

**STAFF REPORT
C37**

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08/23/18
PRC 8732.1
G. Asimakopoulos

**TERMINATION AND ISSUANCE OF A GENERAL LEASE –
RECREATIONAL AND PROTECTIVE STRUCTURE USE**

LESSEE:

Daniel Baker

APPLICANT:

Darren B. Morehead And Coleen L. Morehead, Trustees of the Darren B. and Coleen L. Morehead Revocable Trust Dated September 4, 2007

PROPOSED LEASE

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 6735 Garden Highway, near Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing uncovered single-berth floating boat dock with boat lift, gangway, three pilings, and bank protection previously authorized by the Commission, and the use and maintenance of an existing boat dock cover not previously authorized by the Commission.

LEASE TERM:

10 years, beginning December 7, 2017.

CONSIDERATION:

Covered Single-Berth Floating Boat Dock with Boat Lift, Gangway, and Three Pilings: \$246 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.

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SPECIFIC LEASE PROVISIONS:

1. Liability Insurance in an amount no less than \$1,000,000 per occurrence.
2. 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, 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 April 23, 2014, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to Daniel Baker, for the continued use, and maintenance of an existing uncovered single-berth floating boat dock, gangway, three pilings, and existing bank protection ([Item C14, April 23, 2014](#)). That lease expires on December 11, 2022.

On December 7, 2017, interest in the upland parcel was deeded to Darren B. Morehead And Coleen L. Morehead, Trustees of the Darren B. and Coleen L. Morehead Revocable Trust dated September 4, 2007. Because the boat dock cover has existed for many years but was not previously authorized by the Commission, the Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for the continued use and maintenance of the existing uncovered single-berth floating boat dock with boat lift, gangway, three pilings, and bank protection previously authorized by the Commission; and the use and maintenance of an existing boat dock cover not previously authorized by the Commission. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and dock facilities, without notifying staff and without executing a lease quitclaim deed.

The adjacent upland parcel is privately owned and developed with a residence. The subject dock and appurtenant facilities are for the docking and mooring of boats. These facilities are used for recreational boating and shoreline protection. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities

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as an authorized use of Public Trust lands (Pub. Resources Code section 6503.5). The shoreline protection helps preserve the channel for navigational and recreational purposes. The existing floating boat dock and appurtenant facilities have existed at this location for many years, and are located directly adjacent to the Applicant's upland property.

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 facilities will not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs 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 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. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes by the public.

Climate Change Analysis:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased storm events and flooding. The lease area is located along the Sacramento River within a region identified as tidally-influenced and vulnerable to flooding at current sea levels. The facilities associated with this lease area include a covered floating boat dock with boat lift, gangway, three pilings, and bank protection. In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

By 2030, this region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for this region. The amount and timing of snowmelt runoff will likely change such that runoff

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pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This projection 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 increase 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 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 potentially leading to increased wear-and-tear on the pilings and boat dock, reduce navigability of the channel, thereby increasing hazards, and impacting the function and utility of the lease area structures.

The covered single-berth floating boat dock with boat lift and adjustable 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 to ensure continued functionality, during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features like the pilings and bank protection, may need to be reinforced to withstand higher levels of flood exposure.

The vegetated bank provides additional stability and reduces the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system; but remains at risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

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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, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed 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. 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, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of a new 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 the 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 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 termination, effective December 6, 2017, of Lease No. PRC 8732.1, a General Lease – Recreational and Protective Structure Use, issued to Daniel Baker.

2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Darren B. Morehead And Coleen L. Morehead, Trustees of the Darren B. and Coleen L. Morehead Revocable Trust Dated September 4, 2007, beginning December 7, 2017, for a term of 10 years, for the continued use and maintenance of an existing uncovered single-berth floating boat dock with boat lift, gangway, three pilings, and bank protection previously authorized by the Commission, and the use and maintenance of an existing boat dock cover not previously authorized by the Commission, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration for the covered single-berth floating boat dock with boat lift, gangway, and three pilings: \$246 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 8732.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 922, patented July 16, 1898, Sacramento County, State of California, more particularly described as follows:

All those lands underlying an existing covered single-berth floating boat dock with boat lift, gangway, and three (3) steel pilings lying adjacent to that parcel as described in that Grant Deed recorded December 7, 2017 as Document Number 201712071076, in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

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

Accompanying plat is hereby made part of this description.

