

**STAFF REPORT
C22**

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12/03/18
PRC 6989.1
S. Avila

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Brandon M. Ross and Katherine V. Ross

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 10135 Garden Highway, near Sacramento, Sutter County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered floating boat dock, one piling, two-pile dolphin, gangway, and bank protection.

LEASE TERM:

10 years beginning December 3, 2018.

CONSIDERATION:

Uncovered floating boat dock, one piling, two-pile dolphin, and gangway: \$172 per year, with an annual Consumer Price Index adjustment.

Bank protection: The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a General Lease – Recreational and Protective Structure Use to Marilyn V. Caruthers, as Trustee of the Marilyn V. Caruthers Revocable Trust, dated January 9, 2007 ([Item C30, May 10, 2007](#)). That lease expired on January 17, 2017. On July 20, 2017, interest in the upland parcel transferred to Brandon M. Ross and Katherine V. Ross. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use and maintenance of existing facilities in the Sacramento River. The Applicant has agreed to compensate the State in the amount of \$236 for the period of unauthorized occupation between July 20, 2017 (the date the Applicant obtained ownership over the upland) through December 2, 2018, the day before the new lease begins.

These facilities are designed for recreational boating and shoreline protection. The existing floating boat dock and appurtenant facilities have existed at this location for many years. Recreational boating is a water-dependent activity and 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 lands (Pub. Resources Code, § 6503.5). The bank protection will maintain and improve the integrity of the Sacramento River channel, which will help protect the Public Trust resources of the Sacramento River for recreational and navigational use by the public.

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.

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.

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Climate Change:

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures within the proposed lease area are located along the Sacramento River within a region identified as tidally influenced. The subject facilities are vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated with this lease area include an existing floating boat dock, ramp, and bank protection.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018, to provide a synthesis of the best available science on sea-level rise projections and rates. Sea-level rise could increase the Sacramento River's inundation levels within the lease area. Therefore, staff evaluated the "high emissions," "low risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the associated coastal region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.5
2040	0.8
2050	1.1
2100	3.4

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

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Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour decreasing bank stability and structure.

The combination of these projected conditions could potentially raise the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements, potentially leading to increased wear-and-tear on the pilings and dock and reduce navigability of the channel. This could increase hazards and impact the function and utility of the lease area structures.

The floating boat dock and ramp 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 to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed pilings may need to be reinforced to withstand higher levels of flood exposure. The bank protection provides some stability and reduces the amount of erosion and scour pressure that the area may experience during future events; however, the bank remains at risk of accelerated deterioration from currents and floods. Regular maintenance of the existing structures, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, 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.
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, at this time and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

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AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$236 for unauthorized occupation of State lands for the period beginning July 20, 2017, through December 2, 2018.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant, beginning December 3, 2018, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock, one piling, two-pile dolphin, gangway, and bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the uncovered floating boat dock, one piling, two-pile dolphin, and gangway; \$172 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection; the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Sacramento River, lying adjacent to Lot 4, fractional Section 36, Township 11 North Range 3 East, Sutter County, State of California, more particularly described as follows:

All those lands underlying an existing ramp, boat dock, two-pile dolphin and a piling lying adjacent to that Lot as described in that Grant Deed recorded July 20, 2017, in Document 2017-0009626 in Official Records of said County.

TOGETHER WITH that any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said Lot.

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 25, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE

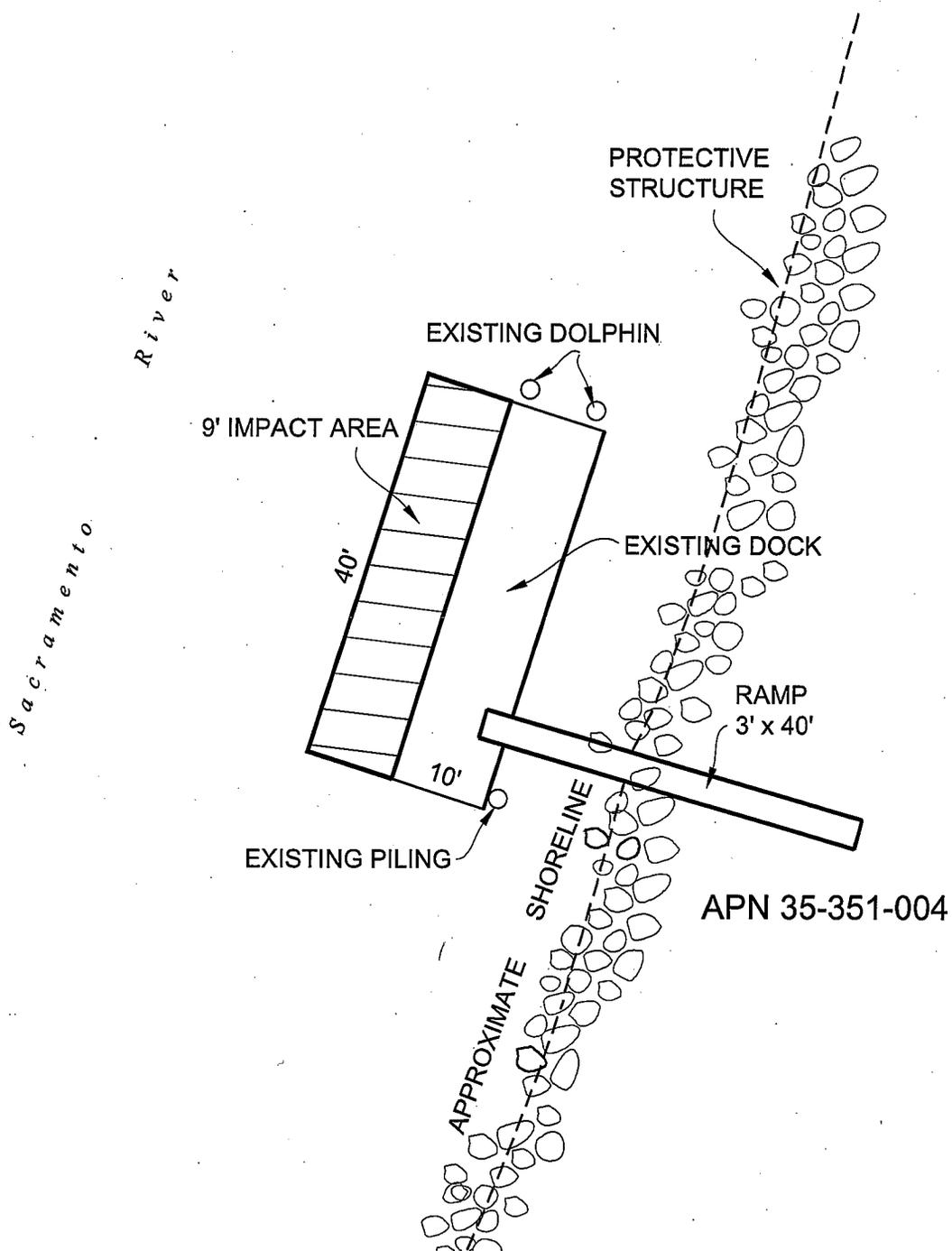


EXHIBIT A

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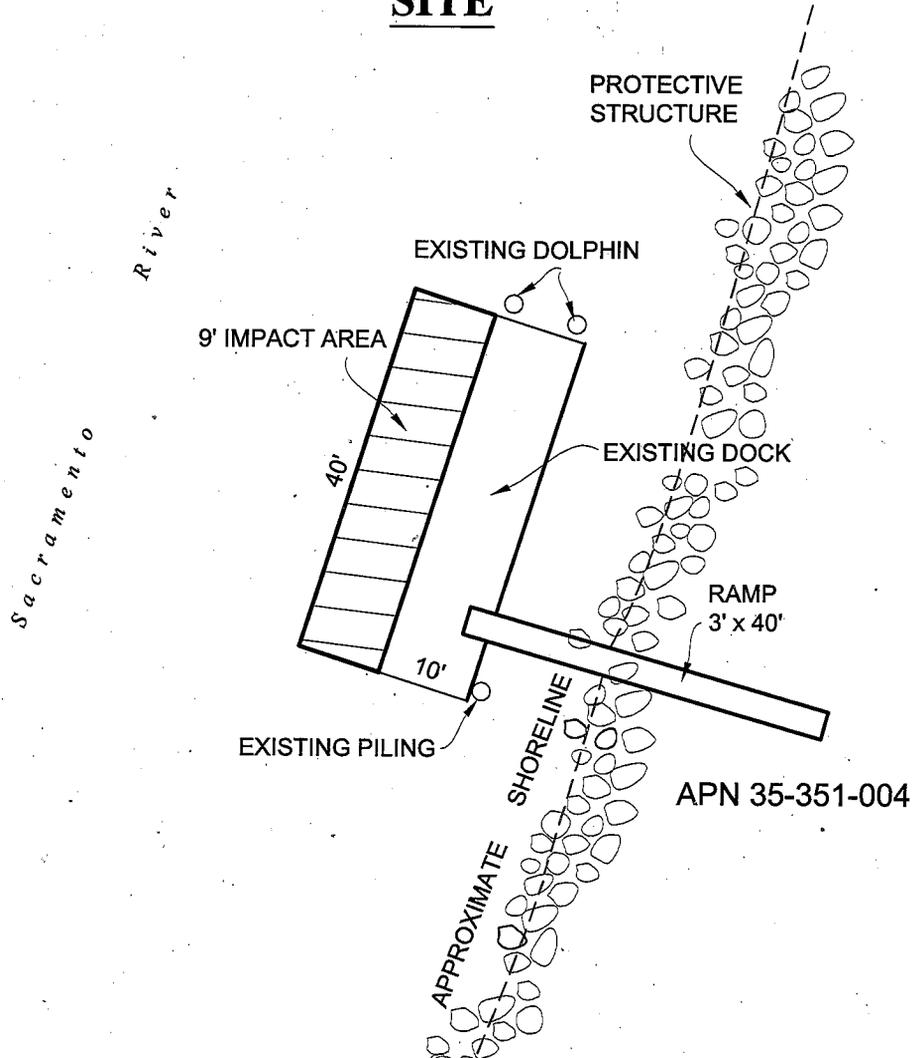
LAND DESCRIPTION PLAT
PRC 6989.1, ROSS
SUTTER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

