

**STAFF REPORT
C47**

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12/03/18
PRC 3869.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Lucy M. Stevenot; Todd Stevenot, and Anne Catharine Sandbach

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 128 Beattie Avenue, near Novato, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing walkway, float, and deck.

LEASE TERM:

10 years, beginning December 3, 2018.

CONSIDERATION:

\$128 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503 and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a Recreational Pier Lease to Evelyn M. Campbell ([Item C01, May 10, 2007](#)). That lease expired on October 27, 2017. On November 29, 2017, the upland was deeded to Todd Stevenot and Anne Catharine Sandbach. On May 31, 2018, a

STAFF REPORT NO. C47 (CONT'D)

transfer of 85 percent interest of the upland was deeded to Lucy M. Stevenot, with the remaining 15 percent interest held by Todd Stevenot and Anne Catharine Sandbach. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing walkway, float, and deck in the Petaluma River.

The Applicant will remit compensation for the occupation of State land in the amount of \$132, for the time period of November 29, 2017, the day of upland ownership transfer to December 2, 2018, the day preceding issuance of the proposed new lease.

The proposed lease contains similar facilities as the prior lease. The walkway and the float facilities are designed for recreational fishing and boating. Recreational fishing and boating are water-dependent and 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 lands (Pub. Resources Code, § 6503.5).

The deck supports a private residential use and is 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 land where such encroachments do not significantly interfere with the Public Trust needs and values. The subject deck presents a minimal encroachment on State-owned sovereign land of merely 16.37 square feet.

These facilities have existed for many years at this location; the facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. Upon termination of the lease, the lessee may be required to remove any improvements 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.

STAFF REPORT NO. **C47** (CONT'D)

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Petaluma River, in a tidally influenced site consisting of low-elevation reclaimed floodplains. This area is vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of a walkway, float, and deck. The risk of flood exposure for the lease premises is likely to increase with time.

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 Francisco¹

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: ¹ Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, as stated in *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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and 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. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced.

STAFF REPORT NO. **C47** (CONT'D)

Finally, in rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could increase the likelihood of damage to the fixed components (walkway and deck) and could be susceptible to damage from rising seas and flooding events during the term of the lease. In addition, the fixed structures could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. These structures may also experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. Although the salt marsh habitat currently provides some bank protection, it is also at risk of accelerated deterioration from higher and stronger currents and floods. The float will be adaptable to variable water levels, allowing it to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts, but may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to 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 Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. 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).

STAFF REPORT NO. **C47** (CONT'D)

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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 INTERESTS:

1. Find that the existing and, for a limited period, continuing use and maintenance of the existing walkway and float will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of a deck is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant for the occupation of State land in the amount of \$132, for the time period of November 29, 2017 to December 2, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 3, 2018, for a term of 10 years, for the use and maintenance of an existing walkway, float, and deck, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$128 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3869.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to Rancho De Novato, patented April 10, 1866, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing walkway, float and deck lying adjacent to those parcels as described in Grant Deed, recorded May 31, 2018 in Document Number 2018-0019460 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river per Hunter Club Tract pursuant to provisions of Chapter 1834, Statutes of 1953.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/01/18 by the California State Lands Commission Boundary Unit



