

# Staff Report 68

## LESSEE:

Shannon Clemence

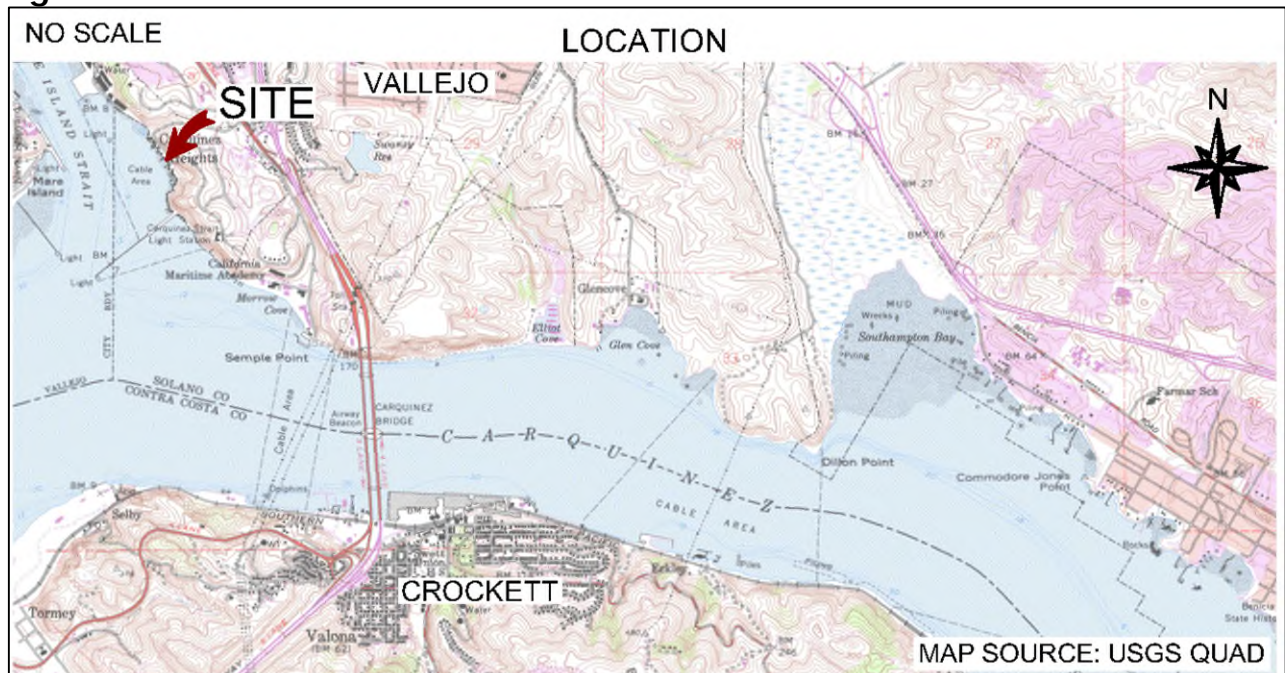
## PROPOSED ACTION:

Amendment and Revision of Rent of a General Lease - Recreational and Residential Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Mare Island Strait, adjacent to 46 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).

**TERM:**

30 years, beginning February 9, 2016.

