

# Staff Report 10

## **APPLICANT:**

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Timothy Cook Draper and Melissa Parker Draper, Trustees of the Timothy Draper Living Trust dated April 21, 1988, as Amended and Restated on December 17, 2010

## **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 560 Pierce Point Road, near Inverness, Marin County.

## **AUTHORIZED USE:**

Use and maintenance of an existing boathouse, ramp, and boat dock, previously authorized by the Commission, and a pier with a boat hoist, two-pile dolphin, two pilings, utility conduit, and water line, not previously authorized by the Commission.

## **TERM:**

10 years, beginning August 25, 2021.

## **CONSIDERATION:**

\$227 per year, with an annual Consumer Price Index adjustment; and \$1,136 to compensate for the unauthorized occupation of state sovereign land for the period prior to August 25, 2021.

## **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.

## **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 May 10, 2007, the Commission authorized a 10-year Recreational Pier Lease to Timothy Cook Draper and Melissa Parker Draper, Trustees of the Timothy Draper Living Trust dated April 21, 1988, for the reconstruction, use, and maintenance of an existing boat dock, ramp, and float and a boathouse ([Item C14, May 10, 2007](#)). Between 2010, and 2011, as a result of damage and deterioration from prior storms, the Applicant reconstructed the existing boathouse and boat dock, removed and replaced the boat dock and added the existing pier and boat hoist, two-pile dolphin, two pilings, utility conduit, and water line. The lease expired on July 31, 2015.

The Applicant owns the upland parcel adjoining the lease premises and is now applying for a General Lease – Recreational Use for the use and maintenance of the existing improvements.

Staff recommends issuance of a new lease beginning August 25, 2021. Staff further recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,136 for the period prior to August 25, 2021, the beginning date of the proposed lease.

The subject facilities are 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.

The combination of these projected conditions increases the likelihood of damage to structures within the lease area, which include a pier and gangway fixed by pilings (based on the photos provided by the applicant). 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 flooding will likely increase scour, leading to decreased bank stability and structure. As a result, these structures may require more frequent maintenance to ensure continued function during and after storm seasons.

The existing ramp and floating dock 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 may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The projected conditions

could also increase the likelihood of damage to the fixed features within the lease premises (boathouse, pilings) during the term of the lease. 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, 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. If the Commission denies the application, the Applicant, as the owner of the improvements on state land, may be required to remove those improvements and restore the premises to their original condition. 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 the "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:**

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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 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 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 \$1,136 for the unauthorized occupation of State land for the period beginning August 1, 2015, through August 24, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 25, 2021, for a term of 10 years, for the use and maintenance of the existing boathouse, ramp, and boat dock, previously authorized by the Commission, and an existing pier with a boat hoist, two-pile dolphin, two pilings, utility conduit, and water line, not previously authorized by the Commission, 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; annual rent in the amount of \$227, with an annual Consumer Price Index Adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 7854**

**LAND DESCRIPTION**

A parcels of submerged land situated in the bed of Tomales Bay, near Inverness, lying adjacent to Rancho Punta de Los Reyes (Sobrante), approved November 5, 1859, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing boathouse, pier, ramp, floating boat dock, hoist, two pilings and 2-pile dolphin lying adjacent to those parcels as described in Grant Deed, recorded December 2, 1999, in Document No. 1999-0085191 in Official Records of said County.

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

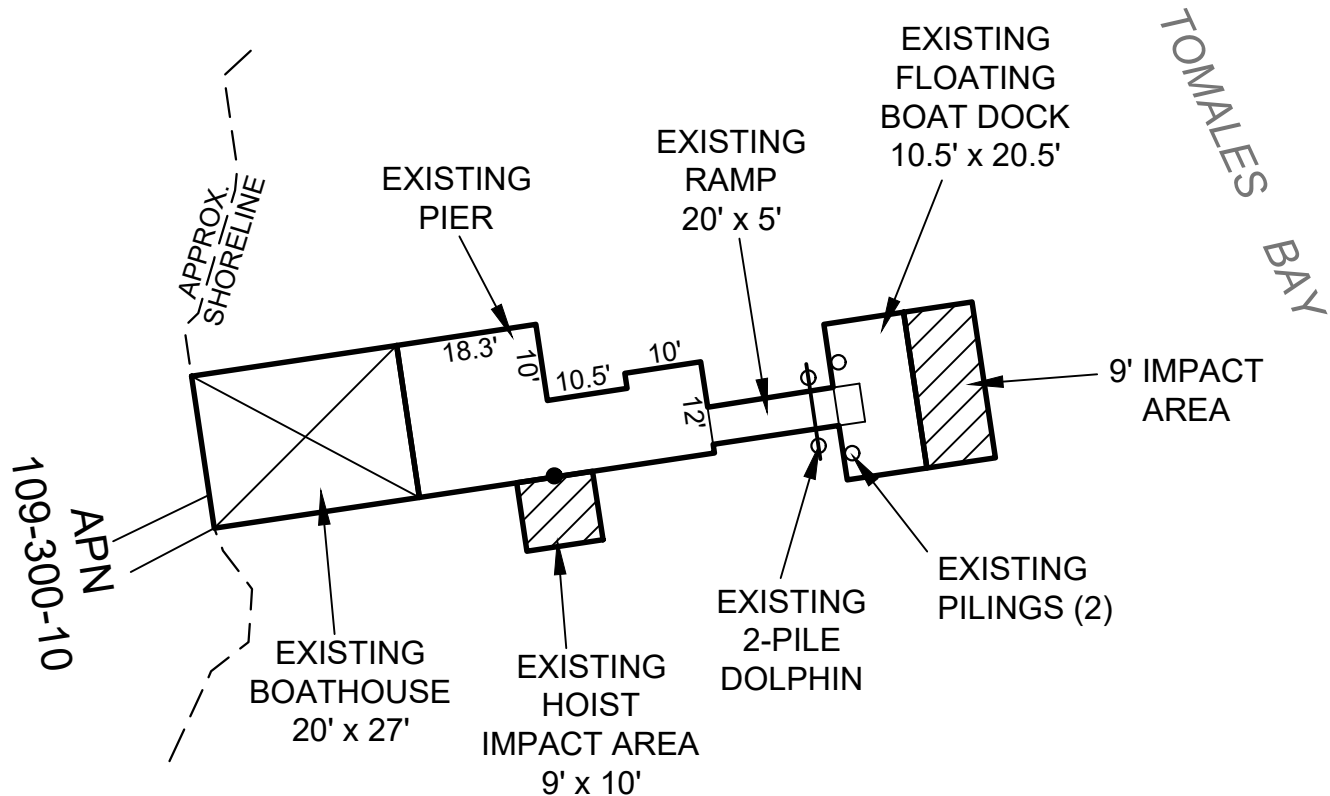
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 06/30/2021 by the California State Lands Commission Boundary Unit



