

Staff Report 41

LESSEE:

Elaine Logan Mein, Trustee, G. E. Mein Revocable Trust Dated April 4, 1990

APPLICANT:

Johanna Sharpe-Thompson and Micheal A. Thompson

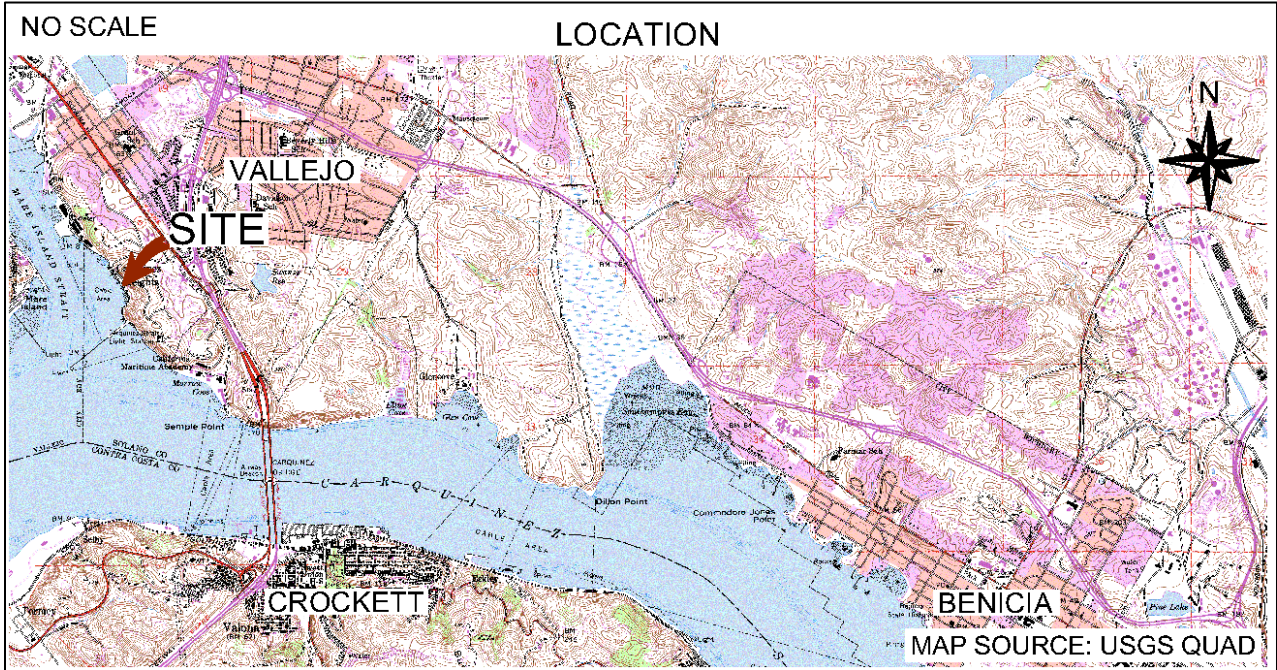
PROPOSED ACTION:

Termination and Issuance of a General Lease – Recreational and Residential Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Mare Island Strait, adjacent to 16 Sandy Beach Road, near Vallejo, Solano County (as shown in Figure 1).