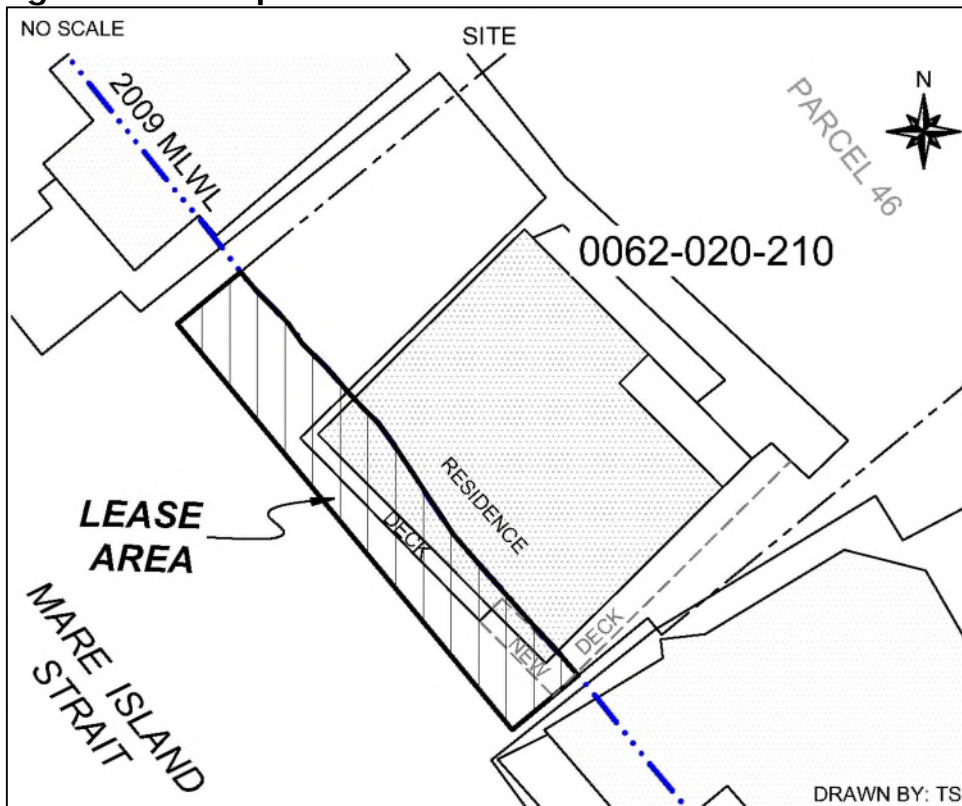
**CONSIDERATION:**

\$278 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**PROPOSED AMENDMENT:**

- Authorize the extension of the deck (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.

- Revise the annual rent from \$278 to \$738, effective February 9, 2025, and include \$152 for the unauthorized occupation of State land for the period prior to February 9, 2026.
- Replace the existing Lease Exhibit A, Land Description, and Lease Exhibit B, Site and Location Map (for reference purposes only), in the Lease.
- Require Lessee to comply with all terms of the settlement in the San Francisco Bay Conservation and Development Commission Case No. ER2023.058.00 by September 1, 2026.

All other terms and conditions of the lease to remain in effect without amendment.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 February 9, 2016, the Commission authorized issuance of a General Lease – Recreational and Residential Use to Donald G. Dopkins and Janet N. Dopkins, Co-Trustees of the Dopkins Family Trust Dated February 21, 1997, for the use of a portion of an existing residence, deck, and appurtenant facilities ([Item 31, February 9, 2016](#)). On August 23, 2019, the Commission authorized an assignment of lease from Donald G. Dopkins and Janet N. Dopkins, Co-Trustees of the Dopkins Family Trust Dated February 21, 1997, to Shannon Clemence ([Item 27, August 23, 2019](#)). The lease will expire February 8, 2046.

Without notifying staff, concrete pilings and a deck extension were added beyond the lease premises resulting in an encroachment of Lessee's improvements onto State lands. The San Francisco Bay Conservation and Development Commission (BCDC) was made aware of the alterations and verified the modifications during a site visit on January 17, 2024. BCDC issued a notice of violation and initiated enforcement proceedings against the Lessee for failing to obtain a development permit for the deck extension. BCDC and Lessee are currently in the process of reaching a settlement for the violation. BCDC indicated it will establish a deadline of September 1, 2026 for the Lessee to complete the permitting process for the deck modifications and satisfy any applicable special conditions related to the

permit. Staff recommends that the Lessee be required to fully comply with all BCDC directives in order to remain in compliance with the amended lease.

Further, staff recommends acceptance of compensation in the amount of \$152 for the unauthorized occupation of State lands for the period prior to February 9, 2026, the beginning date of the proposed lease amendment. The Applicant has paid annual rent through February 8, 2026. The lease provisions regarding indemnity shall also be extended to the entire period of Lessee's unauthorized occupation of state-owned lands, from January 17, 2024 to February 8, 2026. The deck was extended by the Applicant to allow for wheelchair access while providing care for their family. The Applicant is now applying to amend the current lease for the extension of the existing deck that was not previously authorized by the Commission.

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 does not substantially interfere with the Public's Trust needs and values at this time and for a limited term. In addition, the lease provides for rent, insurance and indemnity, all in favor of protecting the State's interests.

