

STAFF REPORT

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ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Thomas G. Stubbs

APPLICANT/ASSIGNEE:

Christine Schultz and Alan D. Collenette

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 19 Boardwalk One, near Larkspur, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, ramp, and bank protection.

LEASE TERM:

20 years, beginning August 23, 2018.

CONSIDERATION:

Dock and ramp: \$125 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.
- 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, 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 August 23, 2018, the Commission authorized a 20-year General Lease – Recreational and Protective Structure Use to Thomas G. Stubbs ([Item C69, August 23, 2018](#)). That lease will expire on August 22, 2038. On December 31, 2018, the upland was transferred to Christine Schultz and Alan D. Collenette. The Applicant is now requesting an assignment of the lease. The Applicant agrees to perform and be bound by the terms, conditions, covenants, and agreements contained within the lease. The Applicant is familiar with the lease area and existing facilities. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of upland title transfer, December 31, 2018.

The proposed assignment of lease will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

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 subject facilities are located on the Corte Madera Creek, in a tidally influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

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Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Corte Madera Creek's inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), 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). In rivers, creeks, and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease creek levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access 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 and potentially leading to increased wear-and-tear on the existing dock, ramp, and bank protection. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The lease is a 20-year General Lease – Recreational and Protective Structure Use that began on August 23, 2018 and may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance, as required by the terms of the lease, will

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help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the lease area will be assessed at the time the lease expires in 2038 if an application is submitted for a new lease and would be based on projected sea-level rise scenarios at that time.

Conclusion:

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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. 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.
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. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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, sections 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with the Public Trust needs and values at this location, at this

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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:

Authorize assignment of Lease No. PRC 5321.1, a General Lease – Recreational and Protective Structure Use, of sovereign land, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Thomas G. Stubbs, to Christine Schultz and Alan D. Collenette, effective December 31, 2018.

EXHIBIT A

PRC 5321.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, in the City of Larkspur, County of Marin, State of California, and being more particularly described as follows:

COMMENCING at the southwest corner of Parcel One described in that certain Grant Deed recorded as Document No. 2018-0021254, Official Records of said county; thence along the westerly boundary of said parcel, North 23° 15' 00" West 190.00 feet to the POINT OF BEGINNING; thence continuing along the westerly boundary and northerly prolongation thereof, North 23° 15' 00" West 45.00 feet; thence leaving said boundary prolongation North 68° 00' 00" East 44.11 feet to a point on the northerly prolongation of the easterly boundary of said parcel of said deed; thence southerly along said prolongation and easterly boundary, South 24° 33' 30" East 44.00 feet; thence leaving said easterly boundary, South 66° 41' 15" West 45.10 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the right bank of said Corte Madera Creek.

END OF DESCRIPTION

Prepared 07/17/2018 by the California State Lands Commission Boundary Unit.





LOCATION

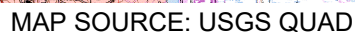


Exhibit B
PRC 5321.1
SCHULTZ & COLLENETTE
APN 022-250-09
GENERAL LEASE -
RECREATIONAL AND
PROTECTIVE STRUCTURE USE
MARIN COUNTY



TS 12/23/19