

# Staff Report 27

## **APPLICANT:**

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Gary Bell and Jane Bell, Trustees of the Gary and Jane Bell Revocable Trust dated October 12, 1998

## **PROPOSED ACTION:**

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Issuance of a General Lease - Recreational Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Tomales Bay, adjacent to 174 Camino Del Mar, near Inverness, Marin County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, two walkways, a boathouse, stairs, and four pilings.

## **TERM:**

10 years, beginning December 17, 2020.

## **CONSIDERATION:**

\$140 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 that the hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Lessee to pay compensation for the unauthorized occupation of State land in the amount of \$643 for the period beginning June 10, 2013 through December 16, 2020.

- Lessee agrees to indemnify the Lessor for any liabilities arising from the period of unauthorized occupation of the State lands (prior to issuance of the lease).

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

On August 8, 2005, the Commission authorized a 10-year Recreational Pier Lease to Susan H. York, Successor Trustee of the Dorcas B. Roth 1986 Trust dated July 23, 1986, for the continued use and maintenance of an existing pier, two walkways, and a boathouse ([Item C17, August 8, 2005](#)). That lease expired on August 7, 2015. On June 10, 2013, interest in the upland parcel and lease improvements was deeded to the Applicant. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of the existing pier, two walkways, boathouse, stairs, and four pilings.

The existing stairs and four pilings were not authorized in the previous lease but appear to have been in place since before 2005. Staff recommends issuance of a new lease beginning December 17, 2020. Staff also recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$643 for the period beginning June 10, 2013, the day ownership of the upland parcel was deeded to the Applicant, through December 16, 2020, the day preceding issuance of the proposed lease.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained, used for the docking and mooring of boats, and facilitate recreational boating. Recreational boating is a water-dependent use that 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 land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land 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.

### **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.

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 Point Reyes tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for Point Reyes

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2050	2.8
2100	7

Source: Table 10, State of California Sea-Level Rise Guidance: 2018 Update

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

Improvements to the lease area include an existing pier, walkways, a boathouse, stairs, and four pilings. The existing improvements, as fixed structures, may require greater frequency of maintenance and repair due to more frequent and intense storm events. Regular maintenance will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgement 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 the proposed lease will not substantially interfere with Public Trust needs 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.

## **OTHER PERTINENT INFORMATION:**

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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. Denial of the application may result in a determination that the proposed activity on or use of state land is unauthorized and may result in legal action. Upon expiration or prior termination of the lease, the lessee 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. 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 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:**

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

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

**CEQA FINDING:**

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 issuance of 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; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$643 for the unauthorized occupation of State land for the period beginning June 10, 2013 through December 16, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant, beginning December 17, 2020, for a term of 10 years, for the use and maintenance of an existing pier, two walkways, boathouse, stairs, and four 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 \$140, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## **EXHIBIT A**

**LEASE 3240**

### **LAND DESCRIPTION**

Five parcels of tide and submerged land situated in the bed of Tomales Bay, near Inverness, lying adjacent to Rancho Punta de Los Reyes, patented June 4, 1860, Marin County, State of California and more particularly described as follows:

#### **PARCEL 1 - Pier**

All those lands underlying an existing pier, boathouse, two walkways and stairs lying adjacent to that parcel as described in Grant Deed recorded June 10, 2013 in Document No. 2013-0039442 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said Tomales Bay.

#### **PARCELS 2 through 5 - Pilings**

All those lands underlying four existing concrete pilings lying adjacent to that parcel as described in Grant Deed recorded June 10, 2013 in Document No. 2013-0039442 in Official Records of said County.