## **CLIMATE CHANGE:**

### ***INTRODUCTION:***

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the [State of California Sea Level Rise Guidance](#) (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as wave runup, storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years and, in extreme cases, over the span of a few large winter storms. These impacts may affect the existing residence, deck, and appurtenant facilities located in Mare Island Strait, near Vallejo.

### ***DATA & PROJECTIONS:***

Sea levels along most of the California coast rose four to eight inches during the last century, and this trend will accelerate throughout this century. The current rate of sea level rise is triple the rate during the last century. There is growing confidence that by 2050 sea levels will be approximately ten inches higher than they were in 2000. The severity of sea level rise beyond 2050 is contingent on future levels of greenhouse gas emissions. The California Ocean Protection Council updated the State of California Sea Level Rise Guidance in 2024 to provide a synthesis of the best available science on sea level rise projections and rates for multiple emissions scenarios. To apply a precautionary approach, Commission staff evaluated the "intermediate-high" and "high" scenarios due to the vulnerability and exposure of the lease location and the continued global reliance on fossil fuels. 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 | Intermediate-High<br>(feet) | High (feet) |
|------|-----------------------------|-------------|
| 2040 | 0.7                         | 0.8         |
| 2050 | 1.0                         | 1.3         |
| 2070 | 2.2                         | 2.9         |
| 2100 | 4.8                         | 6.5         |

Source: Table 6, State of California Sea Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

### **ANALYSIS:**

Commission staff used the online sea level rise mapping tool, [Our Coast Our Future](#), to evaluate risks to the lease premises and structures from sea level rise. At present sea levels, the lease premises are already regularly flooded and subjected to wave impacts and erosion, which could potentially damage any structures or improvements on the lease premises. Episodic or short-term events, such as extreme storms, very high or King tides, and El Niño events, alone or in combination, will increase the vulnerability of the lease premises and expose it to higher water levels and stronger wave runoff, overtopping, and erosion.

As a result, the residence, deck, and appurtenant facilities may sustain substantial damage and degradation over the lease term, requiring more frequent repairs and maintenance to retain its function. Stronger coastal erosion can wash away the soil and sediment supporting the residence, deck, and appurtenant facilities, causing structural instabilities. The increased saltwater exposure from higher sea levels and rising groundwater can accelerate the corrosion of metal components and the deterioration of concrete foundations. Additionally, the residence, deck, and appurtenant facilities may experience increased damage from waves breaking closer and stronger to shore.

### **RECOMMENDATIONS:**

Nature-based strategies (also referred to as ‘natural shoreline infrastructure’), accommodation strategies (e.g., elevating or flood-proofing structures), and relocating vulnerable structures further inland can reduce the exposure of the structure and improve its resilience to sea level rise.

Please refer to Section Four of the Commission’s [2023 Shoreline Adaptation and the Public Trust](#) report for more information about various shoreline adaptation



strategies and their advantages and disadvantages for mitigating coastal hazards and protecting Public Trust resources. Any future construction or activities on State land would require a separate authorization from the Commission.

Regular maintenance, as referenced in the terms of the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Lessee acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change, including sea level rise and rising groundwater levels.

**CONCLUSION:**

For all the reasons above, staff finds that the proposed amendment 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 amendment 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 lease will not be amended, and the Applicant will need to remove the deck extension. 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. Approving the revision of rent 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that amendment 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 15061 and California Code of Regulations, title 2, section 2905.

## **APPROVAL REQUIRED:**

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- Bay Conservation and Development Commission

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that amendment 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 proposed amendment is 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 amendment is in the best interests of the State.

### **AUTHORIZATION:**

1. Authorize amendment of Lease Number 9313, a General Lease – Recreational and Residential Use, for the extension of the existing deck not previously authorized by the Commission, revise the annual rent from \$278 to \$738, effective February 9, 2026, and include the requirement to comply with the San Francisco Bay Conservation and Development Commission enforcement action (Case No. ER2023.058.00) no later than September 1, 2026.



2. Accept compensation from the Applicant in the amount of \$152 for the unauthorized occupation of State land for the period prior to February 9, 2026.
3. Authorize the amendment to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, in the lease.