

# Staff Report 26

## APPLICANT:

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County of Marin

## PROPOSED ACTION:

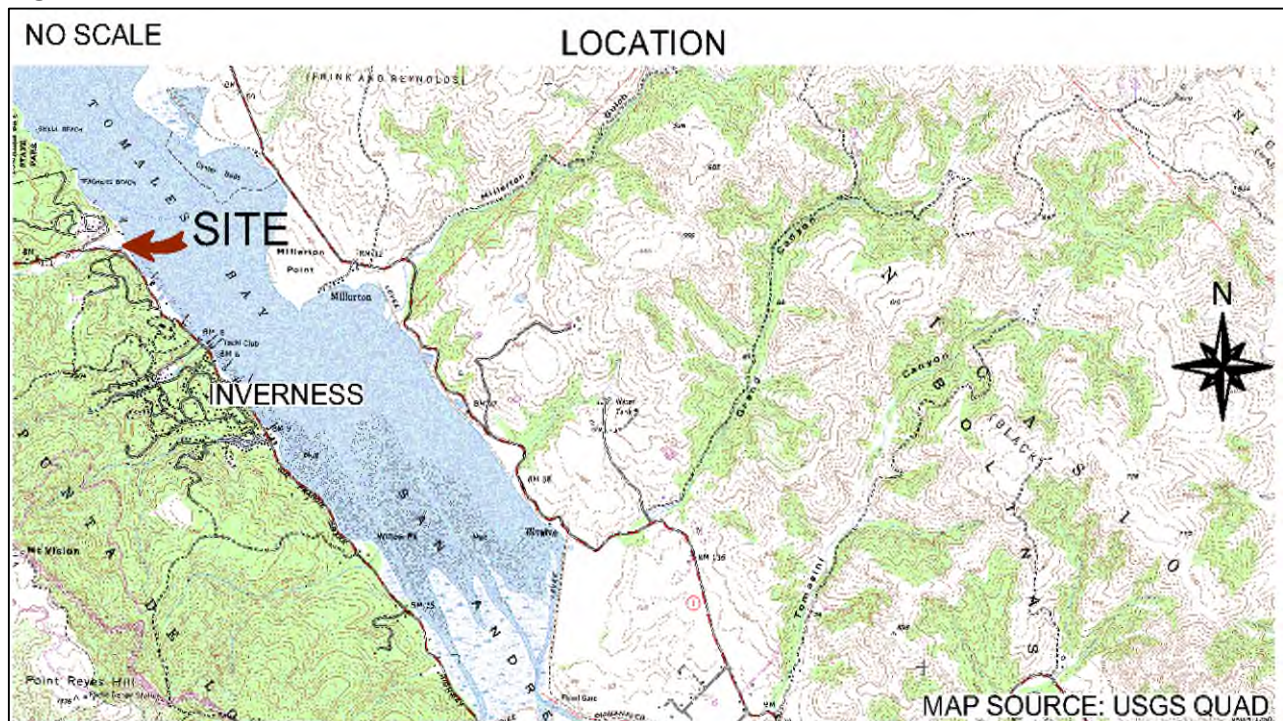
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Issuance of a General Lease – Public Agency Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land identified by Marin County Assessor's Parcel Number 112-042-05, adjacent to Chicken Ranch Beach, near Tomales Bay, Marin County (as shown in Figure 1).

