

STAFF REPORT

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12/06/19

Lease 4899.1

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Teachers Beach Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Tomales Bay, adjacent to APN 112-011-14 and 112-011-15, near Inverness, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat hoist, float, boat shed, deck, groin, retaining wall, stairs, access road, grass area, ramp, and three pilings.

LEASE TERM:

10 years, beginning July 15, 2018.

CONSIDERATION:

\$1,203 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.
- Lessee acknowledges that at the termination of the lease, Lessor may require removal of all the improvements including the groin.
- Lessee agrees to provide an engineering report to the Commission concerning the purpose, function, and condition of the groin under the pier by July 14, 2026.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6221.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On December 16, 1998, the Commission authorized a General Lease – Recreational Use, Lease 4899.1, to Teachers Beach Association, for a 10-year term, effective July 15, 1998. ([Item C63, December 16, 1998](#)). On April 6, 2011, the Commission authorized a General Lease – Recreational Use, Lease 4899.1, to Teachers Beach Association, for a 10-year term ([Item C40, April 6, 2011](#)). That lease expired on July 14, 2018.

The subject improvements are privately owned and maintained. The pier, boat hoist, float, boat shed, pilings and deck are for the docking and mooring of boats. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The California Legislature identifies private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The existing retaining wall, stairs, access road, grass area and ramp provide access to the pier and boat shed. The subject road also provides emergency access and egress for the Inverness Fire Department and may be used by emergency vehicles to establish a supporting position in case of fire or medical emergencies along the shoreline from Chicken Ranch Beach to Shell Beach in Tomales Bay. The Applicant has cooperated with the Inverness Fire Department over the years in maintaining the access road to the standards necessary for fire emergency vehicles and personnel. The groin has existed underneath the pier for many years. Staff has determined that the groin will not substantially interfere with the Public Trust needs at this location for the foreseeable term of the proposed lease.

The subject facilities have existed for many years at this location, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. 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. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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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.

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 lease area is located in Tomales Bay, which is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area will likely be at a higher risk of flood exposure given future projection scenarios of sea-level rise. For this assessment, staff considered the high emissions, medium-high risk aversion scenario in order to apply a conservative approach to planning and minimize the most amount of risk based on the existing lease location and associated structures. Projected sea-level rise scenarios for Tomales Bay (Point Reyes tide gauge) are listed in Table 1.

Table 1. Projected Sea-Level Rise for Point Reyes¹

Year	Projection (feet)
2030	0.8
2050	2.8
2100	7

Source: Table 10, State of California Sea-Level Rise

Guidance: 2018 Update

Note: ¹ Projections are with respect to a baseline of the year 2000.

The combination of these projected conditions increases the likelihood of damage to structures within the lease area, which include a fixed pier, groin, retaining wall, boat shed, stairs, and access road, as well as a float attached to the end of the dock (which is stored above the high-tide line to minimize wave-action wear-and-tear during the winter months). Based on the photographs provided by the Applicant, staff is concerned about the long-term structural integrity of the pier and effects of the groin on sediment transport.

In the Applicant-provided photographs, the pier appears weathered, with metal straps connecting the pier to the concrete pilings, and wooden blocks placed between the pier and pilings to maintain the height due to settling. Rising sea levels can lead to increased flooding, and larger tidal events, and can affect erosion and sedimentation rates. For example, in tidally influenced waters such as Tomales Bay, increased storms and

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flooding will likely increase scour, leading to decreased bank stability and structure. As a result, improvements to the pier may be necessary before the end of the lease term to ensure it does not fall into a state of disrepair, leading to public safety hazards and property damage.

The concrete groin, located underneath the north side of the pier, is artificially influencing the longshore movement of sediment downcoast, resulting in the accretion of sand on the north side of the pier and depletion of sand south of the pier. As discussed in the *Safeguarding California Plan: 2018 Update*, armoring structures along the coast, while intended to safeguard upland communities and property, offer only temporary protection, eventually accelerating long-term erosion and leaving homes and property at risk. The long-term effects of the groin on longshore sediment transport may make adjacent properties downcoast more vulnerable to the impacts of climate change, including more frequent and intense storm events, increased flooding and erosion, and rising sea levels. This structure has been here for many years and staff is unsure of its impacts. Staff believes it is in the best interests of the state to include the groin in the lease at this time. The proposed lease requires the lessee to provide an engineering report to the Commission concerning the purpose, function, and condition of the groin under the pier by July 14, 2026, so staff can better assess this improvement and its disposition when considering any future lease.

The improvements within the lease area may also become vulnerable to more frequent overtopping or inundation during high tides, king tides, and storms, as well as from storm runoff. As a result, these improvements may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. In the future, these improvements may need additional fortification or the pier may need to be heightened to withstand higher levels of flood exposure and sea-level rise.

Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

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,

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and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The Applicant is a nonprofit corporation.
2. 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.
3. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the boat dock, appurtenant facilities, and bank protection and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
4. 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

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).

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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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Teachers Beach Association, beginning July 15, 2018, for a term of 10 years, for the use and maintenance of an existing pier, boat hoist, float, boat shed, deck, groin, retaining wall, stairs, access road, grass area, ramp, and three pilings, 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 in the amount of \$1,203 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A
LAND DESCRIPTION

LEASE 4899.1

PARCEL 1

A parcel of partially filled tide and submerged lands, situate in Tomales Bay, lying adjacent to Rancho Punta de Los Reyes, County of Marin, State of California being more particularly described as follows:

COMMENCING at a brass cap "Teacher's Beach" as shown on that California State Lands Commission map titled "Survey of the Ordinary High Water Mark on the Shore of Tomales Bay at Teachers Beach" (CB 182) dated March 1948 and approved May 14, 1948, on file in the official records of the California State Lands Commission having, CCS 27, Zone 3 coordinates N(y)=596327.86, E(x)=1318606.84; thence S 01°15'33" W, 111.92 feet to the point on the ordinary high water mark as shown on said map and being the POINT OF BEGINNING; thence along said ordinary high water mark S 02°11'35" W, 47.08 feet; thence leaving said ordinary high water mark S 02°11'35" W, 19.24 feet; thence S 48°54'22" E, 155.48 feet to a point at the west corner of an existing boathouse lying adjacent to said bay and hereinafter described as "Point A"; thence N 40°44'04" E, 48.31 feet; thence N 64°55'14" W, 94.70 feet; thence N 33°21'25" W, 109.82 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any lands lying landward of the ordinary high water mark of said bay.

PARCEL 2

A parcel of partially filled tide and submerged lands, situate in Tomales Bay, lying adjacent to Rancho Punta de Los Reyes, County of Marin, State of California being more particularly described as follows:

COMMENCING at previously described "Point A", thence along the following eight (8) courses;

- 1) N 40°44'04" E, 144.88 feet;
- 2) S 49°16'17" E, 25.51 feet;
- 3) S 40°43'43" W, 9.88 feet;
- 4) N 49°16'17" W, 15.52 feet;
- 5) S 40°43'43" W, 100.00 feet;
- 6) S 49°16'17" E, 30.49 feet;
- 7) S 40°43'43" W, 35.00 feet;
- 8) N 49°16'17" W, 40.50 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any lands lying landward of the ordinary high water mark of said bay.

BASIS OF BEARINGS are based on California Coordinate System, 1927, Zone 3. Elevation and location of the ordinary high water mark are derived from stadia notes of survey conducted by the State Lands Commission June 26, 1947.

