

Staff Report 38

APPLICANT:

Leona H. Pedersen, Trustee of the Lorenze W. and Leona H. Pedersen Trust dated July 12, 2007

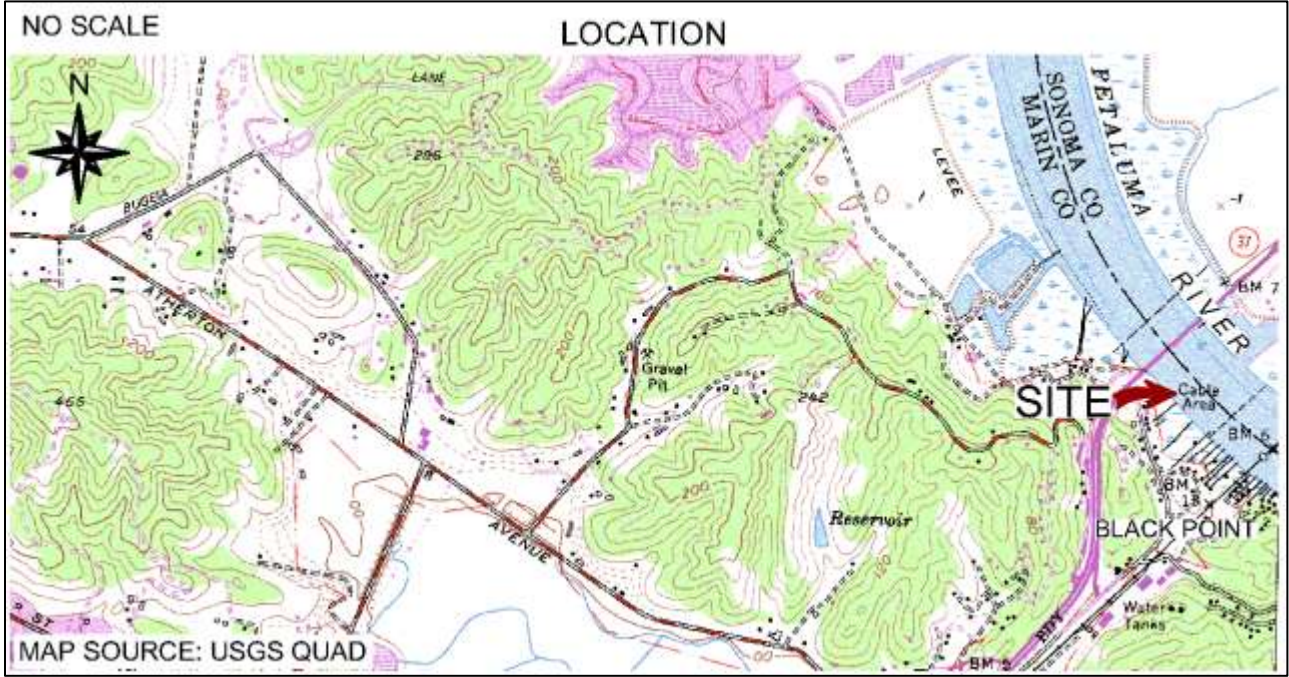
PROPOSED ACTION:

Issuance of a General Lease - Other.

AREA, LAND TYPE, AND LOCATION:

Filled and unfilled sovereign land in the Petaluma River, adjacent to 136 Harbor Drive, Novato, Marin County (as shown in Figure 1).