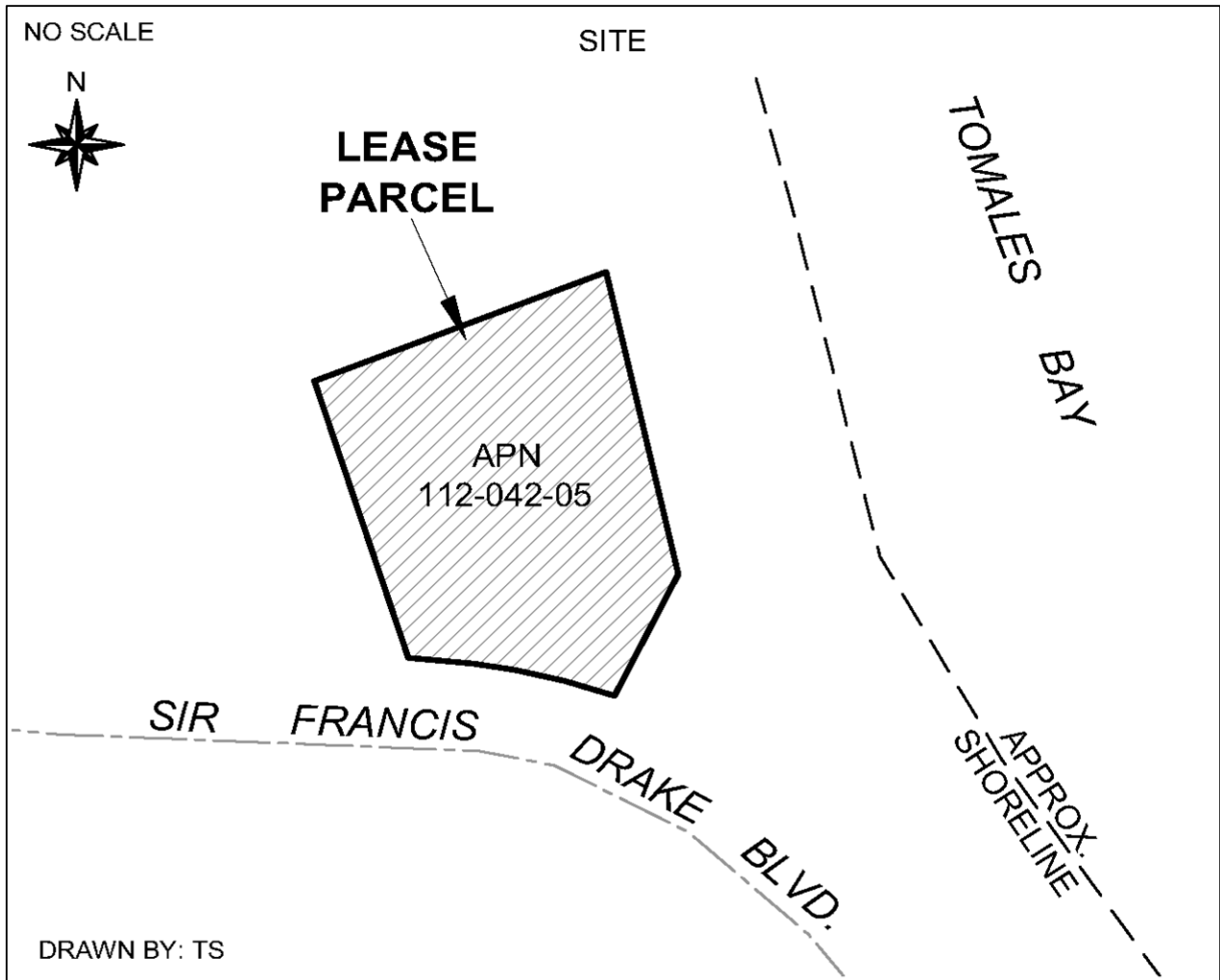
**Figure 1. Location**



**AUTHORIZED USE:**

Activities required to implement a wetland habitat restoration project (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 March 1, 2025.

**CONSIDERATION:**

The public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such an action to be in the State's best interests.

**SPECIFIC LEASE PROVISIONS:**

- Lessee shall implement the authorized wetland habitat restoration project substantially as described in State Clearinghouse document No. 2024030511, posted on March 14, 2024, and the attachments thereto.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

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

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

The Applicant is applying for a General Lease – Public Agency Use for a proposed wetland habitat restoration project that would occur on a parcel of sovereign land identified by Marin County Assessor's Parcel Number 112-042-05, adjacent to Chicken Ranch Beach, near Tomales Bay, Marin County. Staff recommends issuance of a General Lease – Public Agency Use to the Applicant, effective March 1, 2025.

The lease premises and surrounding area were once home to a healthy wetland habitat that supported local species and beneficial ecological processes. However, due to development in the area, this habitat has suffered. Although the lease parcel itself is still a mostly undeveloped wetland fed by two waterways, namely Third Valley Creek and a drainage channel known as Channel B, development in the surrounding area has interrupted the ecological processes that once filtered these waters. This interruption has led to these waters consistently exhibiting bacterial levels that exceed the Department of Public Health's limits for recreational water contact. This has long been of concern as these waters flow across Chicken Ranch Beach which is a popular recreational destination in the Tomales Bay region. Despite signage warning beachgoers to avoid contact with these waters due to the elevated bacterial counts, children and other members of the public have often been seen recreating within them.

