

Staff Report 47

LESSEE/ASSIGNOR:

James P. Cosgrove

APPLICANT/ASSIGNEE:

Kim Cosgrove and Anthony Cosgrove

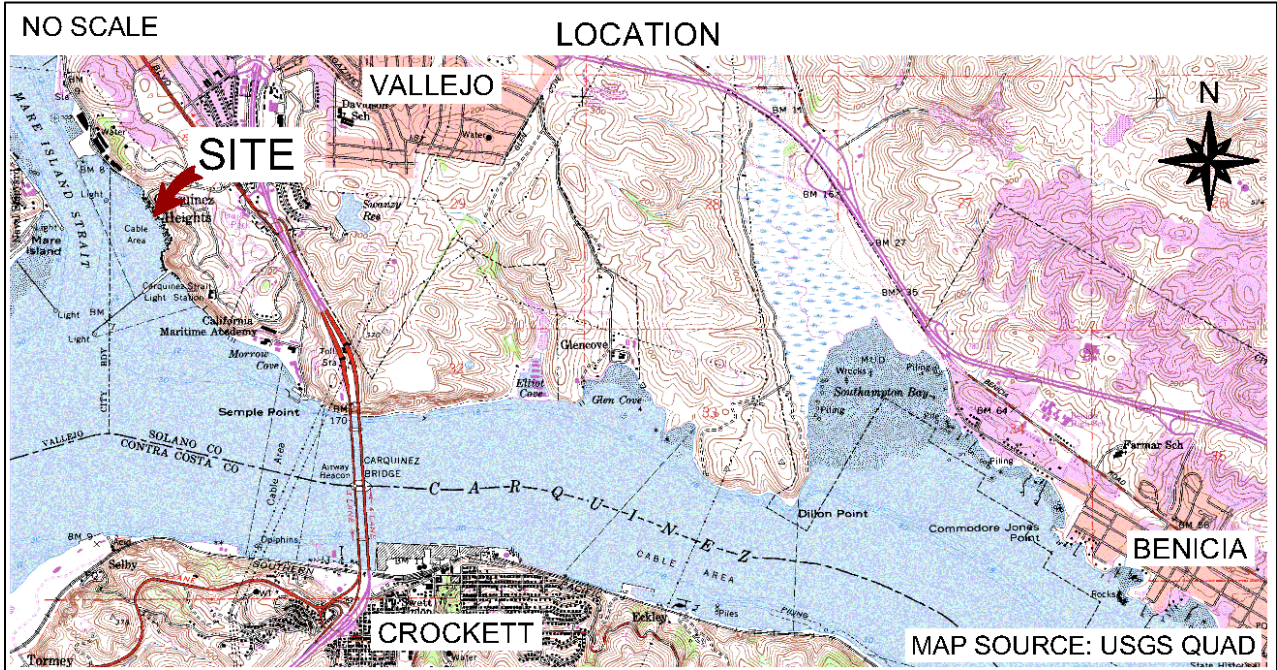
PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Mare Island Strait, adjacent to 14 Sandy Beach Road, Vallejo, Solano County (as shown in Figure 1).

