

**STAFF REPORT
C44**

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12/03/18
PRC 6740.1
J. Holt

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**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Eric C. Schneder and Jacalyn Schneder

APPLICANT:

Thomas A. Cheddar and Barbara L. Cheddar

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 14434 State Highway 160, near Walnut Grove, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing covered floating boat dock with slip, 2 pilings, 2 speed buoys, one 3-pile dolphin, water hose connection, electrical outlet, and gangway.

LEASE TERM:

10 years, beginning April 1, 2018.

CONSIDERATION:

\$340 per year, with an annual Consumer Price Index adjustment.

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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

On October 27, 2011, the Commission authorized a General Lease – Recreational Use to Eric C. Scneider and Jacalyn Scneider ([Item C08, October 27, 2011](#)). That lease will expire on March 31, 2021.

On June 20, 2017, the upland parcel was deeded to Thomas A. Cheddar and Barbara L. Cheddar. The Applicant is now applying for a General Lease – Recreational Use, for use and maintenance of an existing covered floating boat dock with slip, 2 pilings, 2 speed buoys, one 3-pile dolphin, water hose connection, electrical outlet, and gangway in the Sacramento River.

The Lessee will execute a quitclaim deed, releasing their interest in the lease area effective March 31, 2018. Staff recommends acceptance of the quitclaim deed as stated above and issuance of a new lease to the Applicant effective April 1, 2018. Rent has been paid through March 31, 2018. Therefore, staff recommends the new lease begin on April 1, 2018.

The proposed lease area contains the same facilities as authorized under the prior lease. These facilities have existed at this location for many years. The buoys are located directly adjacent to the upland parcel and occupy a relatively small area of the river. The buoys provide wave attenuation, thereby protecting the primary lease facilities. They also promote safety boating practices, by creating a speed reduction zone. The placement of the buoys does not impede public navigation of the river channel. The lease facilities are designed for recreational boating purposes. 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 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 Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of a floating covered boat dock with slip, 2 pilings, one 3-pile dolphin, electrical outlet on the boat dock, water hose connection on the boat dock, adjustable gangway, and 2 floating speed buoys.

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 Francisco¹

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

This effect could increase Sacramento 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 as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended

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periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access 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 facilities 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 and potentially leading to increased wear-and-tear on the pilings and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The two floating speed buoys appear to be situated at sufficient river bottom elevation to remain functional during prolonged low water level conditions, but the block, tether, and float components will also be subject to storm events producing extreme wave, wind, precipitation, erosion, and sedimentation forces. Extreme changes in river surface water levels are of particular concern. Rapid changes in surface water level will require monitoring and adjustment of the tether length between the block and float, to ensure the float has sufficient length to reach the river surface and remain functional. If the tether is not adjusted due to a rise in river surface, the float will become submerged, creating intense pressure and potential failure of the tether to remain connected to the float and/or block. If submerged, the buoy(s) could also present a navigational hazard.

The covered floating boat dock with slip with water hose connection and electrical outlet, adjustable gangway, and two floating speed buoys 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 and to avoid dislodgement. The fixed features may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. For example, the pilings are at a sufficient height to withstand projected changes in water levels, but additional fortification may be needed, especially if pilings anchor any electrical components because damage to these pilings could lead to a public safety

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hazard. Regular maintenance, as required by the terms of 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. Acceptance of the quitclaim deed 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, section 15378, subdivision (b)(5).

3. 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 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

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the acceptance of a lease quitclaim deed and issuance of the proposed lease will not 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:

1. Authorize acceptance of a quitclaim deed, effective March 31, 2018, for Lease No. PRC 6740.1 a General Lease – Recreational Use, issued to Eric C. Scneider and Jacalyn Scneider.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 1, 2018, for a term of 10 years, for the use and maintenance of an existing covered floating boat dock with slip, 2 pilings, 2 speed buoys, one 3-pile dolphin, water hose connection, electrical outlet, and gangway, 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 of \$340, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6740.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 316 patented October 27, 1864 Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing covered floating boat dock with slip, two pilings, two speed buoys, one three-pile dolphin, water hose, electrical outlet, gangway, lying adjacent to that parcel as described in that Grant Deed recorded June 20, 2017, in Document 201706201414 in Official Records of said County.

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 July 31, 2018 by the California State Lands Commission Boundary Unit.





