

Staff Report 10

APPLICANT:

Sidney J. Hendricks

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 6614 Lakeville Road, near Petaluma, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift and floating boat dock.

TERM:

10 years, beginning June 29, 2021.

CONSIDERATION:

\$446 per year, with an annual Consumer Price Index adjustment, and \$293 to compensate for the unauthorized occupation of state sovereign land dating back to November 1, 2020.

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.

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:

On June 23, 2011, the Commission authorized a Recreational Pier Lease for an existing walkway, ramp, pilings, and an uncovered floating boat dock and boat lift to Sidney J. Hendricks ([Item C12, June 23, 2011](#)). The lease expired on October 31, 2020. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing facilities.

Staff recommends issuance of a new lease beginning June 29, 2021. Staff further recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$293 for the period beginning November 1, 2020, the day after the Applicant's lease expired, through June 28, 2021, the day before the proposed lease begins.

The Applicant owns the upland parcel 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 facilities are located on the Petaluma River, in a

tidally influenced site that is vulnerable to shallow coastal flooding at current sea levels and will be at 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.

Table 1. Projected Sea-Level Rise for San Francisco

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

Rising sea levels could lead to more frequent flood inundation in low-lying areas and larger tidal events. 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 and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, 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 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 pilings and dock. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards related to 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 climate change impacts, but they may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features, including the pier, walkway and pilings, may need reinforcement to withstand higher levels of flood exposure, especially as they help anchor the boat lift's electrical components and damage to these pilings could lead to a public safety hazard. The bank has no vegetation, and therefore is at increased risk of accelerated deterioration from currents and floods. The existing protective structure, which does not extend into the Commission's leasing jurisdiction, could be vulnerable to future events, and an alternative bank protection strategy, such as bank restoration, may be required in the future to protect the anchoring points of the other structures in the lease premise and reduce flood impacts to the upland parcel.

Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values 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. 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, as the prior lessee, may be required to remove the pier, boat lift, and floating boat dock 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.

2. This action is consistent with "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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:

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

RECOMMENDED ACTION:

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 the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with 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 compensation from the Applicant in the amount of \$293 for unauthorized occupation of State land for the period beginning November 1, 2020 through June 28, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 29, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and floating boat dock, 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 \$446, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8212

LAND DESCRIPTION

A parcel of submerged land situated in the bed of the Petaluma River lying adjacent to Tide Land Location 202, patented October 27, 1899, County of Sonoma, State of California, and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, pier with boat lift and three pilings lying adjacent to that parcel described in Individual Grant Deed, recorded May 11, 1995 in Document Number 1995 0037757 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the low water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 04/05/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 068-110-025