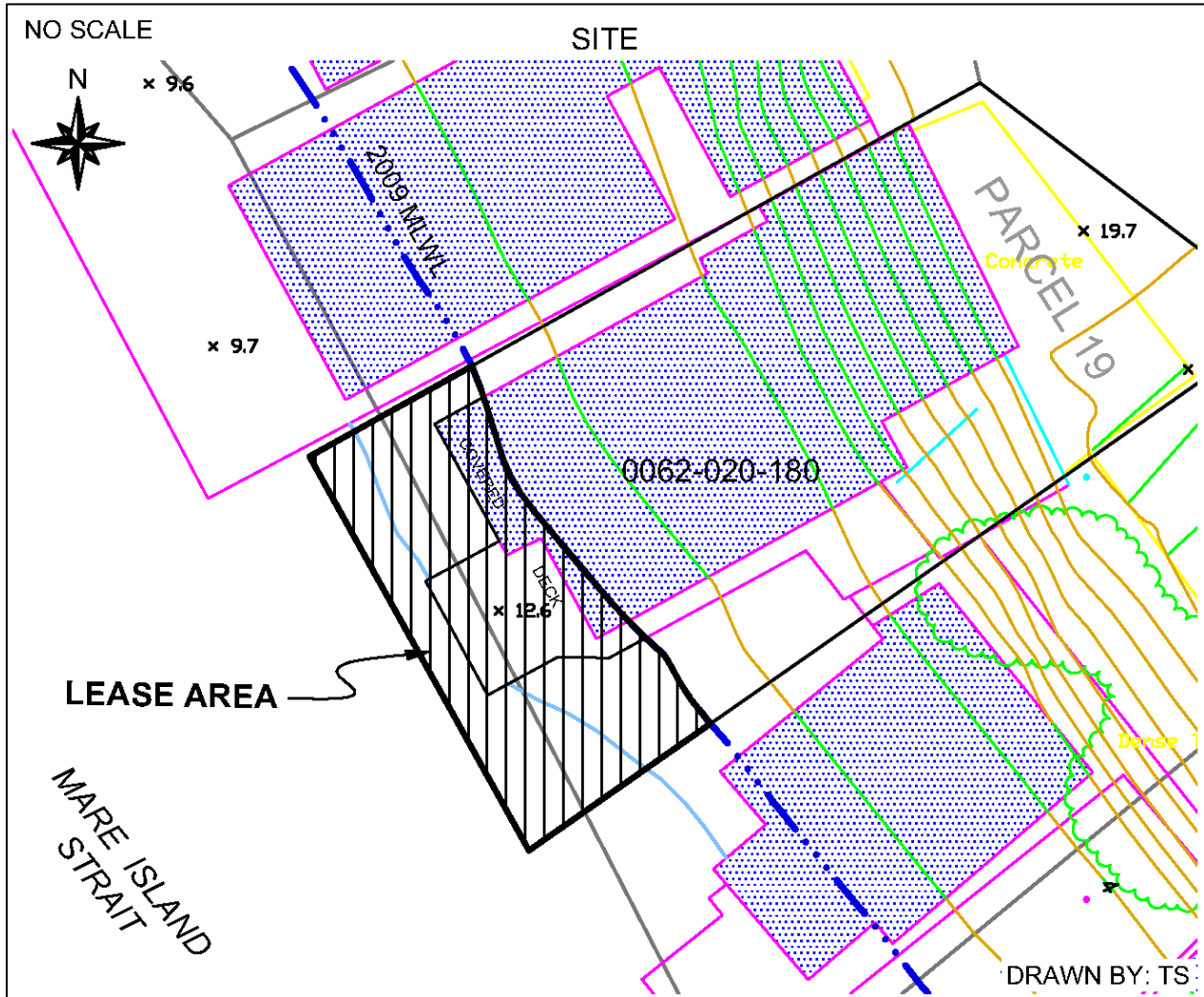
Figure 1. Location



AUTHORIZED USE:

Use of an existing deck and appurtenant facilities (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

30 years, beginning February 9, 2016.

CONSIDERATION:

\$245 per year; with the State reserving the right to fix a different rent periodically during the Lease Term, as provided in the Lease.

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 climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 9, 2016, the Commission authorized a General Lease – Recreational Use to James P. Cosgrove and Linda C. Cosgrove, for the use of an existing deck and appurtenant facilities ([Item 42, February 9, 2016](#)). On December 13, 2022, Linda C. Cosgrove passed away. That lease will expire on February 8, 2046.

On October 11, 2022, ownership interest in the upland parcel was transferred to Anthony Cosgrove and Kim Cosgrove. The Applicant, in coordination with the Lessee, is now applying for an assignment of Lease Number 7498, for the use of an existing deck and appurtenant facilities. The effective date of the assignment will be October 11, 2022, to coincide with the Applicant's acquisition of the upland property.

The assignment will reflect the change in ownership of the upland property from the current Lessor to the Applicant and will require the new upland owner to comply with all the existing lease conditions. 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 does not alienate the State's fee simple interest or 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 facilities are located in the Mare Island Strait, in a tidally influenced site vulnerable to flooding at current sea levels and at a 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.

This effect could increase the Mare Island Strait’s inundation levels within the lease area. In addition, as stated in the [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 as well as decreased bank stability and structure. The subject facilities are also classified within the Federal Emergency Management Agency’s Coastal High Hazard Area as an area currently subject to inundation by a 1-percent-annual-chance flood event, with additional hazards due to storm-induced wave action. Conversely, climate change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The lease is a 30-year General Lease – Recreational and Residential Use that began on February 9, 2016, and may be subject to the climate change effects and

projected sea level rise scenarios provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities would be assessed if a new lease is considered in 2046 and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes approval of this lease assignment will not substantially interfere with Public Trust needs at this location, at this time, and for the 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:

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 lease would not be assigned. 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 Areas 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).

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 7498, a General Lease – Recreational Use of sovereign land, from James P. Cosgrove to Kim Cosgrove and Anthony Cosgrove; effective October 11, 2022, to coincide with the Applicant's acquisition of the upland property.