

**STAFF REPORT
C25**

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PRC 7695.1
G. Asimakopoulos

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

LESSEE:

J. Joseph and Marilyn McDowell, Trustees of the McDowell Living Trust, UTA
5/27/93

APPLICANT:

Lynette L. Brydon, Trustee of the Lynette L. Brydon Revocable Trust, dated
March 20, 2002

PROPOSED LEASE

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Georgiana Slough, adjacent to 16909
Terminus Road, near Isleton, Sacramento County.

AUTHORIZED USE:

Use and maintenance of an existing covered single-berth floating boat
dock, gangway, six pilings, a float, and bank protection.

LEASE TERM:

10 years, beginning March 20, 2017.

CONSIDERATION:

**Covered Single-Berth Floating Boat Dock, Gangway, Six Pilings, and
a Float:** \$290 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:

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.

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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.

Public Trust and State's Best Interests Analysis:

On August 22, 2008, the Commission authorized a 10-year General Lease – Recreational and Protective Structure Use to J. Joseph and Marilyn McDowell, Trustees of the McDowell Living Trust, UTA 5/27/93 ([Item C17, August 22, 2008](#)). That lease will expire on July 18, 2018. On March 20, 2017, the upland parcel was deeded to the Applicant. The Applicant has applied for a new General Lease – Recreational and Protective Structure Use, for the use and maintenance of an existing covered single-berth floating boat dock, gangway, six pilings, a float, and bank protection. In support of the Applicant's application, the Lessee submitted a fully-executed lease quitclaim deed to staff, releasing their interest in Lease No. PRC 7695.9.

The subject 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 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 that the lessee 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 slough channel, which will help protect the Public Trust resource of the slough for recreational and navigational purposes by the public.

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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 Georgiana Slough within a tidally-influenced region. 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 a covered single-berth floating dock, gangway, six pilings, a float, and bank protection.

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). These changes in sea level could lead to changes in the regular inundation levels within the lease area. Rising sea levels can lead to more frequent flooding in low lying areas and more dynamic tidal events. 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 slough 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 sloughs 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

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levels potentially leading to increased wear and tear on the culvert. 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, Commission 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. Acceptance of a lease 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 the 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.

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use

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classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

EXHIBITS:

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

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 acceptance of a lease quitclaim deed, effective March 19, 2017, of Lease No. PRC 7695.9, a General Lease – Recreational and Protective Structure Use, issued to J. Joseph and Marilyn McDowell, Trustees of the McDowell Living Trust, UTA 5/27/93.
2. Authorize issuance of Lease No. PRC 7695.1, a General Lease – Recreational and Protective Structure Use to Lynette L. Brydon, Trustee of the Lynette L. Brydon Revocable Trust, dated March 20, 2002; beginning March 20, 2017, for a term of 10 years; for the use and maintenance of an existing covered single-berth floating boat dock, gangway, six pilings, a float, 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 covered single-berth floating boat dock, gangway, six pilings, and float: \$290 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

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State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7695.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of Georgiana Slough, lying adjacent to Swamp and Overflowed Lands Survey 943, patented April 14, 1873, County of Sacramento, State of California, and more particularly described as follows:

All those lands underlying an existing covered single-berth floating boat dock, gangway, six pilings, and float adjacent to those parcels as described in that Grant Deed recorded March 20, 2017 in Book 20170320 at Page 0024 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH all those lands lying immediately beneath any bank protection structures adjacent to said Deed.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of Georgiana Slough.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/27/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

