

**STAFF REPORT
C35**

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12/03/18
PRC 3686.1
J. Holt

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Adam Farrow

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Calaveras River, adjacent to 4423 Yacht Harbor Drive, Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing covered floating boat dock, side boat dock, 14 pilings, landing, ramp, and walkway previously authorized by the Commission, and two existing floats, boat lift, and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 26, 2018.

CONSIDERATION:

Covered floating boat dock, side boat dock, 14 pilings, landing, ramp, walkway, two floats, and boat lift: \$987 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 June 23, 2011, the Commission authorized a Recreational Pier Lease to Adam Farrow for use and maintenance of an existing boathouse, covered main boat dock, side boat dock, floating ramp support, ramp, 14 pilings, and a walkway ([Item C10, June 23, 2011](#)). That lease expired on October 25, 2018. Between 2008 and 2010, the Applicant removed the boathouse from the lease premises without notifying staff. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for use and maintenance of an existing covered floating boat dock, side boat dock, 14 pilings, two floats, landing, ramp, walkway, boat lift, and bank protection.

The proposed lease area contains similar facilities as authorized under the prior lease, supplemented by two existing floats, boat lift, and bank protection not previously authorized by the Commission. Aerial images show the unauthorized improvements have existed at this location for many years. The lease facilities are designed for recreational boating and shoreline protection. 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 river channel, which will help protect the Public Trust resources of the Calaveras 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

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compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Calaveras River, at a tidally influenced site. This area is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise. The proposed lease premises consist of a covered main boat dock, side boat dock, landing, ramp, 14 pilings, walkway, boat lift, and bank protection in the Calaveras River, adjacent to 4423 Yacht Harbor Drive, Stockton.

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. Commission staff evaluated the “high emissions,” “medium-high 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 region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

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

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

This effect could increase Calaveras River’s inundation levels within the lease area. 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas

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by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, 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 increase the likelihood of damage to the fixed structures in the lease area from rising seas and flooding events during the term of the lease. In addition, the fixed structures could require reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. These structures may also experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. The floating boat docks, ramp, and above deck structures will be 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 and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

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).

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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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning October 26, 2018, for a term of 10 years, for the continued use and maintenance of an existing covered floating boat dock, side boat dock, 14 pilings, landing, ramp, and walkway previously authorized by the Commission, and two existing floats, boat lift, and bank protection not previously authorized by the Commission, 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 covered floating boat dock, side boat dock, 14 pilings, landing, ramp, walkway, two floats, and boat lift: \$987 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.

EXHIBIT A

PRC 3686.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Calaveras River (formerly the bed of the San Joaquin River), County of San Joaquin, State of California, lying adjacent to Lot 30, as shown on "Tract No. 308 Subdivisions of San Joaquin County Riviera Cliffs" dated May 1952 and filed in Book 13, Page 124 of Maps and Plats of San Joaquin County Records and more particularly described as follows:

Said parcel being bounded on the southwest by a line lying parallel with and lying 30 feet southwesterly from the northwesterly prolongation of the southwest line of said Lot 30; bounded on the northeast by the northwesterly prolongation of the northeast line of said lot; bounded on the southeast by the Ordinary High Water Mark of said river; bounded on the northwest by a line running parallel with and 150 feet perpendicular to the northwest line of said Lot 30.

