

**STAFF REPORT
C03**

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06/21/18
PRC 2220.1
M. Schroeder

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Guadalupe Ayala dba Wards Boat Landing

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River and Butte Slough, adjacent to 2701 Butte Slough Road, near Colusa, Colusa County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing commercial marina facility known as “Wards Boat Landing” consisting of four existing uncovered floating boat docks with side ties attached with deadman anchor cables, two gangways, and a boat launch ramp.

LEASE TERM:

10 years, beginning February 26, 2018.

CONSIDERATION:

\$701 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Surety bond or other security in the amount of \$5,000.
3. 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.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On March 25, 2008, the Commission authorized a 10-year General Lease – Commercial Use to Guadalupe Ayala dba Wards Boat Landing, for the operation, use, and maintenance of a commercial marina known as Wards Boat Landing ([Item C27, March 25, 2008](#)). On December 5, 2012, the Commission authorized a revision of rent to revise the annual rent from \$564 per year to \$619 per year ([Item C13, December 5, 2012](#)). The lease expired on February 25, 2018. The Applicant is applying for a new lease.

The Applicant owns the upland adjoining the lease premises. The subject commercial marina facilities accommodate, promote, and support recreational boating and provide access to the adjacent State waterways. 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 adjacent upland is privately owned and developed as a commercial marina. The marina is available for use by the general public. The marina facilities are generally open 6 months each year from late Spring to late Fall depending on the river flows.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision. The commercial marina facilities have existed for many years at this location; 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.

The proposed lease requires the lessee 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.

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Climate Change:

The project area is not tidally influenced and therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, in-water structures such as the pilings, boat ramp, and any shoreline protection structures could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. The floating boat dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

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2. 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 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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 2, section 2905, subdivision (a)(2).

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, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to Guadalupe Ayala dba Wards Boat Landing beginning February 26, 2018, for a term of 10 years, for the continued use, maintenance, and operation of an existing commercial marina, known as Wards Boat Landing, consisting of four existing uncovered floating boat docks with side ties attached with deadman anchor cables, two gangways, and a boat launch ramp, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$701, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; and a surety bond in the amount of \$5,000.

EXHIBIT A

PRC 2220.1

LAND DESCRIPTION

A parcel of submerged land situate in the beds of the Sacramento River and Butte Slough lying adjacent to Section 35, T. 16 N., R. 1 W., M.D.M., County of Colusa, State of California and more particularly described as follows:

BEGINNING at a point on the bank of said river which bears S 59°19'13" E, 132.24 feet more or less from a 3/4 " iron pipe with aluminum cap stamped LS 3653 being the most westerly corner of Parcel One as shown on Parcel Map No. 94-6-1 filed in Book 5 of Parcel Maps at Page 53 in Colusa County Recorder's Office; thence southwesterly, at an angle perpendicular to said river bank, 90 feet; thence southeasterly, parallel to said river bank, 632 feet to the southwesterly prolongation of the line through said slough which bears S 29°41'31" W per said parcel map; thence N 29°41'31" E, 133 feet, along said prolongation to the southeasterly prolongation of a line parallel with and 5 feet northeasterly of an existing boat ramp per said parcel map; thence northwesterly along said prolongation 45 feet to the bank of said slough; thence southwesterly along said slough bank to the intersection of said slough bank with the southwesterly line of said Parcel One; thence along said line N 70°52'16" W, 128.15 feet; thence N 63°44'59" W, 172.09 feet; thence N 59°13'15" W, 125.63 feet; thence N 61°25'55" W, 161.01 feet; thence N 59°19'13" E, 14.77 feet to the **POINT OF BEGINNING**.

EXCEPTING THEREFROM any portion lying landward of the low water mark of the left bank of the Sacramento River and the right bank of the Butte Slough.

