed the Lessee to remediate the improper residential use and other violations from the Department of Housing and Community Development (HCD), which overseas regulation of the RV park; the San Joaquin County Environmental Health Department (EHD), which regulates the sewage, leach fields, and other sanitation; and the California Division of Occupational Safety and Health. The Lessee would address some violations revealed in inspections and represent that others were addressed or being addressed but as staff have come to discover most of the representations were false and the Lessee violated the terms of the lease and intentionally failed to achieve full lease compliance. Until recently, staff was unaware of complaints from the community and had not heard from HCD about violations.

In 2025, staff reengaged the Lessee to address the violations of the lease, including ongoing residential use and other outstanding long-term issues of unauthorized improvements. Staff conducted site visits in April and June 2025. Despite staff's

efforts, the Lessee continued his pattern of delay and failure to fully comply until he sold the business.

On March 4, 2026, ownership interest in the upland property (Windmill Cove Bar and Grill) and the improvements on the lease premises was transferred from Windmill Cove Resort and Marina, LLC to Windmill Cove Resort and Marina, Inc. The change in ownership of the Windmill Cove Bar and Grill and the improvements on the lease premises resulted in the exposure of a myriad of issues created by the current Lessee, Windmill Cove Resort and Marina, LLC. Staff received numerous complaints from residents and neighboring landowners, including various regulatory notices of violation and placement of improvements on neighboring property without authorization. Staff is working with the neighboring landowner and new owner (Applicant) to address the issues.

On August 7, 2026, the Lessee entered into an operator agreement with the new owner of the business and improvements allowing the new owner to act as the sole operator of the lease, enjoying all powers and bearing all obligations under Lease 2856. The Applicant is now applying for a General Lease – Commercial Use in Caretaker Status for the use of the authorized improvements.

Staff recommends terminating the existing lease as the Lessee did not notify staff of the sale of the upland parcel or execute a quitclaim deed, is responsible for multiple defaults of the lease terms, and has not cured the current defaults of the lease. The proposed termination date is October 20, 2026, the day preceding the proposed issuance of the new lease.

PROPOSED ACTION:

Termination of Lease 2856 and Issuance of a General Lease – Commercial Use in Caretaker Status.

AREA, LAND TYPE, AND LOCATION:

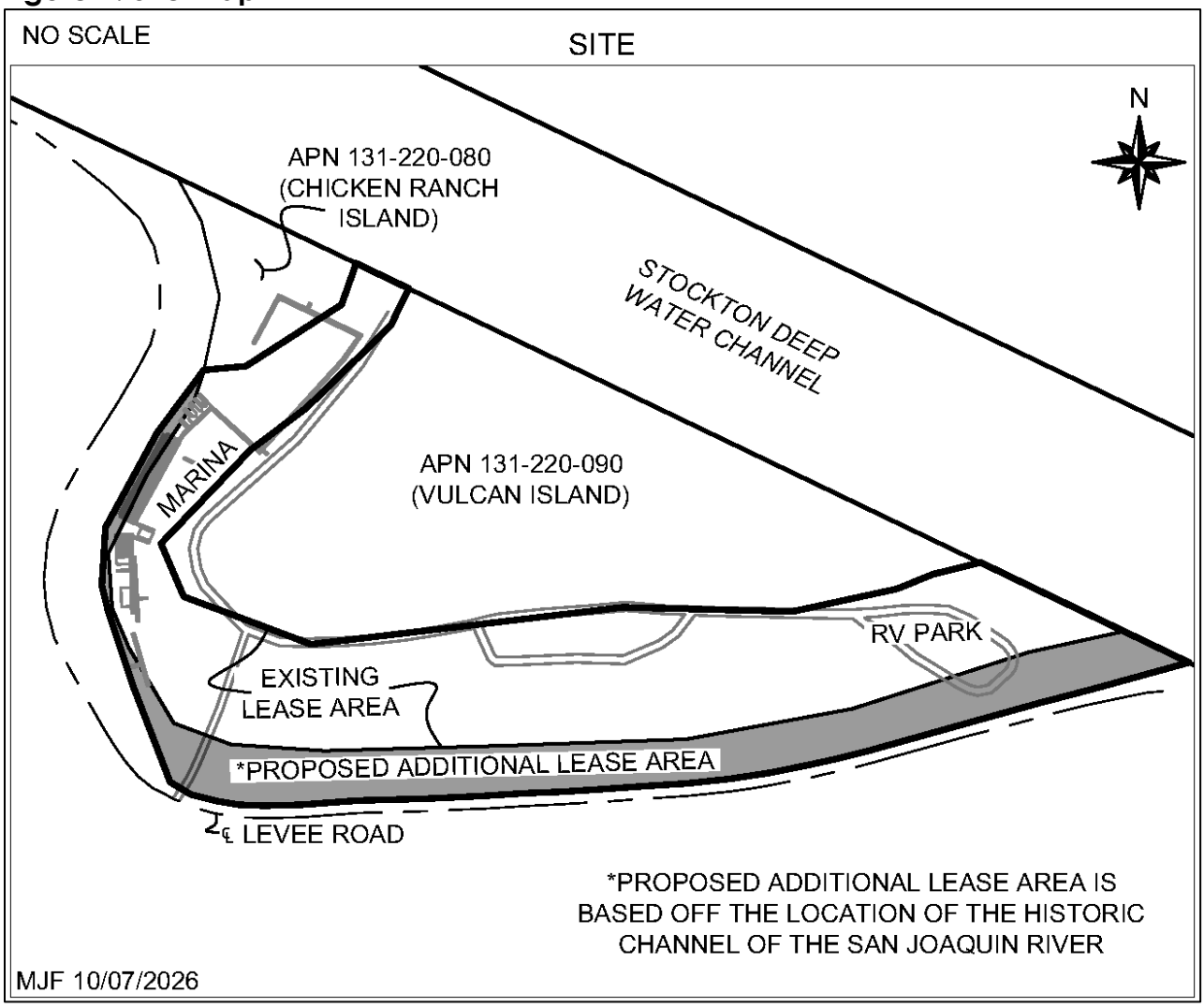
25.46 acres of filled and unfilled sovereign land located in the historic bed of the San Joaquin River, at Vulcan Island, adjacent to 7600 Windmill Cove, near Stockton, San Joaquin County (as shown in Figure 1 above).

AUTHORIZED USE:

Use of an existing commercial marina, consisting of 26 covered berths and a floating dock with five berths with hook ups, an accommodation dock, walkways,

and pilings; 55 Recreational Vehicle (RV) spaces with hook ups, 19 camping spaces; two buildings for sanitary and laundry facilities; a maintenance building; two septic systems with leach fields; a water treatment system; two bulkheads; access roads; and appurtenant facilities in caretaker status (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:

2 years, beginning October 21, 2026.

CONSIDERATION:

Minimum annual rent of $5,285, against five percent of gross income derived from boat berthing and mooring, five percent of gross income derived from the recreational vehicle spaces, and 10 percent of gross income from all other sources.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than $2,000,000 per occurrence.
- Surety or other security instruments in the amount of $100,000.
- Requires preparation and implementation of plans following Commission staff approval to remedy the defaults and breaches of the existing lease.
- Requirement for public access to be provided to and through the lease area for the general public.
- 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.
- Applicant to submit, by March 1, 2027, an application for a long-term lease for the operation, use, and maintenance of the commercial marina, recreational vehicle park, and access roads or full removal of all improvements.

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:

The commercial marina is open to the public and directly promotes Public Trust uses. The marina provides electricity, water, and fuel at the dock, and launching facilities. The marina consists of 26 covered berths and a floating dock with space for five berths and facilitates the public's need for maritime services and the public enjoyment of the State's waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine.