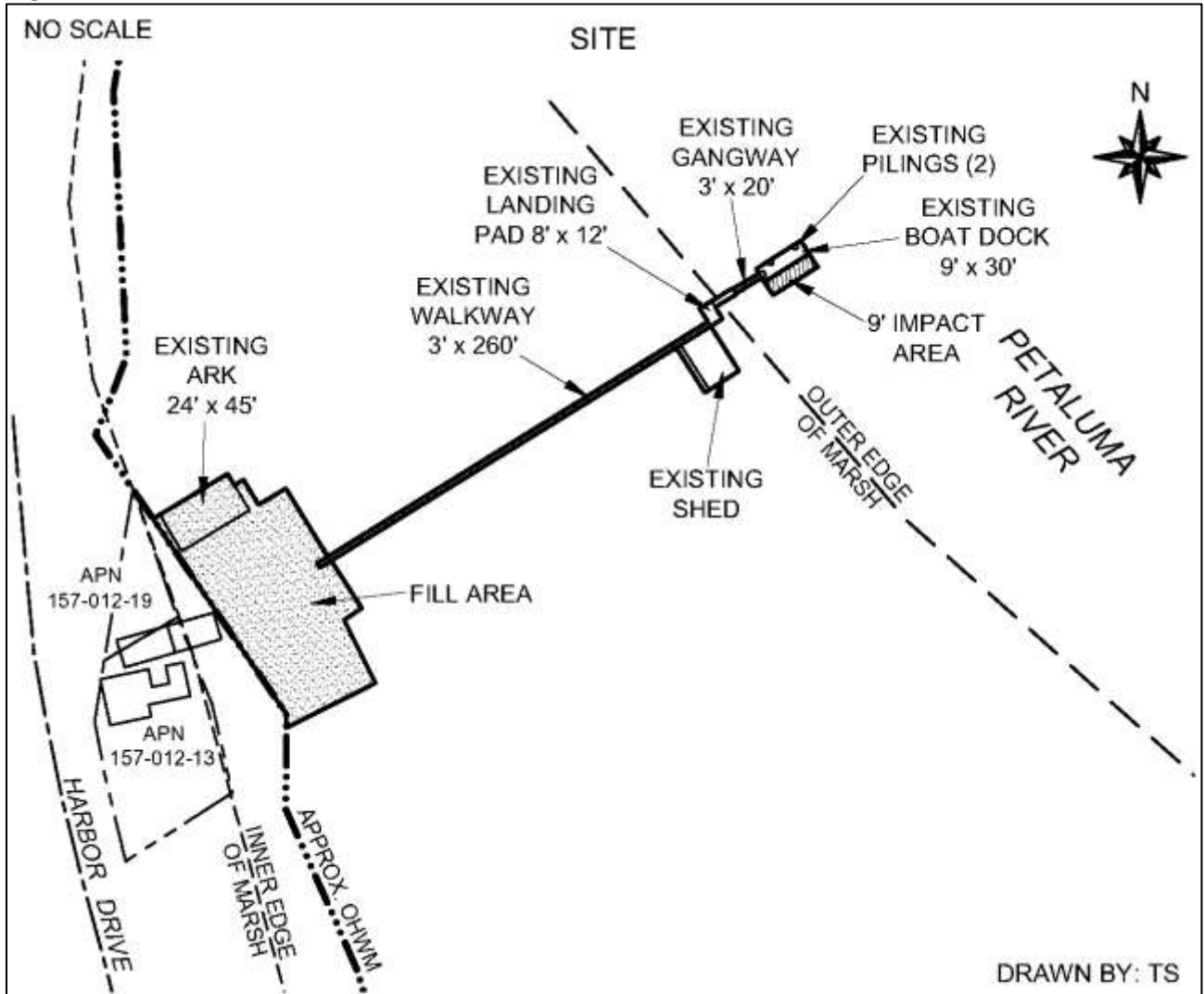
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, walkway, shed, stationary ark, and fill (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 January 15, 2026.

CONSIDERATION:

\$4,314 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- The existing stationary ark and related structures shall not be expanded and no new structures shall be constructed without prior written authorization.
- If any existing non-water dependent improvements suffer damage from any cause that exceeds more than 50 percent of their base value as determined by the lease terms, those improvements shall be removed and shall not be repaired or replaced. Allowable repairs must be commenced within one year of when they are damaged.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of State-owned lands, from January 15, 2025 through January 14, 2026.

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, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 23, 2015, the Commission authorized the issuance of a General Lease – Other to Leona H. Pedersen, as Trustee of the Lorenze W. and Leona H. Pedersen Trust dated July 12, 2007, for the use and maintenance of an existing uncovered floating boat dock, walkway, shed, and stationary ark previously authorized by the Commission; and existing fill not previously authorized by the Commission ([Item 51](#)). This lease expired on January 14, 2025.