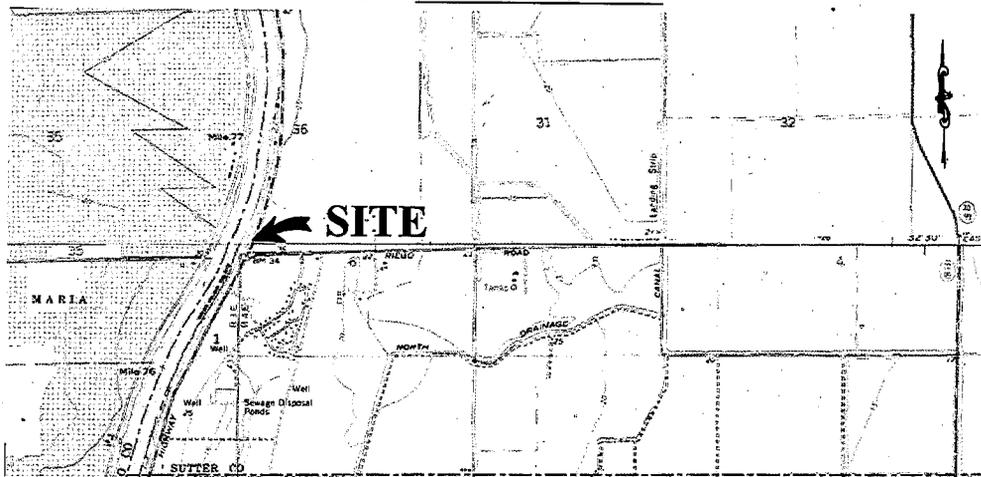
SITE



10135 GARDEN HWY., NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6989.1
 ROSS
 APN 35-351-004
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 SUTTER 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.

MIJ 10/25/18