Sacramento River

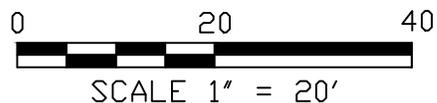
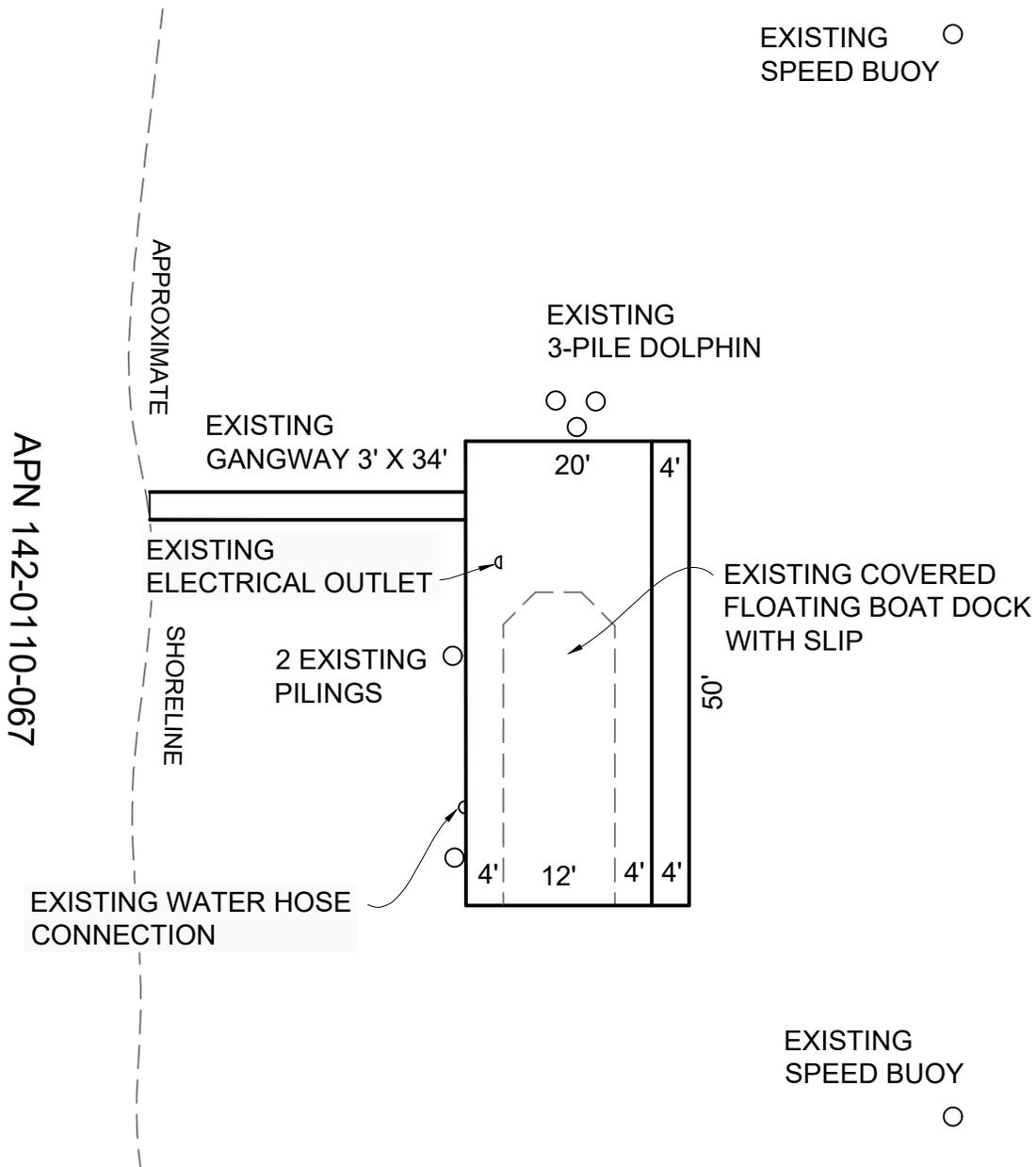