The Applicant is now applying for a General Lease – Other for the use of an existing boat dock, walkway, shed, stationary ark, and fill, in the Petaluma River, adjacent to 136 Harbor Drive, Novato, Marin County. For continuity, staff recommends starting the new lease on January 15, 2026. Accounting records show that the Applicant submitted payment to cover the rental period though January 14, 2027. Staff recommends applying this payment to the first years rent and billing the Applicant for the remaining balance.

The proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation from January 15, 2025 to January 14, 2026, ensuring the State is protected.

The Applicant owns the uplands adjoining the lease premises. The boat dock, shed, and appurtenant facilities are privately owned and maintained and 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 stationary ark and fill are not associated with traditional Public Trust uses. While stationary arks and fill are generally disfavored, improvements that have been in place for years have been permitted, if, as in this instance, they do not significantly interfere with Public Trust needs and do not substantially interfere with public right of navigation or access. However, the lease includes provisions that the stationary ark may not be expanded or rebuilt if substantially damaged.

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 California's coastal and inland waterways now. Likely impacts to the lease premises include, but are not limited to, sea level rise, saltwater intrusion, prolonged drought, extreme heat, and changes to the intensity and timing of precipitation events. These impacts can exacerbate natural hydrological processes such as erosion, scour, and sedimentation. These impacts may affect the existing boat dock, walkway, shed, stationary ark, and fill.

DATA & PROJECTIONS:

Water levels in tidally-influenced rivers will rise as sea levels rise. 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. 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 (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.

In addition to rising seas, warmer temperatures have led California and the Southwest region to experience a megadrought from 2000 to 2022, measured as the driest 22 years in the past 1200 years, and more megadroughts are projected through the end of the century ([Fifth National Climate Change Assessment: Southwest Region, 2023](#)). Hotter and drier conditions have led to declines in snowpack volumes, higher-elevation snow lines, earlier snowmelt, and reduced overall runoff. Streamflow and river volumes are lower and will be drawn down farther as temperatures continue to rise and demand for water increases. Despite the region’s increasing aridity, flooding from extreme precipitation events is projected to increase, attributed to earlier snowmelt, sea level rise, and more intense and frequent atmospheric rivers. Minor and moderate flooding (flooding events defined as disruptive to damaging), attributed to higher water levels, is expected to increase five to ten orders of magnitude by 2100, according to [NOAA’s 2022 Sea Level Rise Technical Report](#).

ANALYSIS:

The lease premises are likely to experience more extreme conditions over the lease term than in the past, due to climate change. Changes to the timing and amount of runoff from the higher elevations of the watershed, stronger storm surge, and rising water levels will result in higher flood risks. Increased channel erosion and undercutting from more intense precipitation and floods may compromise bank stability. Structures on the lease premises may be exposed to saltier water and corrode faster than before. Conversely, drought could lower water levels for longer

portions of the year and expose structures that were historically designed to be submerged to more air, wind, and heat. They could cease to function as intended, as water-related, water-dependent infrastructure (e.g., fixed docks could become disconnected from the water). Floating structures may be more adaptable to changing water levels than those that are fixed, but all structures may be at increased risk for damage from exposure to extreme heat and floods.

RECOMMENDATIONS:

To reduce the likelihood of adverse impacts to the lease premises and improvements, the lessee should consider the following adaptation strategies to improve resiliency to climate change: 1) reduce erosion along the riverbank by planting or restoring native vegetation (shrubs, trees); 2) inspect fixed structures frequently and monitor for degradation, replacing damaged parts when necessary and elevating or relocating structures when exposure to flooding compromises structural function and integrity; and 3) monitor floating structures for corrosion and degradation, especially joints, brackets, hinges, and piling hoops, and replace them as necessary. Any future construction or activities on State land would require separate authorization from the Commission. For more information regarding nature-based strategies, please refer to the [2023 Shoreline Adaptation and the Public Trust](#) report.

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 the Public Trust needs at this location, at this time, and for the term of the lease; and 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 may be required to remove the 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 14, section 15301.

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

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 14, section 15301.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

1. Find that the continuing use of the existing boat dock and appurtenant facilities does not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine.
2. Find that the continuing use of the existing shed, stationary ark, and fill 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 and time.
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to the Applicant beginning January 15, 2026, for a term of 10 years, for the use of an existing boat dock, walkway, shed, stationary ark, and fill; annual rent in the amount of \$4,314, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.