The subject wetland habitat restoration project is being proposed to restore and enhance the wetland on the lease premises by reestablishing self-sustaining function to the ecological communities that inhabit the area, thus improving conditions for waterfowl and other species that rely on such habitat in the Tomales Bay region. Additionally, by reestablishing a healthy wetland habitat on the lease

premises the proposed project will lead to remediation of the elevated bacterial levels currently present within Third Valley Creek and Channel B. Such remediation will return these waters to a condition that is safe for public recreation and thereby promote public health and safety at Chicken Ranch Beach.

To implement the proposed project, the Applicant plans to redirect Channel B in a manner that restores the healthy wetland habitat that once existed on the lease premises. To accomplish this, approximately 230 feet of Channel B would be filled and redirected to the wetland area. The restored wetland will then create approximately 0.7 acres of riparian and wetland habitat and will serve as a treatment and filtration area for the redirected Channel B. Waterflow through the restored wetland would be designed such that water would flow into Third Valley Creek which would then cross Chicken Ranch Beach before flowing into Tomales Bay. The project will also include the creation of three shallow pools on the restored wetland which will enhance habitat for many species in the area including several special status species such as the California red-legged frog, tidewater goby, northwestern pond turtle, California giant salamander, and saltmarsh common yellowthroat.

Restoring the wetland habitat on the lease premises would also entail re-grading approximately one acre of land. This activity will generate approximately 2,050 cubic yards of cut and fill material, of which approximately 1,900 cubic yards would be used on site to raise the grade of the upper beach and adjacent storm berm to provide resilience to ongoing sea level rise. Local topsoil would be salvaged and placed over the wetland soil material, and beneficial reuse of soil material would supplement the upper beach and adjacent dunes.

Implementation of the proposed project would also include removal of invasive and non-native vegetation on the lease premises. Following removal of this vegetation, the wetland would be replanted and restored with appropriate native species that will renew wetland function and habitat.

During project implementation, a temporary construction fence or wildlife exclusion fence will be installed around the project area. Nevertheless, public access to the lower beach and waterfront will be maintained throughout project implementation, and pedestrian access to Chicken Ranch Beach would be unchanged as a result of the proposed project; however, public access in the upper beach area will be temporarily affected during project activities.

Overall, the proposed wetland habitat restoration project will provide a significant public benefit in the region by returning the lease premises to an ecologically self-sustaining state and providing healthy wetland habitat for wildlife in the area at no cost to the State. Additionally, as the restored wetland will remediate the elevated bacterial counts currently present in Channel B and Third Valley Creek, the proposed project will also promote public health and the safe recreational use of Public Trust resources.

The proposed Lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-year term, does not grant the lessee exclusive rights to the lease premises, and will enhance Public Trust-consistent uses and resources in the area. Upon termination of the lease, the lessee may be required to remove any improvements from State land and restore the lease premises to their original condition. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

**CLIMATE CHANGE:**

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the habitat restoration project at Chicken Ranch Beach.

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 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 areas by changing erosion and sedimentation rates. Beaches and coastal landscapes will be exposed to increased wave force and run up, potentially resulting in greater beach erosion than previously experienced.

The Proposed Project includes approximately 1.3 acres of disturbed area. The restoration project activities are designed and intended to improve water quality for waterfowl and other species by restoring a former wetland. The project considers future climate change projections for sea level rise in its design. Collectively, the wetland restoration is intended to improve and increase the region's adaptability and resiliency and will serve to offset flooding from climate change impacts by improving hydrologic function, water quality, habitat, and ecosystem functions in Tomales Bay.

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 believe approval of this lease 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:**

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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 will be unable to implement the proposed project. 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 recommend 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 33, Small Habitat Restoration Projects; California Code of Regulations, title 14, section 15333.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

### **APPROVALS REQUIRED:**

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- U.S. Army Corps of Engineers
- San Francisco Regional Water Quality Control Board
- California Coastal Commission
- California Department of Fish and Wildlife

### **RECOMMENDED ACTION:**

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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 33, Small Habitat Restoration Projects; California Code of Regulations, title 14, section 15333.

#### **PUBLIC TRUST AND STATE’S BEST INTERESTS:**

Find that the proposed lease will not substantially interfere with 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 – Public Agency Use to the Applicant beginning March 1, 2025, for a term of 20 years, for activities required to implement a wetland habitat restoration project; consideration being the public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such an action to be in the State's best interests.