

Staff Report 20

LESSEE/ASSIGNOR:

Lee R. Miller and Dorothea E. Miller, as Trustors of the Miller Trust, dated January 1, 1992

APPLICANT/ASSIGNEE:

Conte Cicala and Angele Cicala

PROPOSED ACTION:

Assignment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 69 Greenbrae Boardwalk, near Larkspur, Marin County.

AUTHORIZED USE:

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

TERM:

20 years, beginning December 18, 2015.

CONSIDERATION:

\$314 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:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; and California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 18, 2015, the Commission authorized issuance of a 20-year General Lease – Recreational Use to Lee R. Miller and Dorothea E. Miller, for an existing floating boat dock, fixed boat dock, pilings, and ramp ([Item 64, December 18, 2015](#)). On February 9, 2016, the Commission authorized a correction to Lease No. PRC 9259, a General Lease – Recreational Use to update the Applicant's name to Lee R. Miller and Dorothea E. Miller, as Trustors of the Miller Trust, dated January 1, 1992 ([Item 44, February 9, 2016](#)). That lease will expire on December 17, 2035.

On March 29, 2022, the upland parcel and leasehold improvements were deeded to Conte Cicala and Angele Cicala. The Applicant, in coordination with the Lessee, is applying for an assignment of Lease No. PRC 9259, for the use and maintenance of the existing floating boat dock, fixed boat dock, pilings, and ramp in Corte Madera Creek. The effective date of the assignment will be March 29, 2022, to coincide with the Applicant's acquisition of the upland property.

Based on the Commission's accounting records, the annual rent is paid through December 17, 2022. Without the proposed assignment, the Applicant lacks authorization to use and maintain the improvements on the Lease Premises. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. 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. The proposed assignment of lease does not alienate the State's fee simple interest in the underlying land, nor will it permanently impair public rights.

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 and upland property (not within the Commission’s leasing jurisdiction) will not be able to rise. The existing floating boat dock and ramp will be able to rise and fall with changing water levels increasing their resiliency to some climate change impacts. The existing fixed boat dock and pilings will not be able to move up and down with changing water levels and 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 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 December 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:

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. The lessee has no right to a new lease or to renewal of any previous lease.
2. 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.
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, section 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 Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number PRC 9259, 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 Lee R. Miller and Dorothea E. Miller, as Trustors of the Miller Trust, dated January 1, 1992, to Conte Cicala and Angele Cicala, effective March 29, 2022.

EXHIBIT A

LEASE 9259

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 southeasterly corner of parcel described in that certain Grant Deed recorded as Document No. 92-004009, Official Records of said county; thence along the southeasterly boundary of said parcel, North 25° 13' 00" East 61.64 feet; thence North 19° 17' 00" East 46.56 feet; thence North 24° 08' 00" East 44.59 feet to the POINT OF BEGINNING; thence continuing along the southeasterly boundary and northeasterly prolongation thereof, North 24° 08' 00" East 67.46 feet; thence leaving said boundary prolongation North 70° 59' 20" West 62.60 feet to a point on the northerly prolongation of the westerly boundary of said parcel of said deed; thence along said prolongation and westerly boundary, South 19° 08' 00" West 67.21 feet; thence leaving said westerly boundary, South 71° 00' 04" East 56.72 feet to the POINT OF BEGINNING.

