

# Staff Report 25

## **LESSEE/ASSIGNOR:**

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Joyce M. Bonifield, as Trustee under the provisions of a Trust Agreement dated March 21, 2013, known as The Joyce M. Bonifield Revocable Trust

## **APPLICANT/ASSIGNEE:**

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James Louie Cunningham and Lori Lynn Cunningham

## **PROPOSED ACTION:**

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Assignment of a General Lease – Recreational Use

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

Sovereign land in Corte Madera Creek, adjacent to 147 Greenbrae Boardwalk, Greenbrae, Marin County.

## **AUTHORIZED USE:**

Use and maintenance of an existing floating boat dock, pilings, walkway, and ramp.

## **TERM:**

20 years, beginning December 18, 2015.

## **CONSIDERATION:**

\$151 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.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6321.2, 6501.1, 6503; and 6505.5 California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On December 18, 2015, the Commission authorized a 20-year General Lease – Recreational Use to Joyce M. Bonifield, as Trustee under the provisions of a Trust Agreement dated March 21, 2013, known as The Joyce M. Bonifield Revocable Trust for an existing uncovered floating boat dock, pilings, walkway, and ramp not previously authorized by the Commission ([Item C75, December 18, 2015](#)). The lease will expire on December 17, 2035.

On August 24, 2021, the upland parcel was deeded to James Louie Cunningham and Lori Lynn Cunningham. The Applicant, in coordination with the Lessee, is applying for an assignment of the lease for the use and maintenance of an existing boat dock, pilings, walkway, and ramp. The effective date of the assignment will be August 24, 2021, to coincide with the Applicant's purchase of the upland parcel.

In 2021, Joyce M. Bonifield passed away, Renee M. Finley, James A. Barstad, and Ceresa L. Kunz, as Trustees under the provisions of a Trust Agreement dated March 21, 2013, known as The Joyce M. Bonifield Revocable Trust are handling the sale of the estate and are authorized to execute the assignment of lease documents. The annual rent was paid through December 17, 2022. Without the proposed assignment, the Applicant lacks authorization to use and maintain the improvements on the Lease Premises. Thus, staff believes that assigning the lease is in the State's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations.

### **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 on the Corte Madera Creek, in a tidally influenced site vulnerable to flooding at current sea levels that will be at high risk of flood exposure based on the projected scenarios of sea level rise in this area.

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.

Sea level rise will raise the total water levels of Corte Madera Creek and likely cause frequent inundation of the lease area if no measures are taken to control the flooding and elevate the shoreline. 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 storms and rain events, causing more flooding in low-lying areas. In rivers, creeks, and tidally influenced waterways, higher water levels from sea level rise and flooding may cause damage such as bank erosion to the lease area. Storm debris and water-borne contaminants may constitute additional hazards to the lease area and structures. Higher rates of erosion and sedimentation from flooding, storm flow, and runoff will likely increase scour and further decrease bank stability.

As the total water levels of Corte Madera Creek increase with sea level rise, the existing residence with walkway and ramp (not under lease) will not be able to rise. The existing dock will be able to rise and fall with storms and droughts, increasing its resiliency to some climate change impacts, but will remain at higher risk of damage, degradation, and loss from the combined impacts of sea level rise, storms, and rain events. The lessee is responsible for protecting the lands, resources, and values of the Public Trust within the lease area and should be aware that these changes are very likely to occur and impact not only the current footprint of the lease area, but the adjacent upland area as well over the course of the lease.

The lease is a 20-year General Lease – Recreational Use that began on December 18, 2015 and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular maintenance and implementing best

management practices, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2035 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 remaining term of the lease. For these reasons, staff recommends finding that approval of this assignment of lease is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application for assignment of lease 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.
2. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. Upon expiration or termination of the lease, neither the Lessee nor the Applicant has any right to a new lease or to renewal of any previous lease. If no new lease is granted, the Lessee may be required to remove the existing boat dock, pilings, walkway, and ramp and restore the premises to their original condition.
3. This action is consistent with the "Leading Climate Activism" and Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
4. Assignment of the lease is not a project as defined by the California Environment 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, section 15378, subdivision (b)(5).

**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:

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interest of the State.

### **AUTHORIZATION:**

Authorize the assignment of Lease No. 9261, a General Lease – Recreational Use of sovereign land, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Joyce M. Bonifield, as Trustee under the provisions of a Trust Agreement dated March 21, 2013, known as The Joyce M. Bonifield Revocable Trust, to James Louie Cunningham and Lori Lynn Cunningham, effective August 24, 2021.

**EXHIBIT A**

**PRC 9261**

**LAND DESCRIPTION**

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

COMMENCING at the southeast corner of Parcel One as described in that certain Grant Deed recorded as Document No. 2021-0053292, Official Records of said county; thence along the easterly boundary of said parcel, North 5° 13' 00" West 155.49 feet to the POINT OF BEGINNING; thence along said easterly boundary and northerly prolongation thereof, North 5° 13' 00" West 95.37 feet; thence leaving said boundary prolongation South 86° 59' 52" West 87.34 feet to a point on the northerly prolongation of the westerly boundary of Parcel Two of said deed; thence along said prolongation and westerly boundary of said Parcel Two, South 5° 13' 00" East 91.05 feet; thence leaving said westerly boundary, North 89° 49' 25" East 87.61 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 01/06/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

# SITE

## CORTE MADERA CREEK

9' IMPACT AREA

EXISTING DOCK  
10' x 32'

EXISTING PILINGS (2)

EXISTING RAMP WITH RAILS  
24' x 2.5'

EXISTING WALKWAY

LEASE AREA

APPROX. SHORELINE

PL

APN  
023-021-01

PL

147 GREENBRAE BOARDWALK, GREENBRAE



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

PRC 9261  
CUNNINGHAM  
APN 023-021-01  
GENERAL LEASE -  
RECREATIONAL USE  
MARIN COUNTY



SITE

TS 01/06/2022