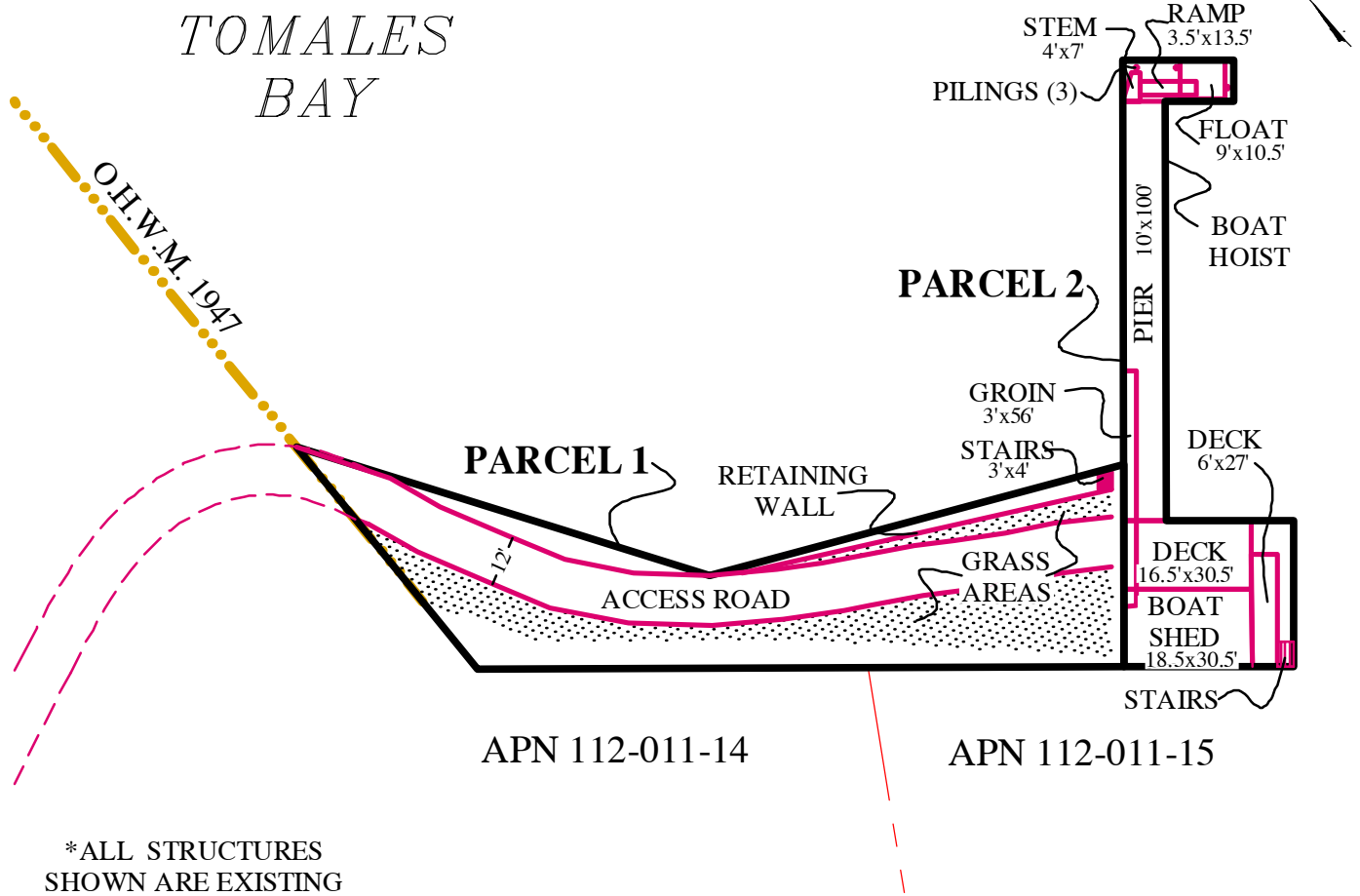
END OF DESCRIPTION

Prepared by the California State Lands Commission Boundary Staff
November 1~~st~~, 2019



NO SCALE

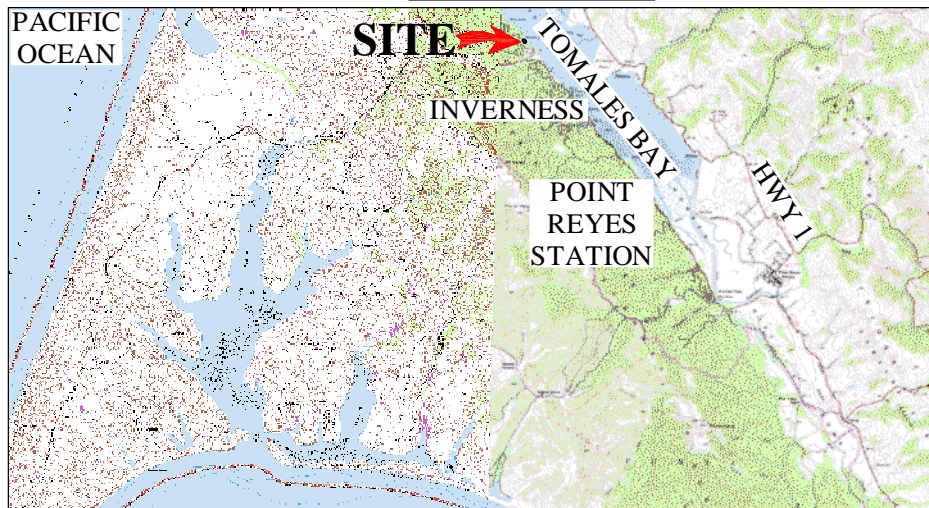
SITE



Teacher's Beach, Tomales Bay

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

LEASE 4899.1
APN 112-011-14 & 15
TEACHERS BEACH ASSN.
GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY



MJF 11/01/19