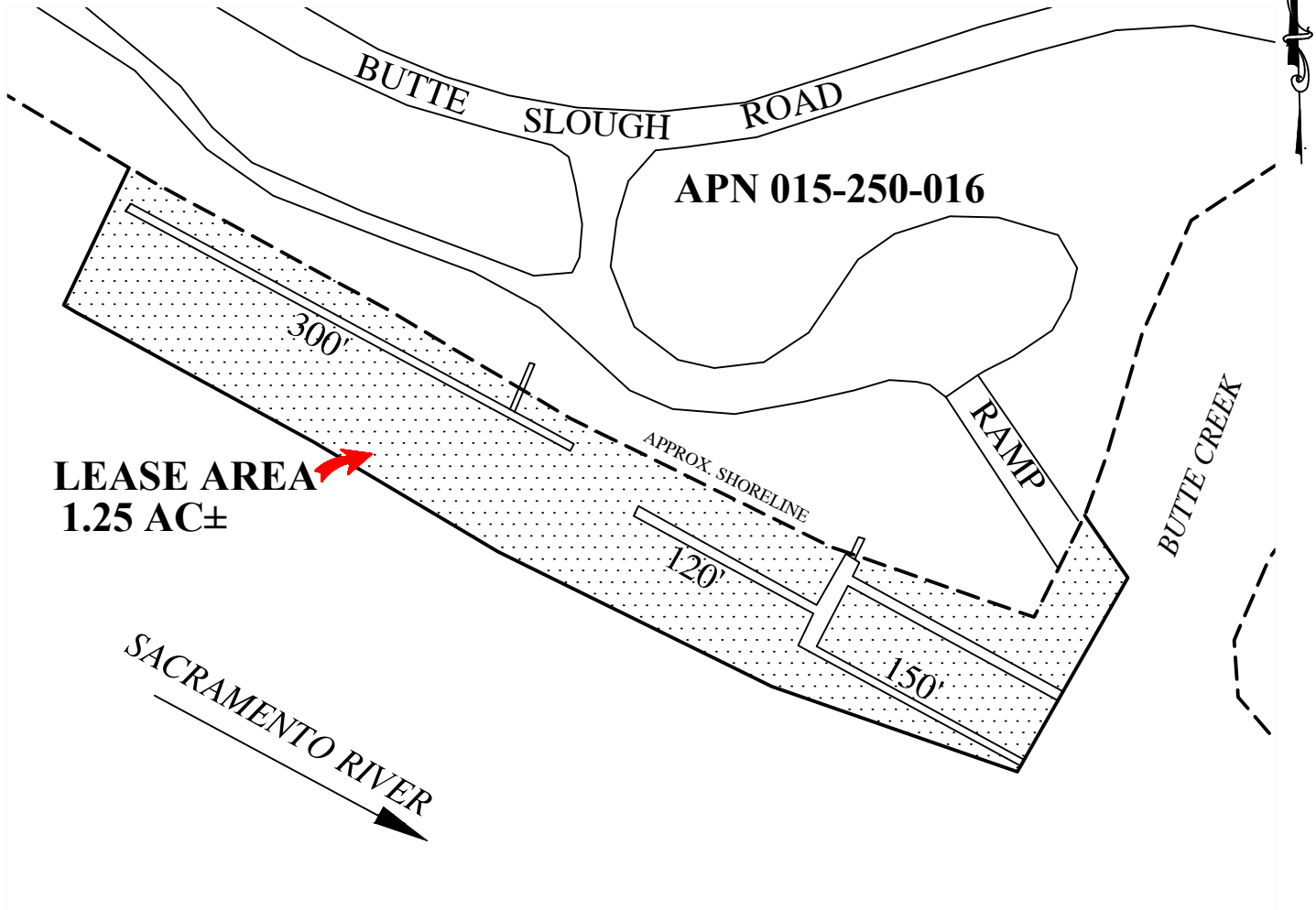
END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit on 03/15/2018.
Based on the description prepared by California State Lands Commission Boundary Unit on 01/02/2008 as found in PRC 2220 file, Calendar Item C27.



NO SCALE

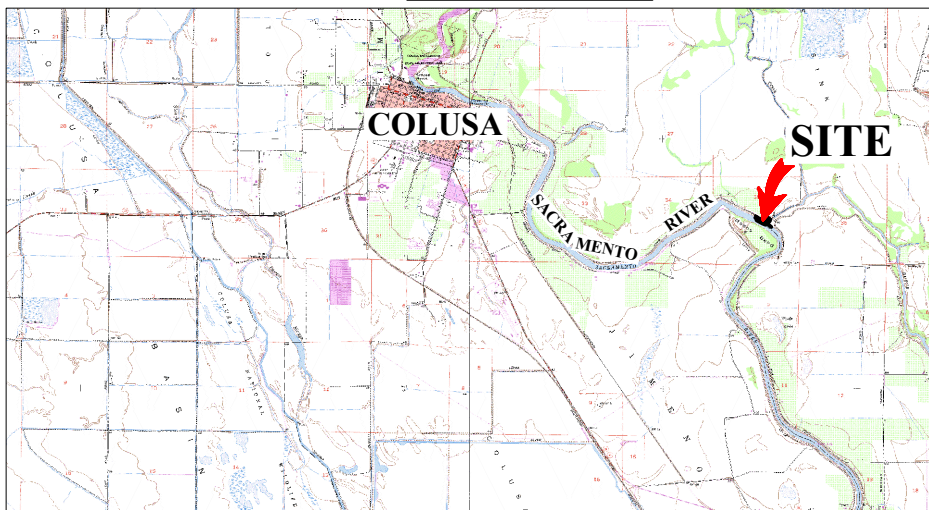
SITE



SACRAMENTO RIVER & BUTTE SLOUGH
2701 BUTTE SLOUGH ROAD, COLUSA, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 2220.1
WARDS BOAT LANDING
APN 015-250-016
GENERAL LEASE -
COMMERCIAL USE
COLUSA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.