

Staff Report 37

APPLICANT:

Eugene John Maffucci, Trustee, Eugene John Maffucci 1998 Revocable Trust

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Tomales Bay, adjacent to 18621 Highway 1, near Marshall, Marin County (as shown in Figure 1).

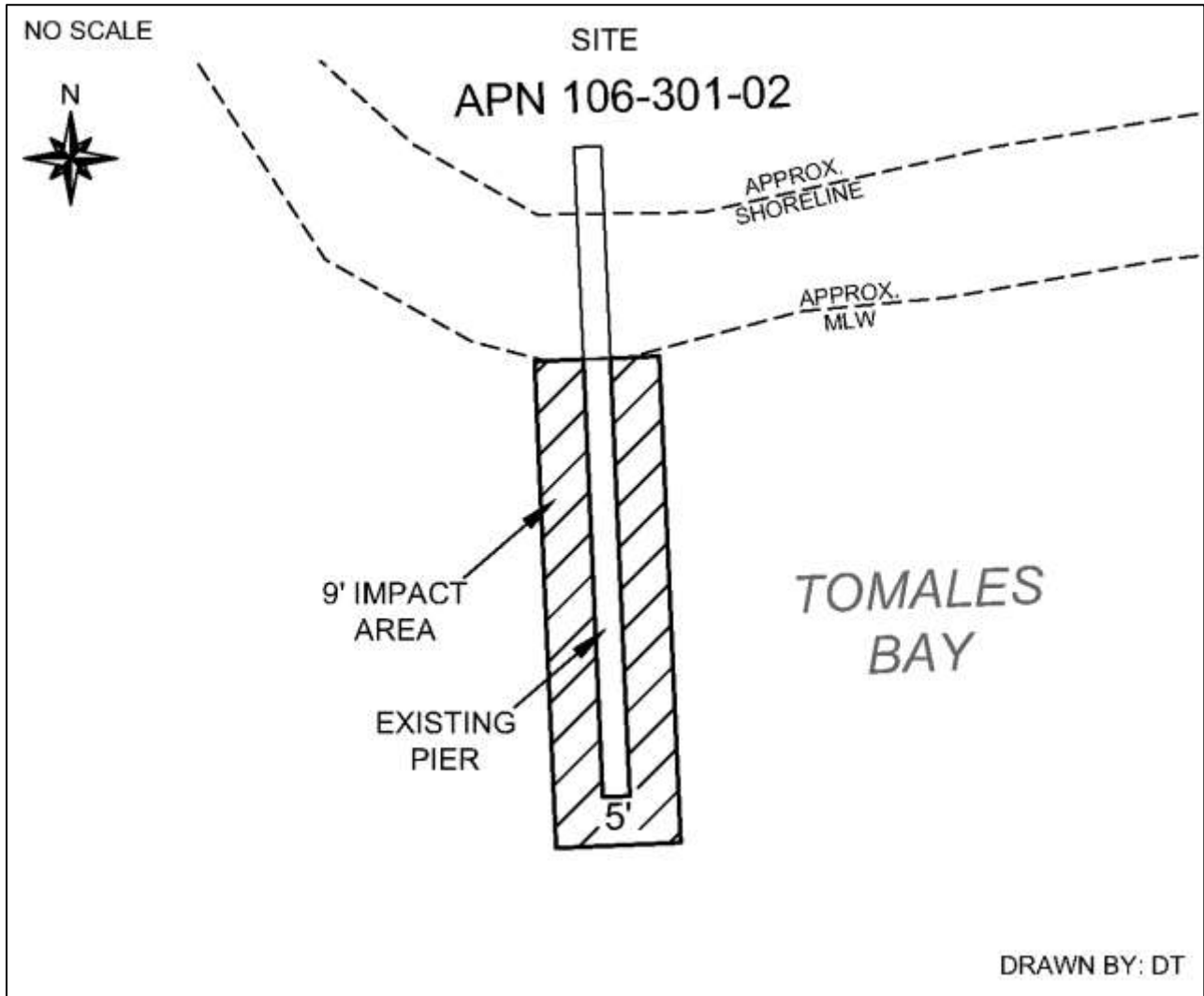
Figure 1. Location



AUTHORIZED USE:

Use of an existing 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 7, 2026.

CONSIDERATION:

\$275 per year, with an annual Consumer Price Index adjustment; and \$198 for the unauthorized occupation of State land for the period prior to April 7, 2026.

SPECIFIC LEASE PROVISIONS:

- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from July 14, 2025, to April 6, 2026.
- Lessee may not exclude other littoral owners from reasonable access to the authorized Improvements.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 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 February 20, 2015, the Commission authorized issuance of a General Lease – Recreational Use to Eugene John Maffucci, Trustee, Eugene John Maffucci 1998 Revocable Trust, for the continued use and maintenance of an existing pier ([Item 60](#)). That lease expired on July 14, 2025.

The Applicant is now applying for a General Lease – Recreational Use for the use of an existing pier.

The adjacent upland parcel is jointly owned. At present, the Applicant holds the majority of ownership in the adjacent upland parcel and holds all possessory interest in the recreational pier. The other fractional owners of the upland parcel also have rights to use the pier. Staff recommend authorizing a lease to the Applicant with the condition that the Applicant may not exclude other littoral owners from access to the pier.

Staff recommend issuance of a new lease beginning April 7, 2026, and that the Commission accept compensation from the Applicant in the amount of \$198 for the unauthorized occupation of State land for the subject facilities for the period prior to April 7, 2026. Additionally, the lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, from July 15, 2025 to April 6, 2026, ensuring the State is protected.

The subject facilities are located directly waterward of the upland property and occupy a relatively small area of the bay. The proposed lease will not interfere with

navigation or substantially interfere with any Public Trust needs at this time or for the term of the lease.

The pier serves to facilitate recreational boating. Recreational boating is a water dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. 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:

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. <https://opc.ca.gov/wp-content/uploads/2024/05/California-Sea-Level-Rise-Guidance-2024-508.pdf> 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 an existing pier subject to the proposed lease, located in Tomales Bay, near Marshall, Marin County.

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 Point Reyes 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 Point Reyes

Year	Intermediate-High (feet)	High (feet)
2040	0.7	0.8
2060	1.6	2.0
2080	3.0	4.1
2100	4.8	6.6

Source: Table 5, 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 the pier to higher water levels and stronger wave runup, overtopping, and erosion.

As a result, the pier 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 pier pilings, causing structural instability. 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 pier may experience increased damage from waves breaking closer and stronger to shore.

RECOMMENDATIONS:

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 believe 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 interest of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is 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 subject improvements and restore the premises to their 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 15061 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 INTEREST:

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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$198 for the unauthorized occupation of State land for the period prior to April 7, 2026.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 7, 2026, for a term of 10 years, for the use of an existing pier; annual rent in the amount of \$275 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.