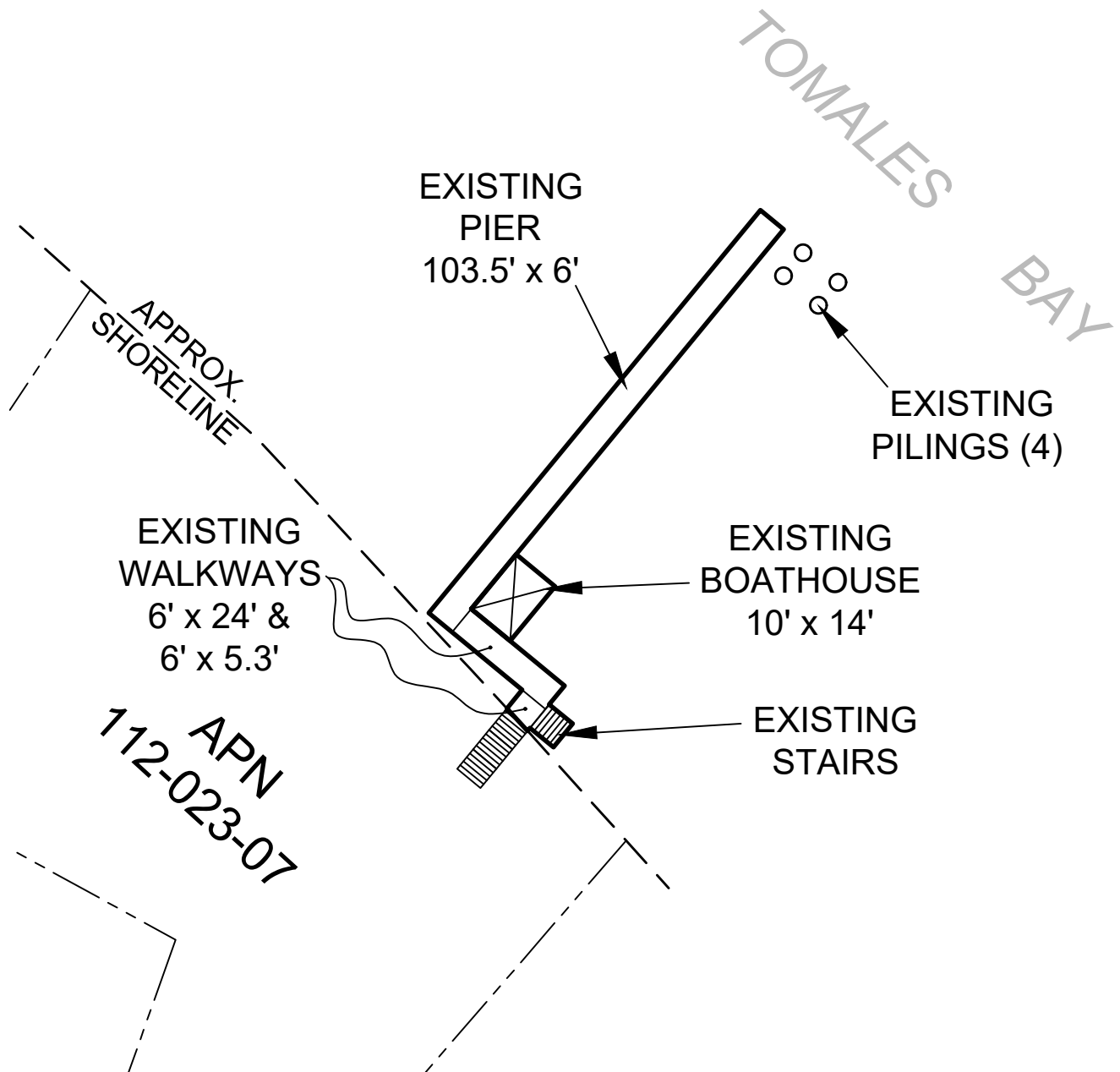
Accompanying plat is hereby made part of this description.