NO SCALE



## EXHIBIT A

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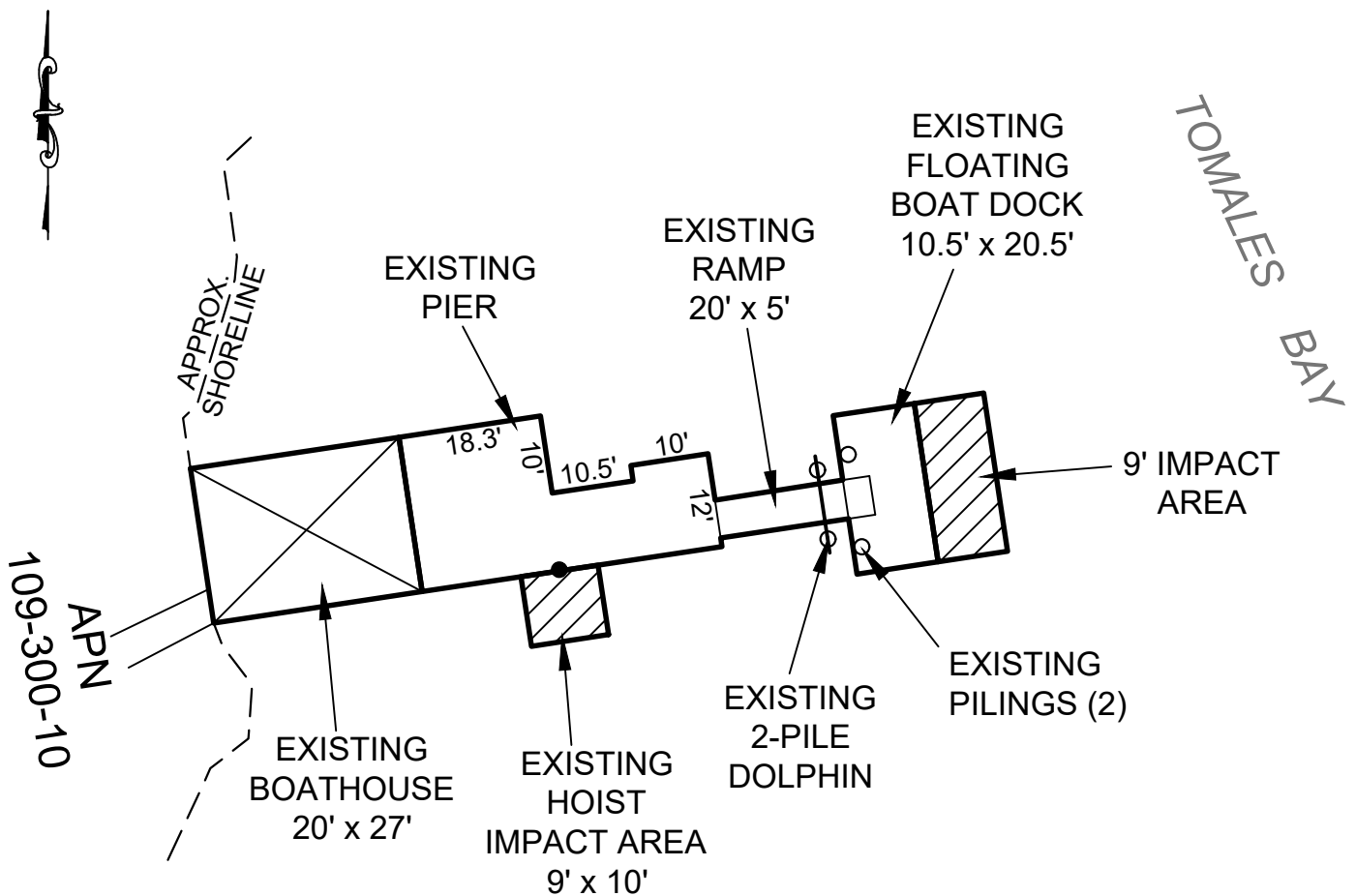
LAND DESCRIPTION PLAT  
LEASE 7854, DRAPER LIVING TRUST  
MARIN COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



560 PIERCE POINT ROAD, NEAR INVERNESS, TOMALES BAY

NO SCALE

## LOCATION



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 7854

DRAPER LIVING TRUST

APN 109-300-10

GENERAL LEASE-

RECREATION USE

MARIN COUNTY



TS 06/30/2021