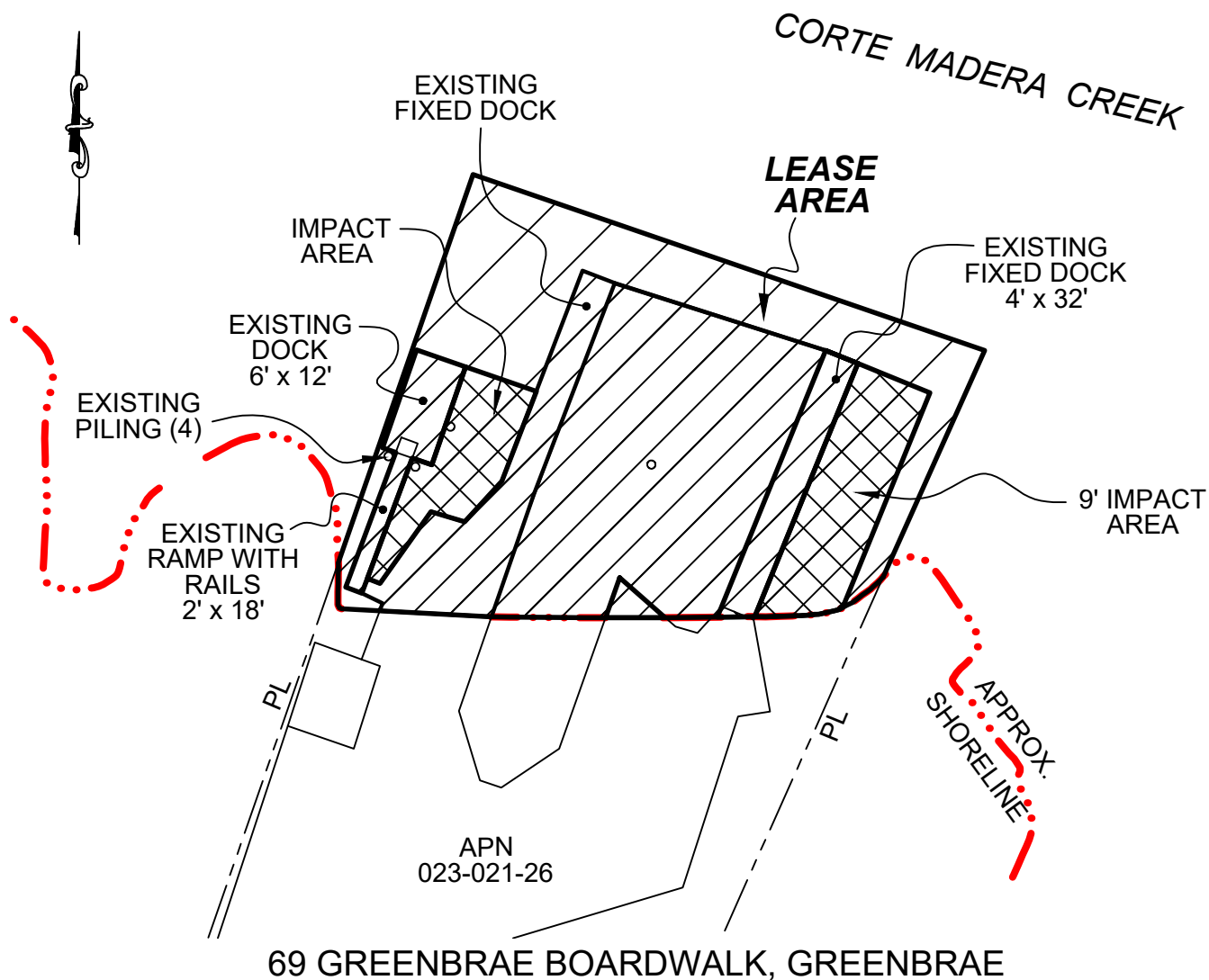
EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the right bank of said Corte Madera Creek.

END OF DESCRIPTION

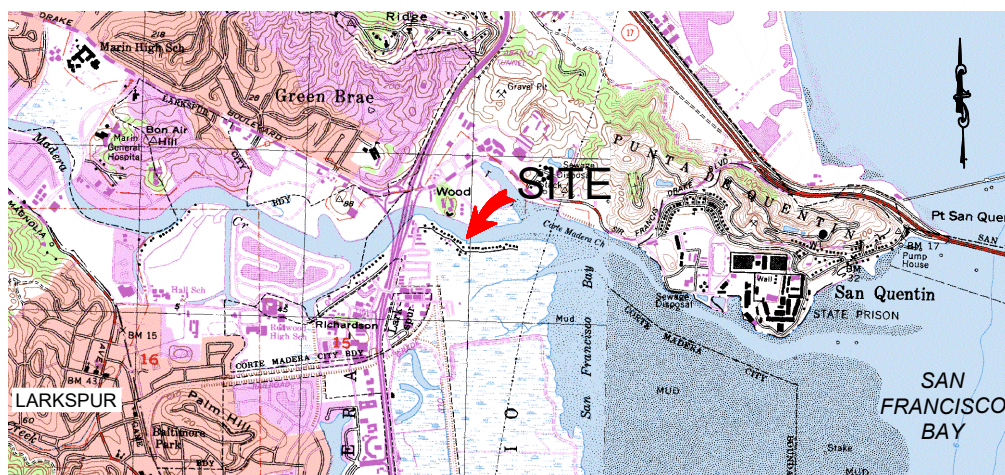
Prepared 06/06/2022 by the California State Lands Commission Boundary Unit.



SITE



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 9259
CICALA
APN 023-021-26
GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY

