

CALENDAR ITEM
C27

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02/07/17
PRC 6502.1
G. Asimakopoulos

**GENERAL LEASE – RECREATIONAL AND
PROTECTIVE STRUCTURE USE**

APPLICANT:

Kurt Steven Glassman

PROPOSED LEASE

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 6687 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning August 18, 2016.

CONSIDERATION:

Floating Boat Dock, Gangway, Two-Pile Dolphin, and One Piling:
\$163 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

On October 6, 2004, the Commission authorized a 10-year General Lease – Protective Structure and Recreational Use to Matthew A. Korn and Lisa J. Dobak ([Calendar Item C15, October 6, 2004](#)). That lease expired on September 30, 2014. On August 18, 2016, the upland parcel was deeded to Kurt Steven Glassman. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use. The Applicant also requests authorization to replace the existing floating boat dock and gangway with a 40' x 8' uncovered floating boat dock and 20' x 4' gangway. Both the proposed and existing improvements will be privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The dock and appurtenant facilities are for the docking and mooring of boats. 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 as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

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 previously authorized dock and appurtenant facilities have existed for many years at this location; and the replacement dock and gangway will be located in the same area. 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:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Sacramento River within a tidally-influenced region.

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By 2030, California's coast 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, drought, and storms (especially when coupled with sea-level rise).

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 future damage to structures within the lease premises during the term of the lease as recently experienced. Even though the Applicant will be required under the Lease to properly maintain the structures, the risk of more frequent and stronger storm events may continue to 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 as recently experienced. 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, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures.

The subject facilities had already been vulnerable to flooding at current sea levels. Therefore, they are at a higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area contains a fixed two-pile dolphin, one piling, and existing bank protection. The

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existing floating boat dock and adjustable gangway are being replaced because of their current dilapidated condition. The replacement floating boat dock and gangway will be the same dimensions as those previously authorized by the Commission, and will utilize the existing two-pile dolphin and piling. The new floating dock and gangway 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 to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities as recently experienced. The fixed features may need to be reinforced to withstand higher levels of flood exposure. The bank is heavily vegetated, which provides stability and reduces the amount of erosion and scour pressure it may experience during future events, 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.

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. **Replacement of a Floating Boat Dock and Gangway:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).
3. **Existing Piling, Two-Pile Dolphin, and Bank Protection:** Staff recommends that the Commission find that this activity 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).

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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.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Replacement of a Floating Boat Dock and Gangway: 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

Existing Piling, Two-Pile Dolphin, and Bank Protection: 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 interfere with the Public Trust needs and values at this location at this time, or 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.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

Authorize issuance of Lease No PRC 6502.1, a General Lease – Recreational and Protective Structure Use, to Kurt Steven Glassman, beginning August 18, 2016, for a term of 10 years, for the replacement, use, and maintenance of a floating boat dock, and gangway, and use and maintenance of an existing two-pile dolphin, one piling, and bank protection, 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 floating boat dock, gangway, two-pile dolphin, and one piling: \$163 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 6502.1

LAND DESCRIPTION

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

All those lands underlying an uncovered floating boat dock, existing gangway, existing piling, existing two-pile dolphin, and existing bank protection lying adjacent to that parcel described in Grant Deed recorded August 18, 2016 as Document Number 20160818 at Page 1457 in Official Records of Sacramento County.

TOGETHER WITH any applicable impact area.