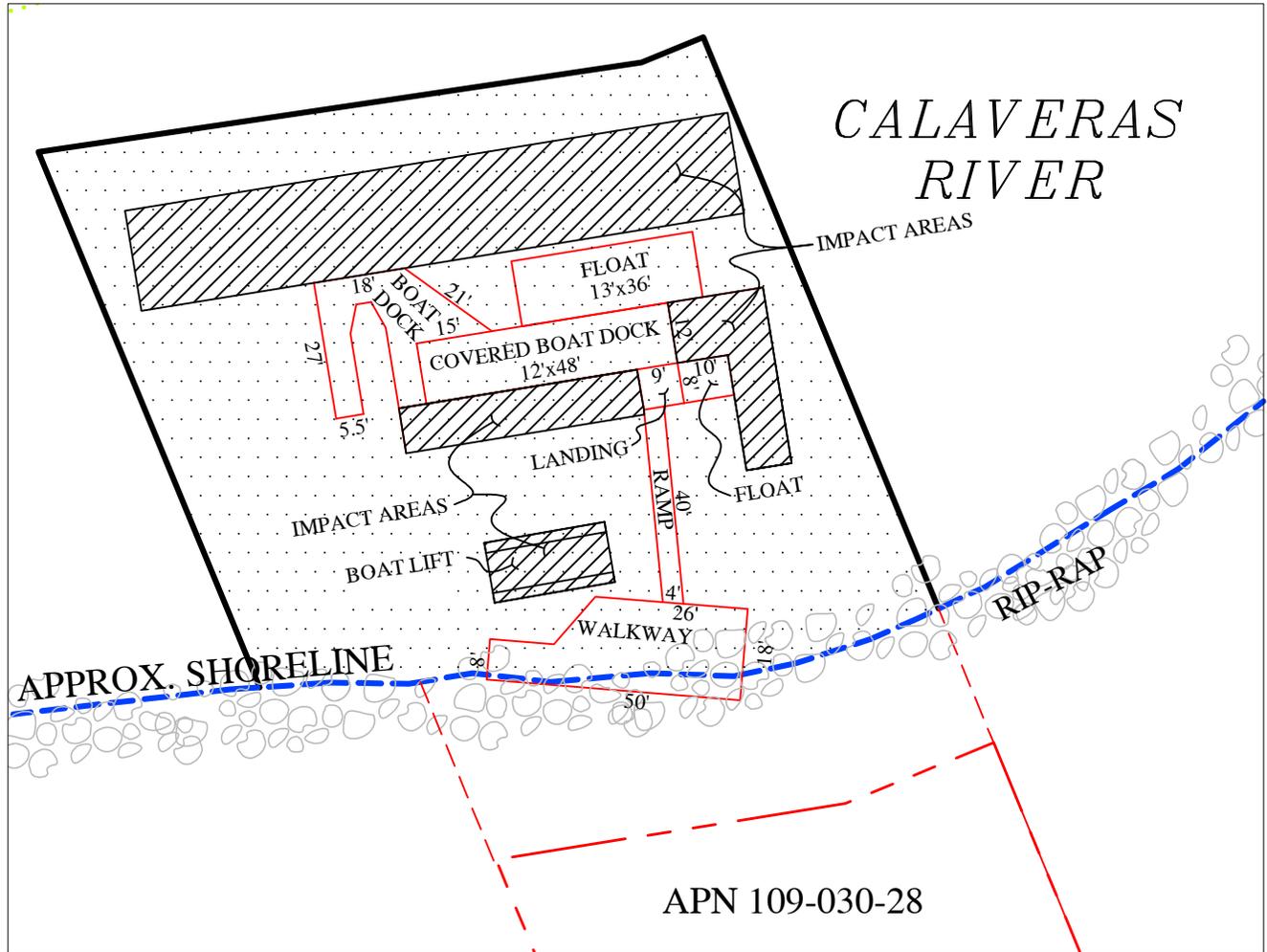
END OF DESCRIPTION

PREPARED 6/28/18 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE

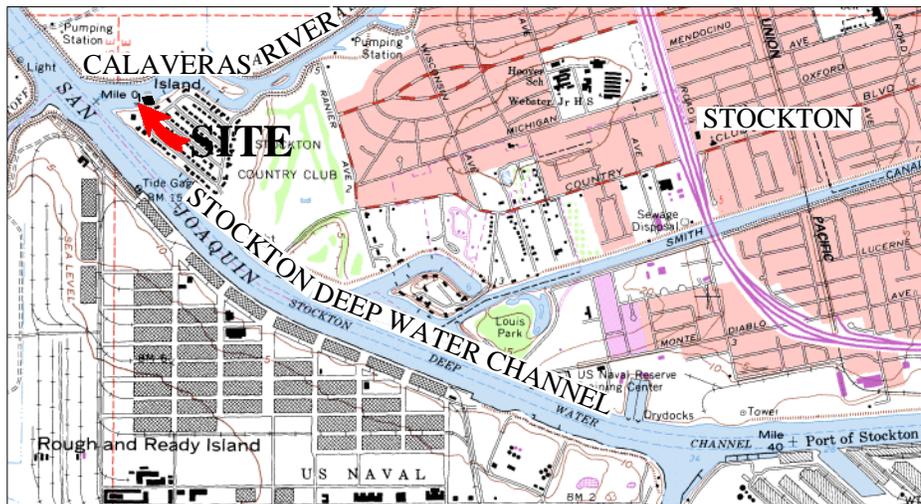


4423 Yacht Harbor Drive - Calaveras River, Stockton

Revised 11/27/18

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3686.1
 FARROW
 APN 109-030-28
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STUCTURE USE
 SAN JOAQUIN 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.