While the two existing bulkheads within the Lease Premises primarily serve to protect the upland property, they also provide some ancillary public benefits by stabilizing the bank, preventing erosion, supporting the integrity of the river channel, and helping ensure the river remains navigable. On August 26, 2026, Commission staff conducted a site visit with HCD, and it was determined that the bank protection was in disrepair and posed a safety hazard. Loss or further degradation of these structures could result in property damage and additional public safety concerns. Staff is working with the Applicant and HCD to address this issue. Through the proposed caretaker lease, staff is authorizing the Lessee to address the emergency repair of the bulkhead/bank protection to address the identified safety hazard. The bank protection does not negatively impact the Public Trust uses in this location at this time.

The lease has 55 RV spaces with hook ups and 19 camping spots. The RV Park was expanded to its current level in 1982, and HCD is the regulatory authority. The RV Park was, and is, authorized for transient and recreational use only. The RV Park is distinct and different from most other RV parks, as it is located entirely on sovereign lands, on what was formerly the bed of the San Joaquin River. While the Public Trust Doctrine prohibits residential use, transient use of sovereign lands for camping and temporary RV occupation use may be allowed. This prohibition was clearly stated in the Lease under Section 4 General Provisions, Paragraph 4(i) and the current Amendment of Lease under Paragraph 2 (a) and (b).

The proposed lease includes certain provisions and best management practices intended to protect the public use of the proposed lease area. The facilities have existed at this location for many years; as currently configured they have altered the land and the waterway boundary and they have impaired public rights, but they do not permanently alienate the State's fee simple interest in the underlying land. Under the proposed caretaker lease, the Applicant will develop a plan, for review and approval from Commission staff, on actions to bring all improvements and activities on sovereign land into compliance with the Public Trust and all regulatory requirements.

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

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 commercial marina consisting of 26 covered berths, a floating dock with five berths, walkways, pilings; and RV park consisting of 55 RV spaces with hookups, the 19 camping spaces, two buildings for sanitary and laundry facilities, two mobile home sites, a maintenance building; and two bulkheads along the deep water channel, and access roads subject to the proposed lease, located at Vulcan Island on the 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.

The proposed lease is designated as a "caretaker lease" to differentiate this from a typical Commercial Lease authorization. The lease is for 2 years only. The Applicant must submit a repair or maintenance plan for the facilities for staff review and approval by March 1, 2027, as part of an application for a new lease. Any future construction or activities on State land would require a separate authorization from the Commission. 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 believes 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 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. There is 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. 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:

Find that the proposed lease improvements consisting of the commercial marina, covered berths, floating dock, accommodation dock, walkways, pilings, and bulkheads are consistent with the Public Trust Doctrine and 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; and is in the best interests of the State.

The current unauthorized permanent use of the RV and camping spaces as residences are not consistent with the Public Trust Doctrine. However, during the course of the short-term caretaker lease, actions will be taken to bring these inconsistent uses into compliance with the Public Trust.

Find that the proposed lease improvements consisting of sanitary and laundry facilities, two septic systems, two leach fields, and water treatment system are not consistent with the Public Trust Doctrine, but 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; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective October 20, 2026, of Lease 2856, a General Lease – Commercial Use, issued to Windmill Cove Resort and Marina LLC.

2. Authorize issuance of a General Lease – Commercial Use in Caretaker Status to the Applicant beginning October 21, 2026, for a term of two years, for the use of an existing commercial marina, recreational vehicle park, camping spaces, access roads, two bulkheads, and appurtenant facilities; minimum annual rent in the amount of $5,285, against five percent of gross income derived from boat berthing and mooring, five percent of gross income derived from the recreational vehicle spaces, and 10 percent of gross income from all other sources; liability insurance in an amount no less than $2,000,000 per occurrence; and a bond or other security instrument in the amount of $100,000.