### **END OF DESCRIPTION**

Prepared on 11/02/2020 by the California State Lands Commission Boundary Unit



NO SCALE



## EXHIBIT A

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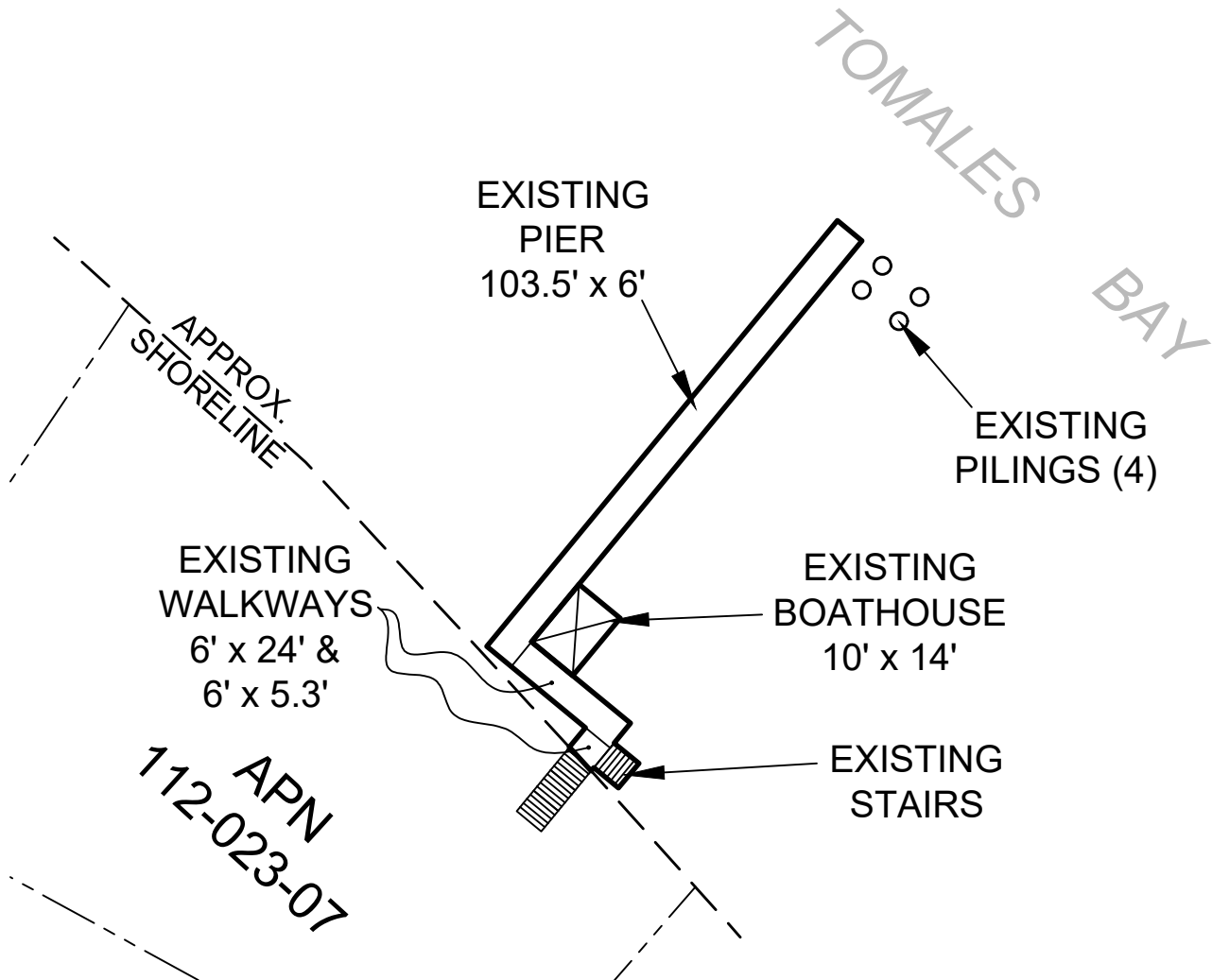
LAND DESCRIPTION PLAT  
LEASE 3240, BELL REVOCABLE TRUST  
MARIN COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



174 CAMINO DEL MAR, INVERNESS

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 3240

BELL REVOCABLE TRUST

APN 112-023-07

GENERAL LEASE-  
RECREATIONAL USE  
MARIN COUNTY



TS 11/02/2020