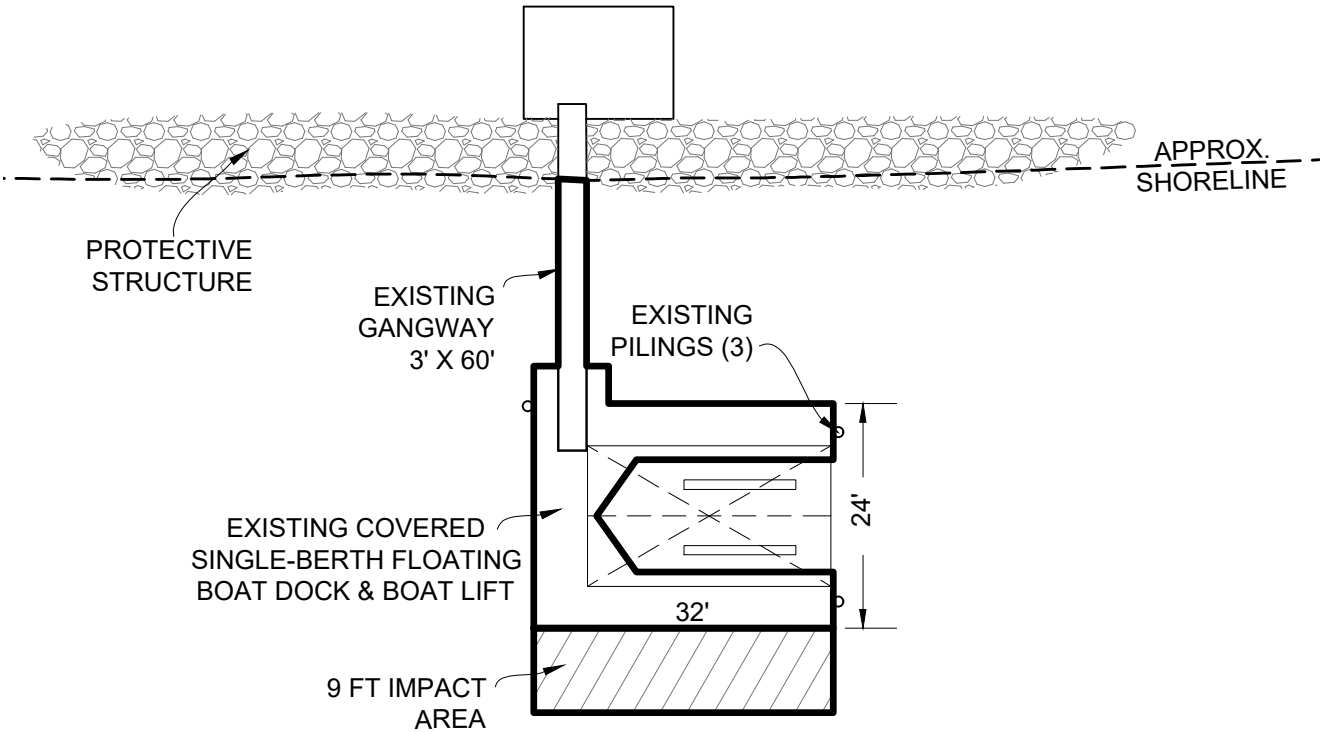
END OF DESCRIPTION

Prepared 06/29/2018 by the California State Lands Commission Boundary Unit.