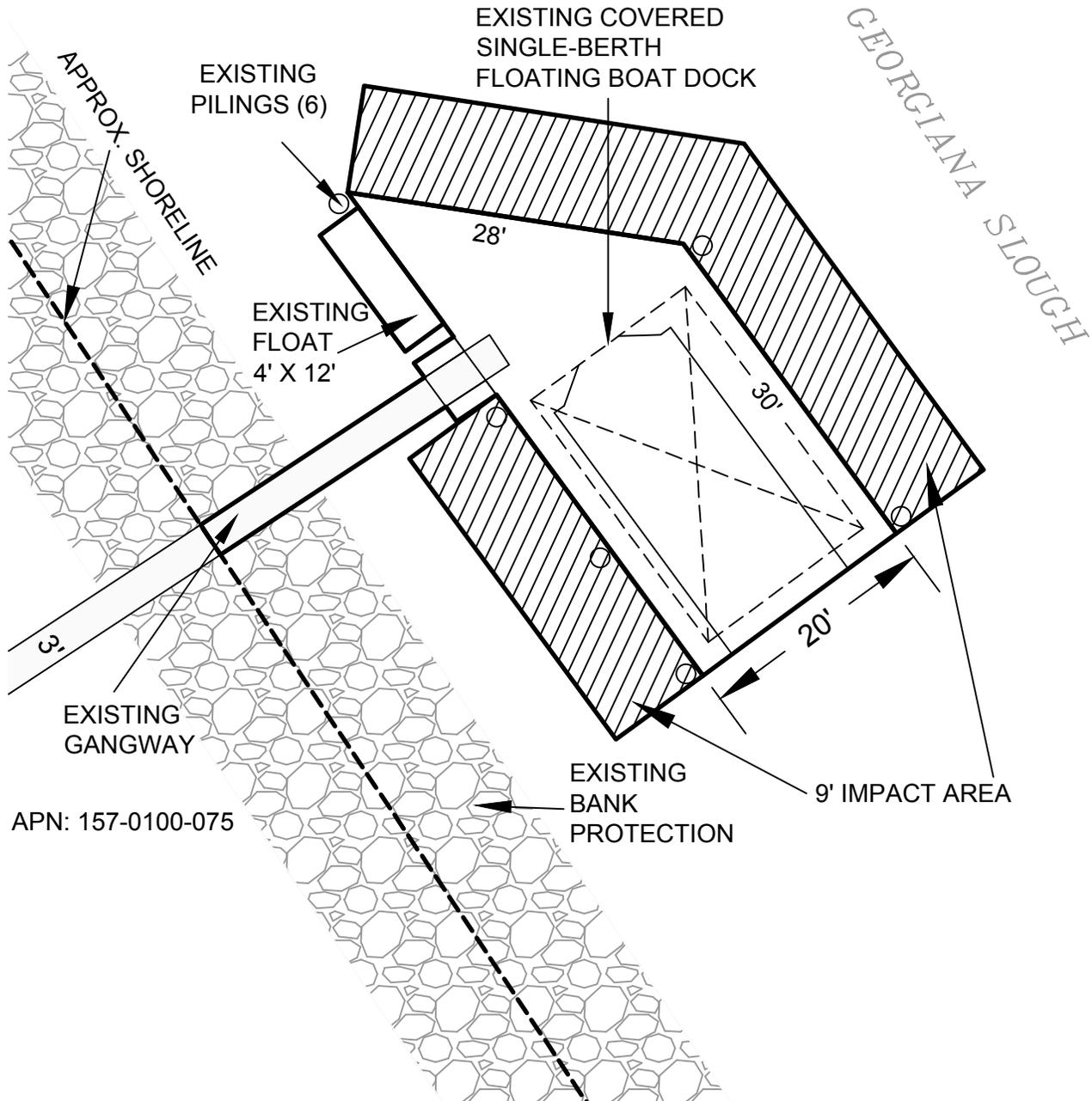


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 7695.1, BRYDON REVOCABLE TRUST
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