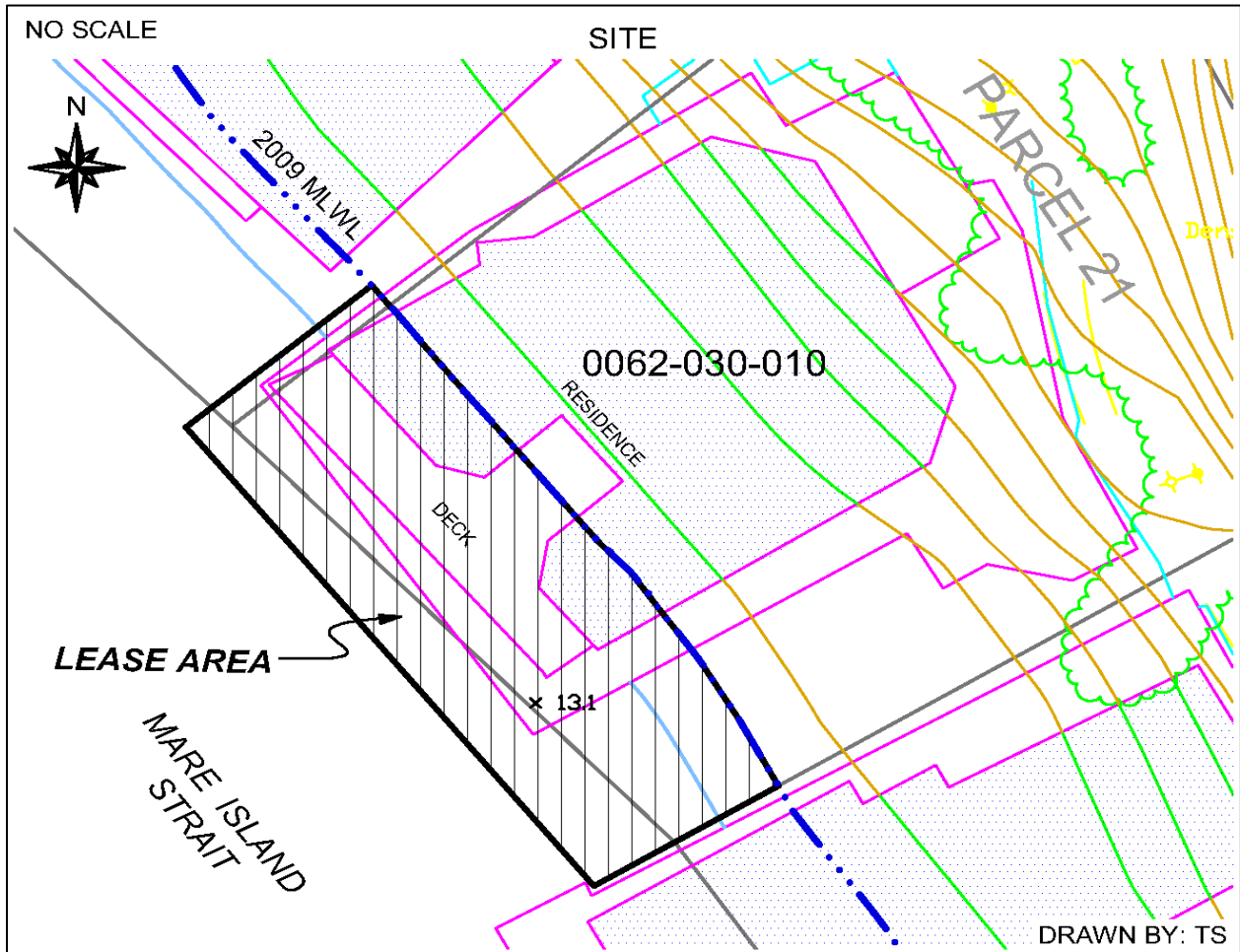
Figure 1. Location



AUTHORIZED USE:

Use of a portion of an existing residence, 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:

21 years and 8 months, beginning June 7, 2024, and expiring February 8, 2046.

CONSIDERATION:

\$1,573 per year; with the State reserving the right to fix a different rent periodically during the Lease Term, as provided in the Lease, and \$3,405 to compensate for the unauthorized occupation of state sovereign land prior to June 7, 2024.

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, 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 the issuance of a General Lease – Recreational and Residential Use to Elaine Logan Mein, Trustee, G. E. Mein Revocable Trust Dated April 4, 1990, for the use of an existing deck and appurtenant facilities previously authorized by the Commission; and use of a portion of an existing residence not previously authorized by the Commission ([Item 33, February 9, 2016](#)). The lease expires on February 8, 2046.

On April 5, 2021, ownership interest in the upland parcel was transferred to Johanna Sharpe-Thompson and Micheal A. Thompson. The Applicant is applying for a General Lease – Recreational and Residential Use for a portion of an existing residence, deck, and appurtenant facilities.

Staff recommends terminating the existing lease because the Lessee did not notify staff of the sale of the upland parcel nor sign a lease quitclaim deed. The proposed termination date is April 5, 2021, the day the Applicant took ownership of the upland parcel.