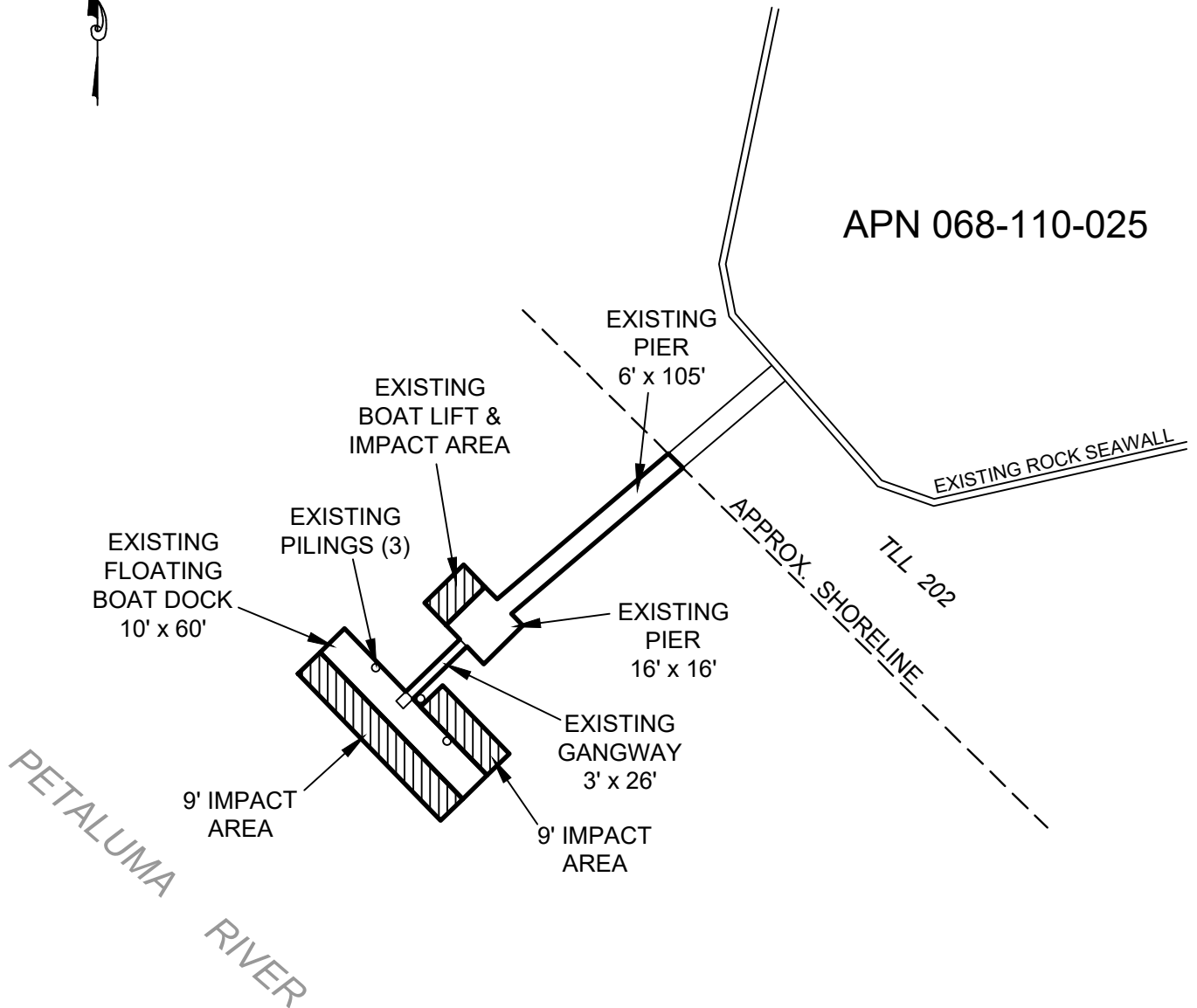


EXHIBIT A

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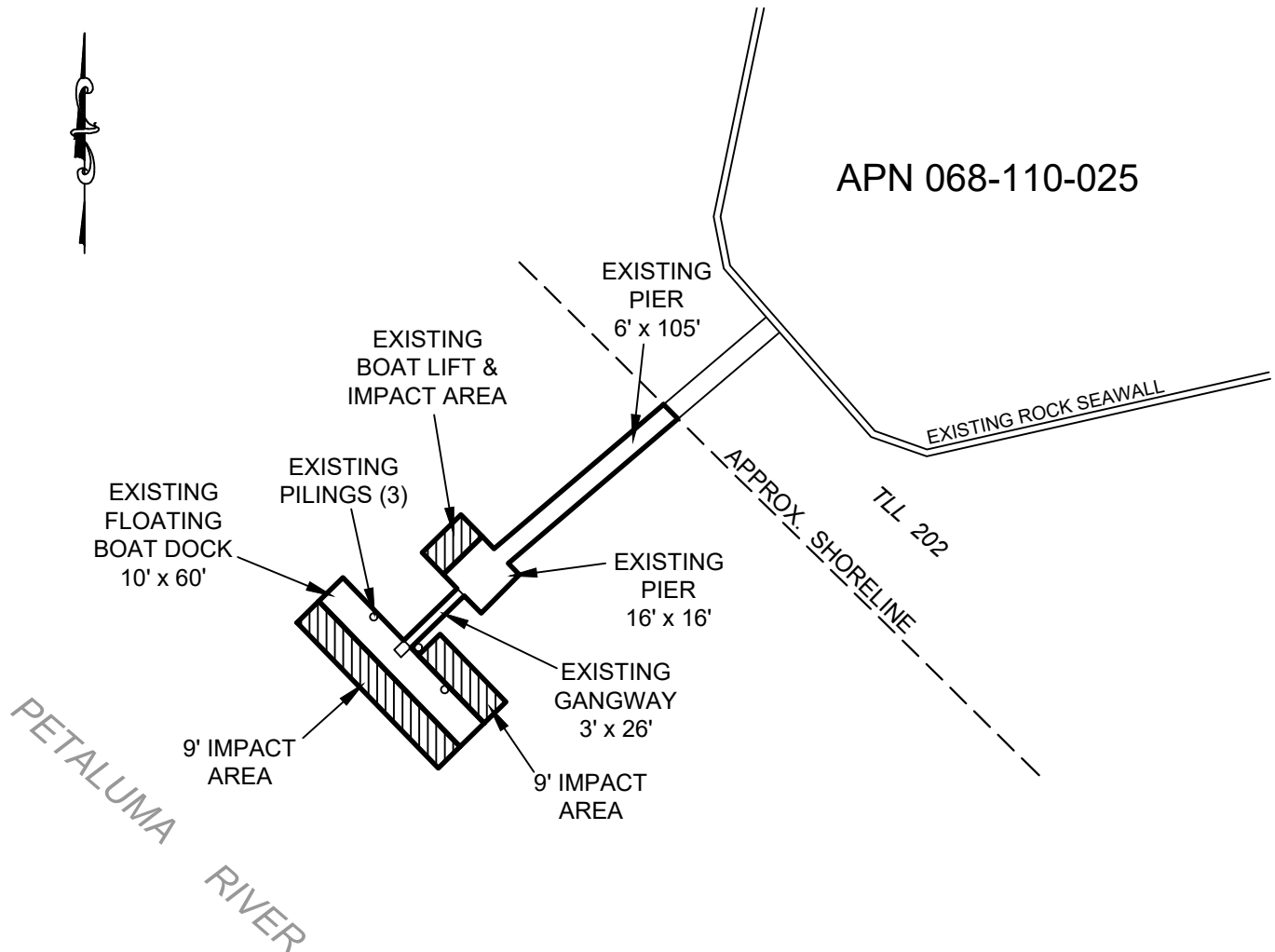
LAND DESCRIPTION PLAT
LEASE 8212, HENDRICKS
SONOMA COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

