

**CALENDAR ITEM
C30**

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12/06/16
PRC 6180.1
J. Holt

**TERMINATION OF A RECREATIONAL PIER LEASE
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Robert Hodge and Darlene Hodge, Co-Trustees of the Robert and Darlene Hodge Family Trust UTA dated March 27, 2001

APPLICANT:

Hodge River Properties, LLC

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 3121 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, three pilings, and gangway.

LEASE TERM:

10 years, beginning December 6, 2016.

CONSIDERATION:

Boat dock, three pilings, and gangway: \$203 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall pay compensation in the amount of \$896 for the period of May 1, 2012 through December 5 2016, during which time the Lessee was not authorized to occupy State land nor qualified for rent-free status pursuant to Public Resources Code section 6503.5.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On September 13, 2007, the Commission authorized a Recreational Pier Lease to Robert and Darlene Hodge, Co-Trustees of the Robert and Darlene Hodge Family Trust UTA dated March 27, 2001. ([Calendar Item C10, September 13, 2007](#)). That lease expires June 26, 2017. The upland property was transferred to the Applicant on May 1, 2012. The Applicant is now applying for a General Lease – Recreational Use.

The subject lease contains a dock and appurtenant facilities used for the 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 (Public Resources Code section 6503.5). The subject structures are privately owned and maintained.

The dock and appurtenant facilities have existed for many years at this location; the facilities do 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 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 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.

Based on the foregoing, staff believes that the dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

Sea Level Rise

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and

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flooding. 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 higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area contains fixed features, including pilings, a floating dock, and a gangway. 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 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, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures. The floating dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their resiliency to some

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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 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 is consistent with the common law Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, 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 accept compensation for the unauthorized occupation of State land in the amount of \$896 for the period beginning May 1, 2012, the date the Applicant assumed ownership of the upland property, through December 5, 2016. The Applicant did not qualify for rent-free status during this period pursuant to Public Resources Code section 6503.5.
3. 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).

4. Staff recommends that the Commission find that issuance of a lease 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.

5. 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 the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the 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:

Find that issuance of a 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, 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.

AUTHORIZATION:

1. Authorize termination effective December 5, 2016, of Lease No. PRC 6180.9, a Recreational Pier Lease, issued to Robert Hodge and Darlene Hodge, Co-Trustees of the Robert and Darlene Hodge Family Trust UTA dated March 27, 2001.

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2. Authorize acceptance of compensation in the amount of \$896 for the unauthorized occupation of State land for the period beginning May 1, 2012, through December 5, 2016, as provided in the lease.
3. Authorize issuance of a General Lease – Recreational Use to Hodge River Properties, LLC, beginning December 6, 2016, for a term of 10 years, for the continued use of an existing boat dock, three pilings, 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; consideration: annual rent in the amount of \$203, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6180.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflowed Lands Survey 284 patented August 24, 1869 County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, ramp, and three (3) pilings adjacent to that parcel as described in that Grant Deed recorded June 27, 2007 in Book 20070627 at Page 796, Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 29, 2016 by the California State Lands Commission Boundary Unit.



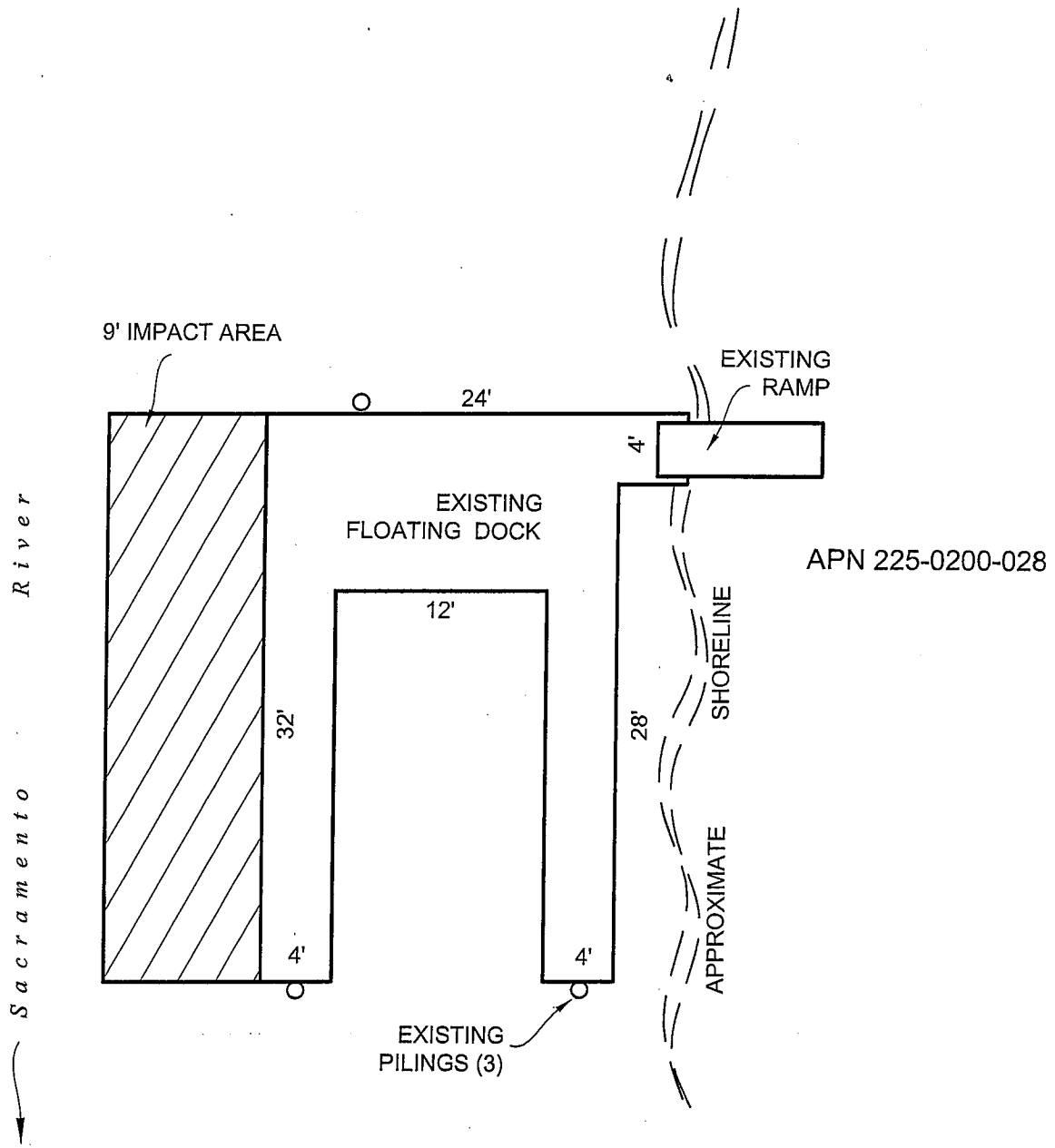


EXHIBIT A



