

Staff Report 37

APPLICANT:

Paula Fava Corcoran

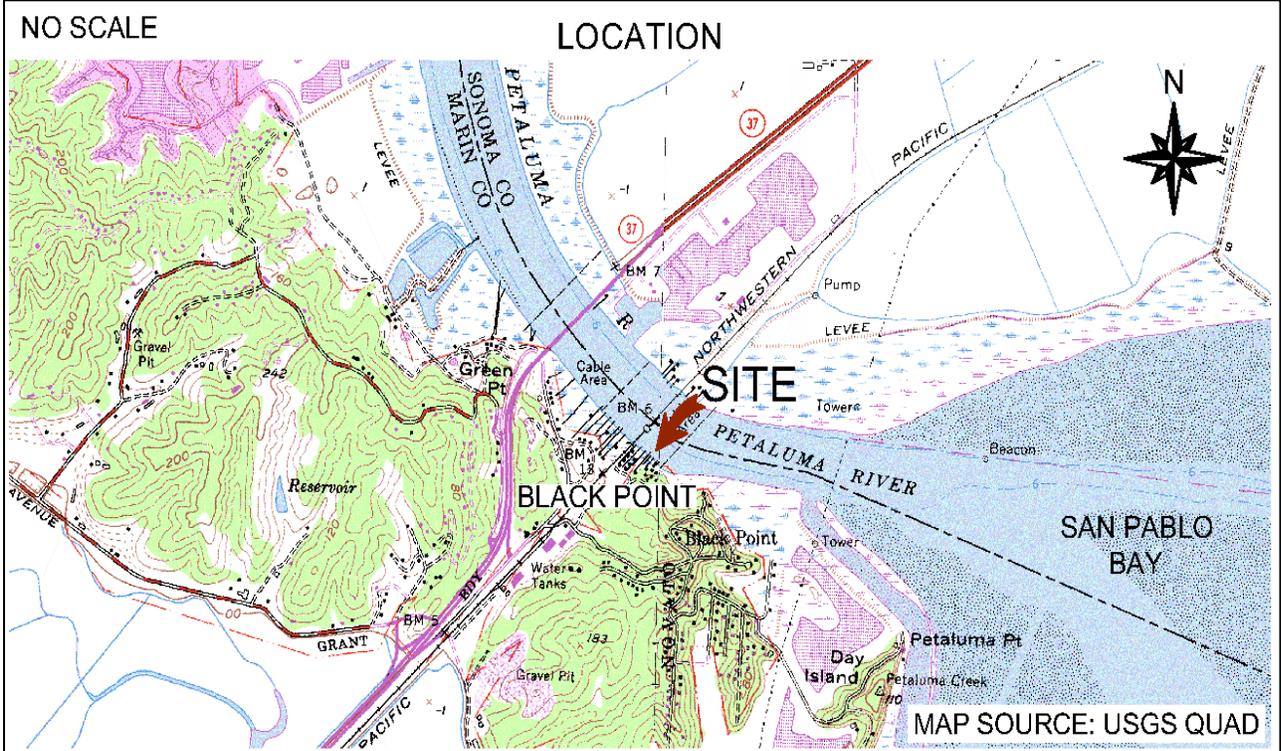
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land on the Petaluma River, adjacent to 5 Hillside Terrace, near Novato, Marin County (as shown in Figure 1).