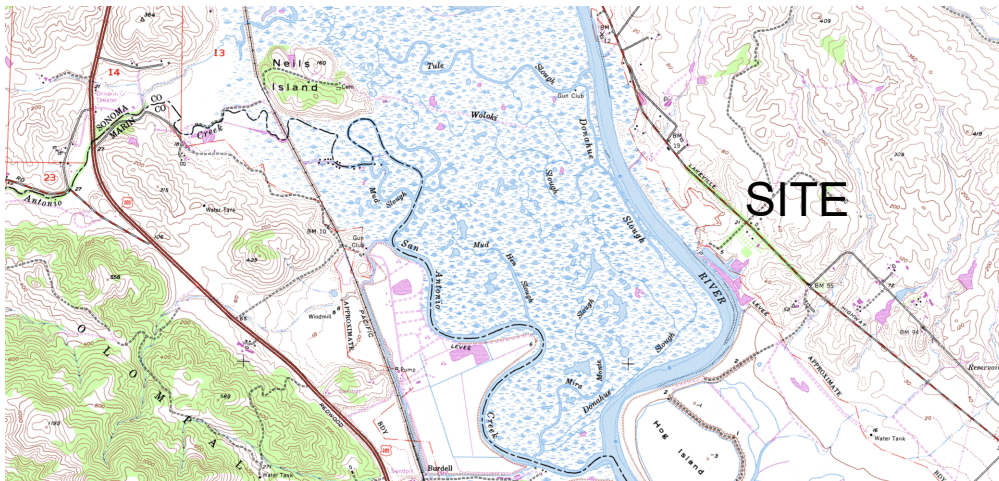
SITE



6614 LAKEVILLE ROAD, NEAR CITY OF PETALUMA

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 8212
HENDRICKS
APN 068-110-025
GENERAL LEASE -
RECREATIONAL USE
SONOMA COUNTY



TS 04/05/2021