APN 201-0270-044



SACRAMENTO RIVER
Flow →

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 8732.1, MOREHEAD REVOCABLE TRUST
SACRAMENTO COUNTY

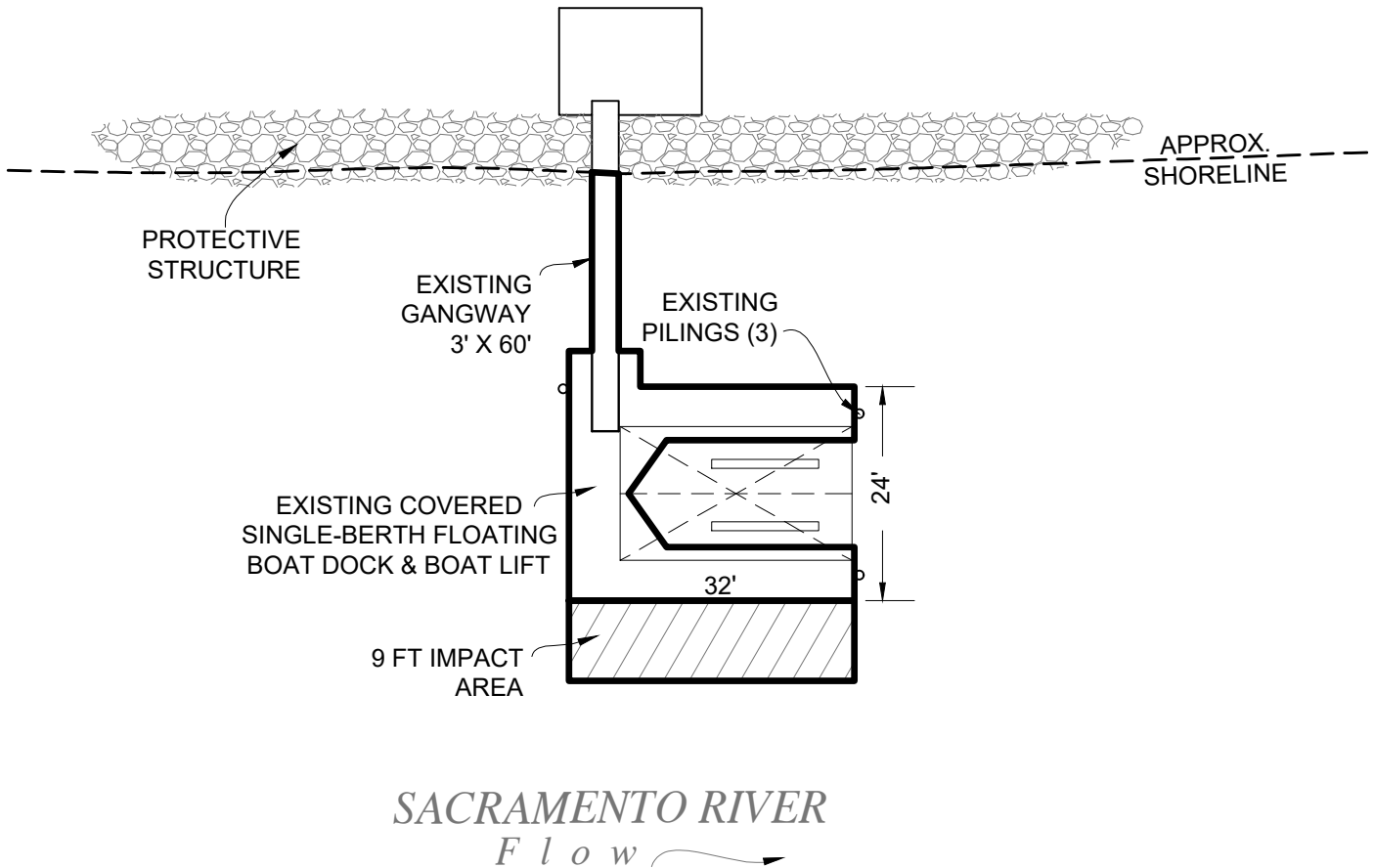
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

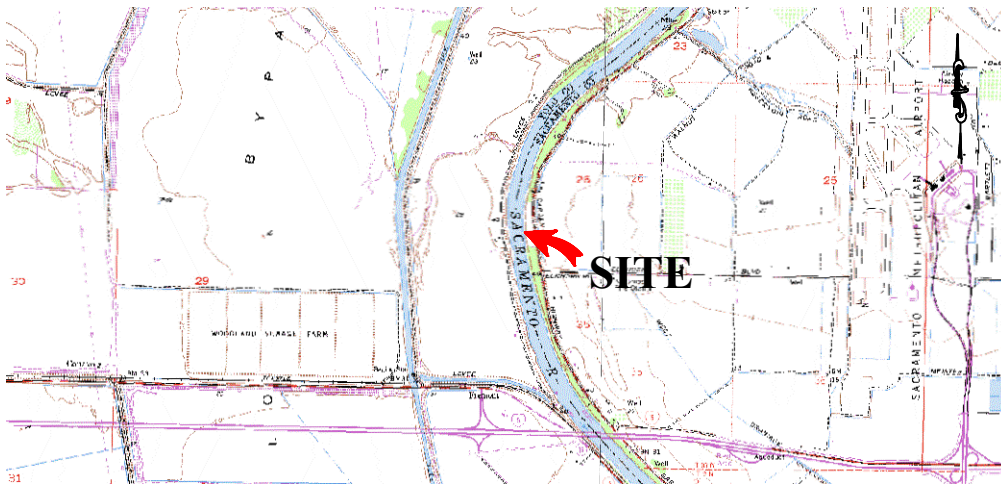
APN 201-0270-044



6735 GARDEN HIGHWAY, NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8732.1
 MOREHEAD REVOCABLE TRUST
 APN 201-0270-044
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE 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.

RGB 06/29/18