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

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

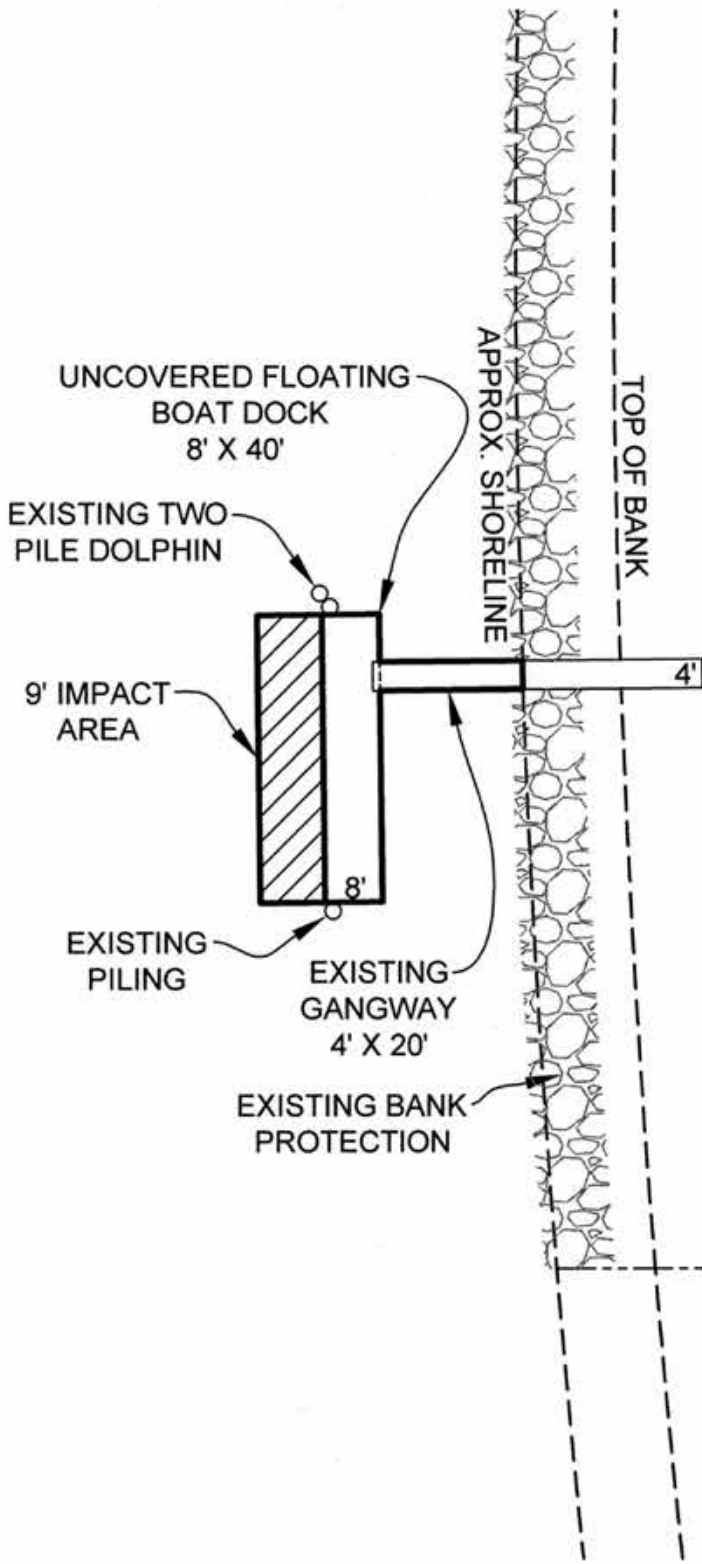
Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/20/2016 by the California State Lands Commission Boundary Unit.



SACRAMENTO RIVER



APN 201-0270-033

EXHIBIT A

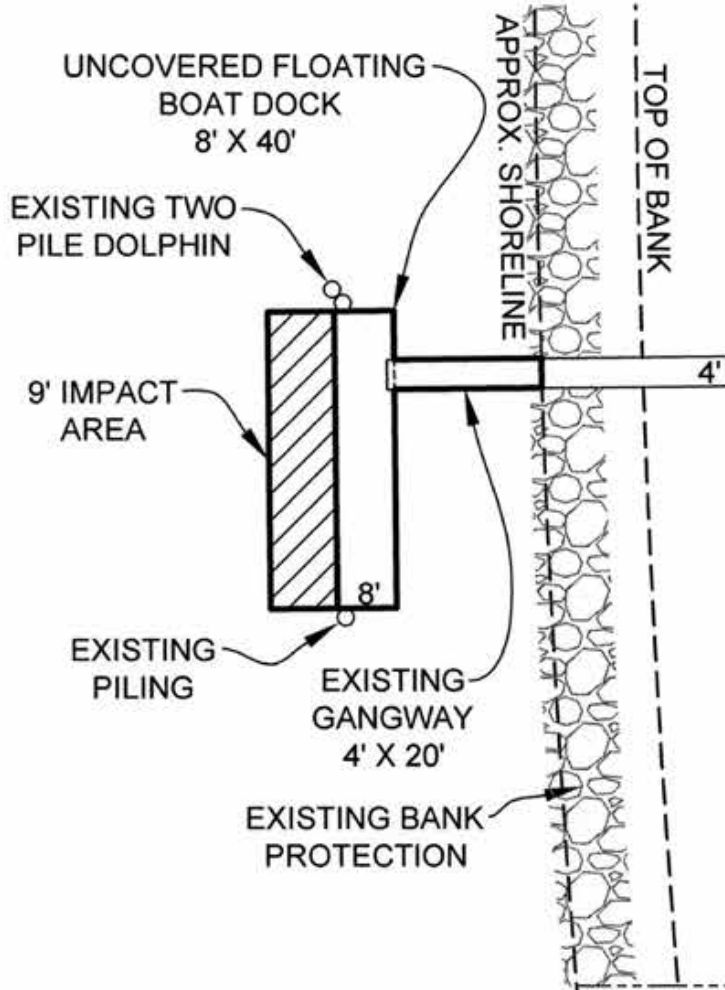


NO SCALE

SITE



SACRAMENTO RIVER



6687 GARDEN HIGHWAY, NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6502.1
 GLASSMAN
 APN 201-0270-033
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SACRAMENTO COUNTY



RGB 12/20/16

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.