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. Staff recommends accepting compensation for the unauthorized occupation of State lands in the amount of \$3,405 for the period prior to the start date of the proposed lease. The indemnity provisions for the new lease will also be extended to apply from April 5, 2021, when the Applicant took ownership of the upland, through June 6, 2024, the day before the beginning of the new lease.

The Sandy Beach community, consisting of approximately 35 similarly situated properties, is located at the base of a bluff on the south end of the eastern

shoreline of the Mare Island Strait. There is little, if any, public access from the landward side because the area is secluded and difficult to access. There is only one road leading down to the community and a parking lot at the end of this road where community residents park. The upland frontage along this section of the Mare Island Strait is all privately owned and improved with residences with no public access from the landward side. On the waterward side, it is bordered on the south by a long jetty and bulkhead that separate the strait from the bay and help form the entrance to the strait. The vast majority of boat traffic is commercial in the Mare Island Strait to the north and Carquinez Strait to the south. The small amount of recreational boating in this region does not frequent the Sandy Beach shoreline due to its distance from publicly available access points. Additionally, the natural features do not make it convenient for recreational uses. Based on the 2009 survey work at this location, staff has concluded that there is a portion of an existing residence, deck, and appurtenant facilities encroaching below the mean low tide line onto State-owned sovereign land. These improvements are not associated with traditional Public Trust uses. The Commission has issued leases on a limited basis for portions of existing residential structures that encroach onto sovereign lands where such encroachments do not significantly interfere with the Public Trust needs and values.

There is no public access from the upland to the water at the subject location. The privately owned uplands have been developed into private residences. The Sandy Beach community predates the Subdivision Map Act (Government Code section 66410 et seq.) and other laws intended to protect and promote public access. Accordingly, the houses are close together and do not provide any meaningful public access. As previously stated, there is a relatively low amount of recreational boating traffic. Although the subject facilities are a private use of public property, the limited water-related recreational value of this area and the relatively small portion of the existing private use encroaching onto State-owned lands indicate a lease for the subject facilities would not substantially interfere with the Public's Trust needs and values at this time and for a limited term. In addition, the proposed lease will provide for rent, insurance and indemnity, all in favor of protecting the State's interests.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the existing pier, portion of a residence and appurtenant facilities subject to the proposed lease, located in Mare Island Strait.

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.

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, drought, and storms (especially when coupled with sea level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In 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. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains a deck, portion of a residence, and appurtenant facilities, which are all fixed structures that are elevated on pilings above the water in Mare Island Strait. Elevating structures, considered an “Accommodation” strategy for sea level rise adaptation, provides some degree of protection against sea level rise and other impacts of climate change. However, the level of protection will decline as rising sea levels approach the elevation of structures, increasing their exposure to wind-driven waves, storm surges, corrosive salt water, and flooding conditions. The structures may need

additional elevation, corrosion and flood proofing, and reinforcement to withstand higher levels of flood exposure and more frequent storm events.

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 finds that the existing and, for a limited period, continuing use of the property for the proposed activity is not generally consistent with the Public Trust Doctrine, but that the current use, on balance, does not substantially interfere with the trust and issuing the proposed lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises and the underlying fee title to the patented tidelands.
2. 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 lease, the Applicant may be required to remove the existing improvements and return the premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.
3. 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.
4. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) 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).

5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 issuance of the lease 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 existing and continuing use of a portion of the existing residence, deck, and appurtenant facilities are not generally associated with Public Trust uses, but the current use does not substantially interfere with Public Trust needs and values at this location, at this time; and that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination of Lease 7012, a General Lease – Recreational and Residential Use, issued to Elaine Logan Mein, Trustee, G. E. Mein Revocable Trust dated April 4, 1990, effective April 5, 2021.
2. Accept compensation from the Applicant in the amount of \$3,405, for the unauthorized occupation of State land for the period prior to June 7, 2024.
3. Authorize issuance of a General Lease – Recreational and Residential Use to the Applicant beginning June 7, 2024, and expiring on February 8, 2046, for the use of a portion of an existing residence, deck, and appurtenant facilities; and liability insurance in an amount no less than \$1,000,000 per occurrence.