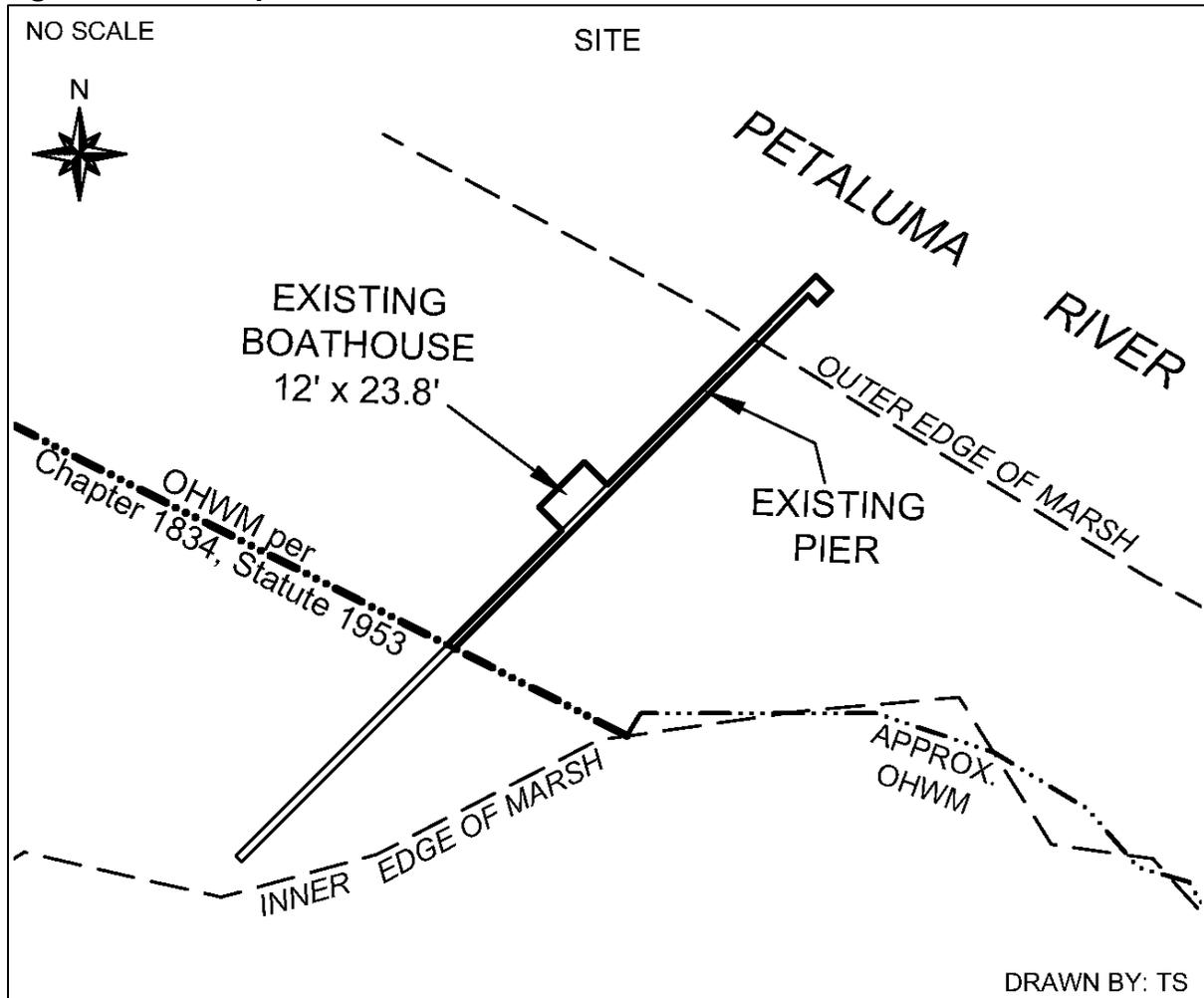
Figure 1. Location



AUTHORIZED USE:

Use of an existing boathouse and pier (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:

10 years, beginning April 23, 2024.

CONSIDERATION:

\$205 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; California Code of Regulations, title 2, section 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 23, 2014, the Commission authorized the issuance of a General Lease – Recreational Use to Paula Fava Corcoran, for the continued use and maintenance of an existing boathouse and pier ([Item 34, April 23, 2014](#)). On February 4, 2019, the Commission approved a revision of rent from \$150 per year to \$178 per year, effective April 23, 2019 ([Item 38, February 4, 2019](#)). The lease expired on April 22, 2024.

The Applicant is now applying for a General Lease – Recreational Use for use of the existing boathouse and pier. The boathouse and pier have existed at this location for many years and are located directly adjacent to the Applicant's upland property. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The boathouse is used to store items used in conjunction with the recreational use of the pier. The California Legislature had identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, nor permanently impair public rights. 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 facilities are located on the Petaluma River, 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 [Bay Shoreline Flood Explorer](#), an interactive flood map visualization tool developed by the Bay Conservation and Development Commission, shows the lease premise inundated at 1 foot of water level higher than present-day levels, which could occur from sea level rise or an extreme tide event such as a King Tide.

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 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. 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. Near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. All of the facilities are fixed and, due to the low elevation, will likely need reinforcement, replacement, or elevation in the future to withstand higher levels of flood exposure. In addition, the walkways and boathouse may experience periodic or continuous inundation with rising water levels and more frequent flooding. Use of these facilities while they are inundated may create a safety hazard for the user(s). Finally, the salt marsh habitat that currently provides some bank protection is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the proposed 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 Applicant as prior lessee may be required to remove the boathouse and pier and restore the lease premises to its original condition. 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. 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.

RECOMMENDED ACTION:

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 the Public Trust needs and values 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 23, 2024, for a term of 10 years, for the use of an existing boathouse and pier; annual rent in the amount of \$205, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.