

Staff Report 48

LESSEE/ASSIGNOR:

Richard E. Epting and Janice M. Epting, as Trustees for the Richard and Janice Epting Trust, dated November 21, 2015

APPLICANT/ASSIGNEE:

Jon Hochschild and Geffen Hochschild

PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 137 Greenbrae Boardwalk, near Larkspur, Marin County (as shown on Figure 1).

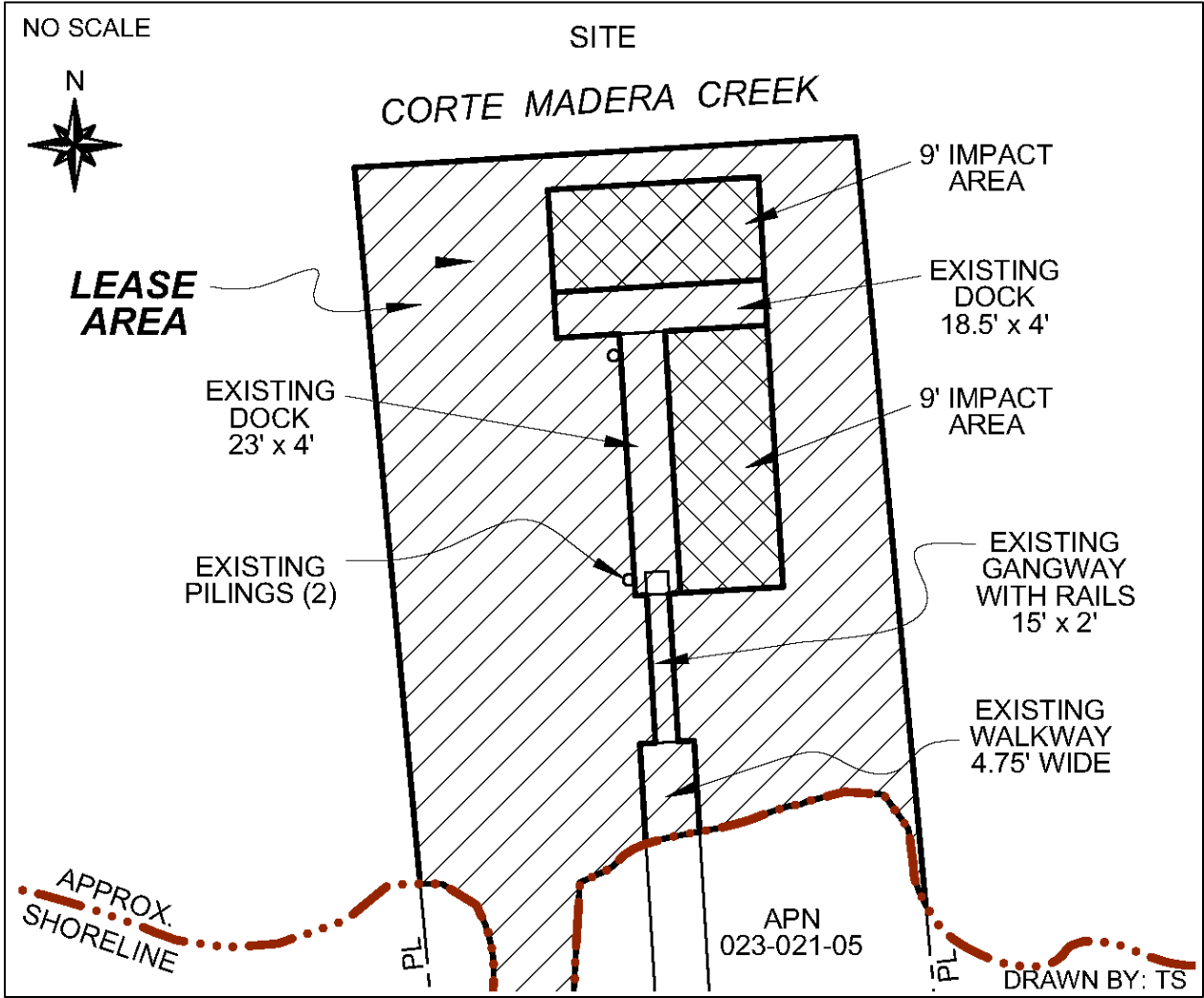
Figure 1. Location



AUTHORIZED USE:

Use of an existing uncovered floating boat dock, pilings, walkway, and ramp (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:

20 years, beginning December 18, 2015.

CONSIDERATION:

\$125 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.
- 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 December 18, 2015, the Commission authorized the issuance of a General Lease – Recreational Use to Richard E. Epting and Janice M. Epting, as Trustees for the Richard and Janice Epting Trust, dated November 21, 2015, for the use of an existing uncovered floating boat dock, pilings, walkway, and ramp not previously authorized by the Commission ([Item 69, December 18, 2015](#)). The lease expires on December 17, 2035.

On September 15, 2023, the property was deeded to Jon Hochschild and Geffen Hochschild. The Applicant is applying for an Assignment of a General Lease – Recreational Use for the existing boat dock and appurtenant facilities. The effective date of the assignment will be September 15, 2023 to coincide with the transfer of the upland property.

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 lease area is located on the Corte Madera

Creek, in a tidally influenced site consisting of low-elevation reclaimed floodplains. This area is vulnerable to 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 lease area 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 can lead to more frequent flood inundation in low-lying areas and larger tidal events. 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 storms and rain events, causing more flooding in low-lying areas. In rivers, creeks, 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 lease is a 20-year General Lease – Recreational and Residential Use that began on December 18, 2015, 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 or dislodgement. Further climate change impact analyses on the leased facilities

would be assessed if a new lease is considered in 2035 and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, Commission staff believes the approval of this lease assignment will not substantially interfere with the Public Trust needs at this location at this time, nor for the remaining term of the lease; is consistent with the common law Public Trust Doctrine; and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for assignment 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.
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. Strategic Plan.
3. Assignment of a 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 9267, a General Lease – Recreational Use of sovereign land, from Richard E. Epting and Janice M. Epting, as Trustees for the Richard and Janice Epting Trust, dated November 21, 2015, to Jon Hochschild and Geffen Hochschild, effective September 15, 2023, to coincide with the Applicant's acquisition of the upland property.