EXHIBIT A

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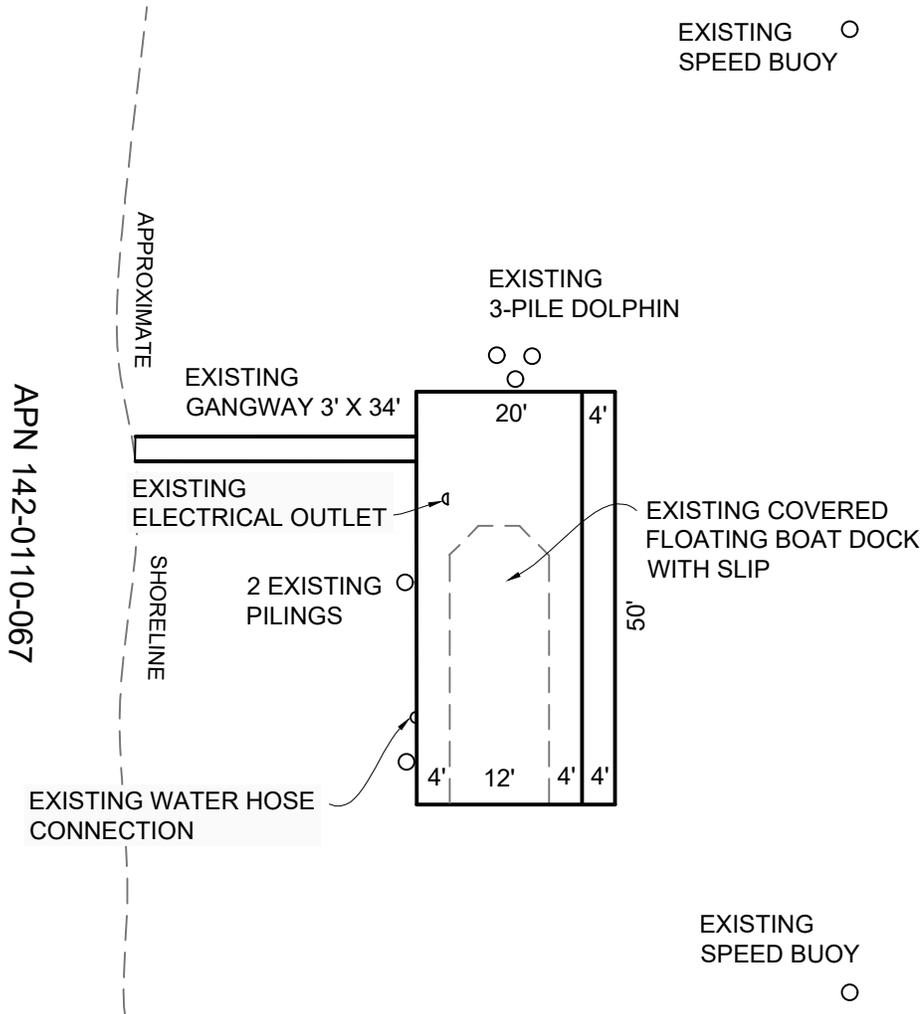
LAND DESCRIPTION PLAT
 PRC 6740.1, CHEDDAR
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



14434 HWY.160, WALNUT GROVE

NO SCALE

LOCATION

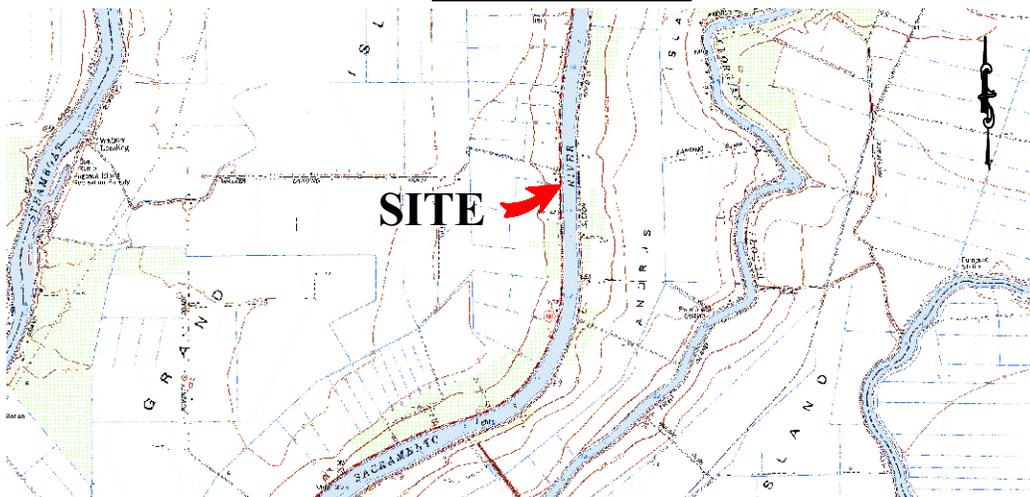


Exhibit B
 PRC 6740.1
 CHEDDAR
 APN 142-0110-067
 GENERAL LEASE -
 RECREATIONAL USE
 SACRAMENTO COUNTY



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.

MJJ 7/30/18