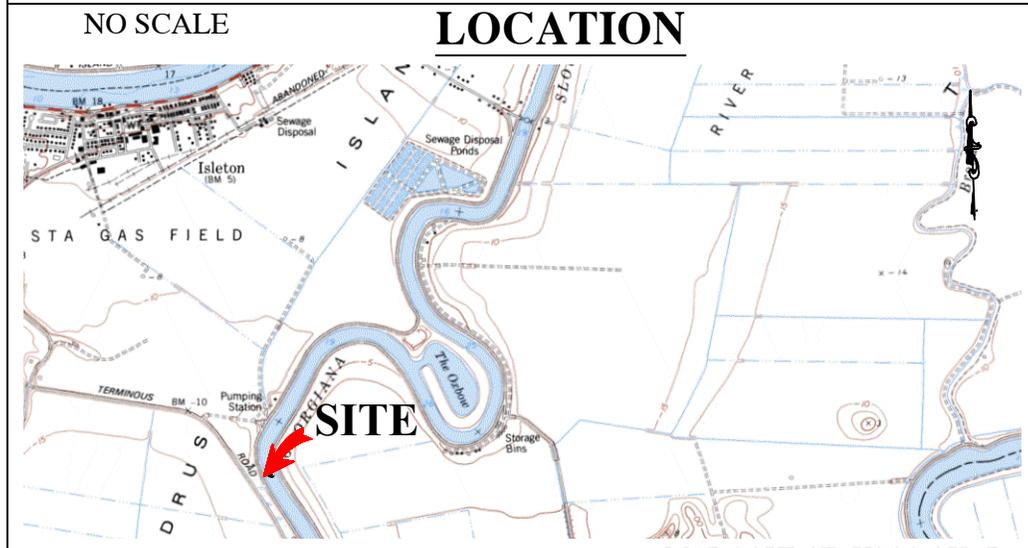
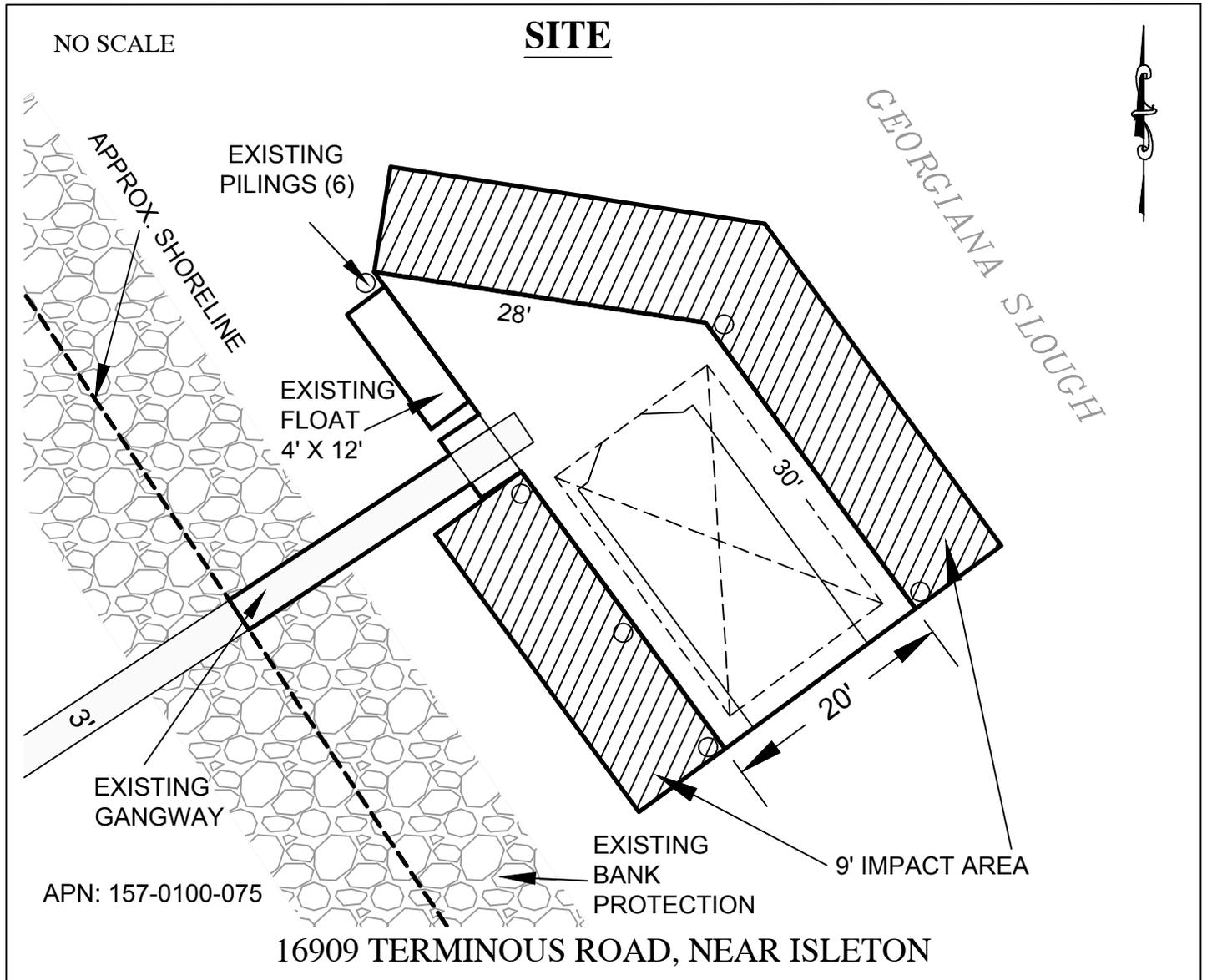


Exhibit B
 PRC 7695.1
 BRYDON REVOCABLE TRUST
 APN 157-0100-075
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURES USE
 SACRAMENTO COUNTY



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.