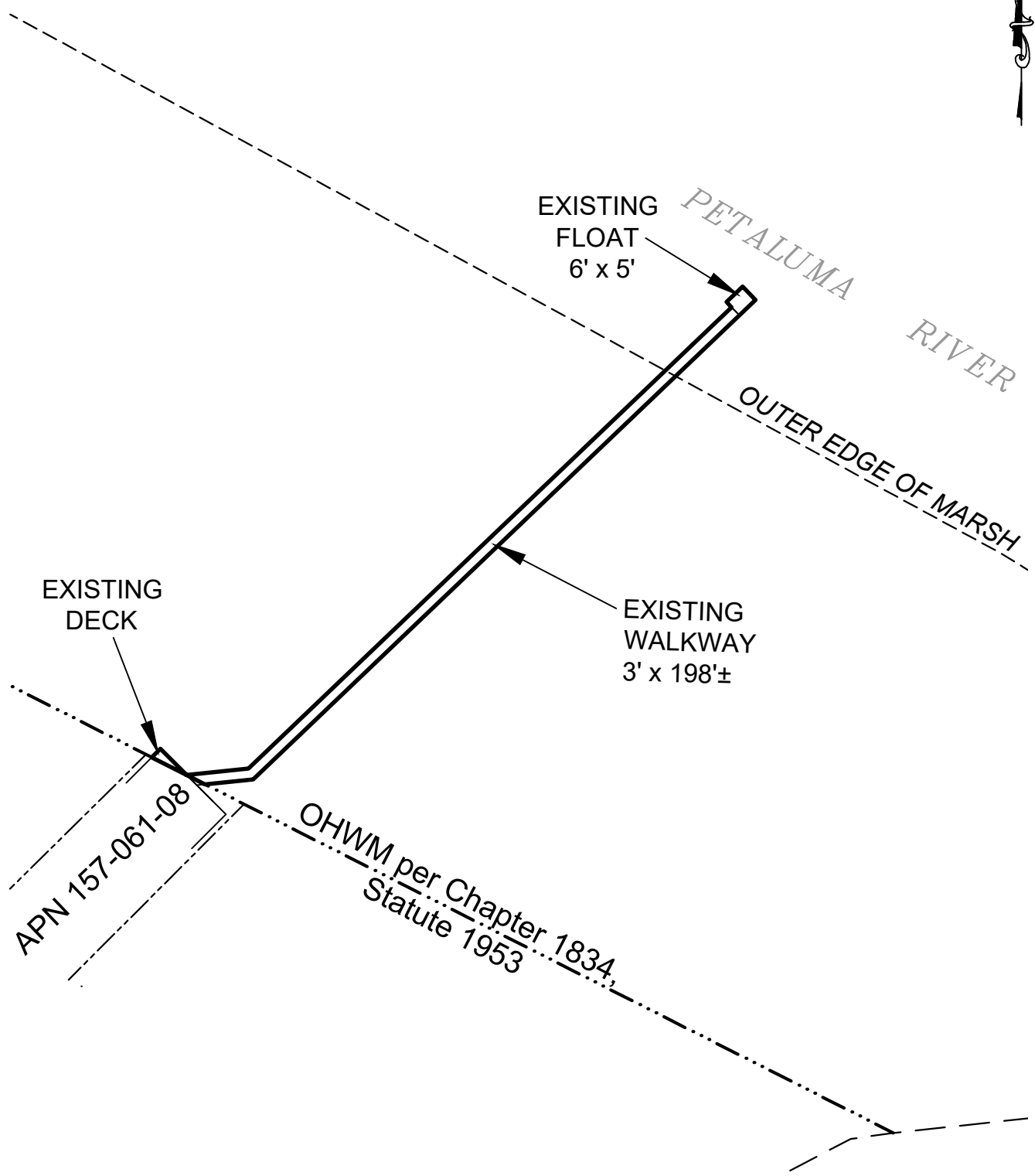


EXHIBIT A

Page 2 of 2

TS 10/01/18

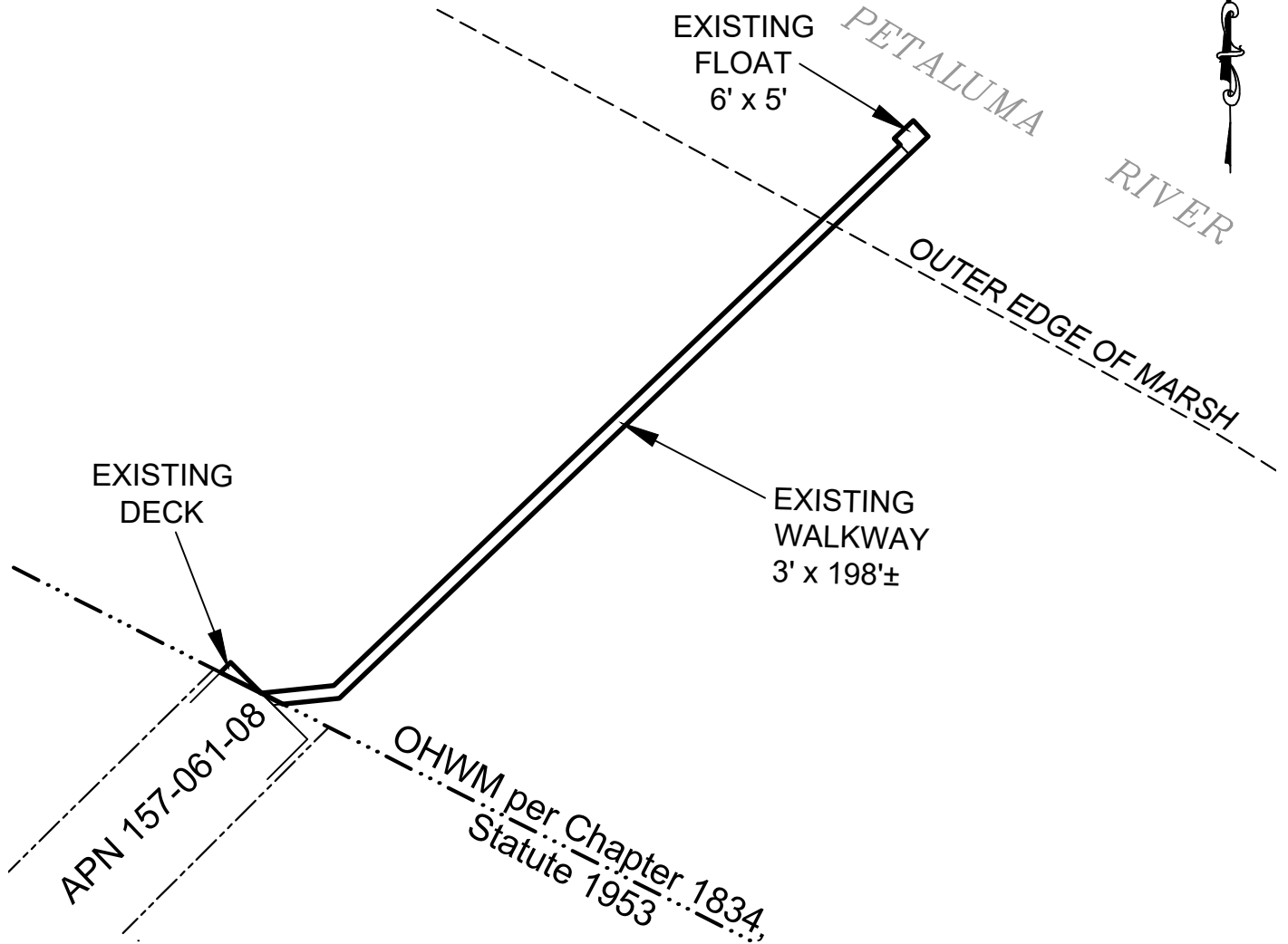
LAND DESCRIPTION PLAT
 PRC 3869.1, STEVENOT
 MARIN COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

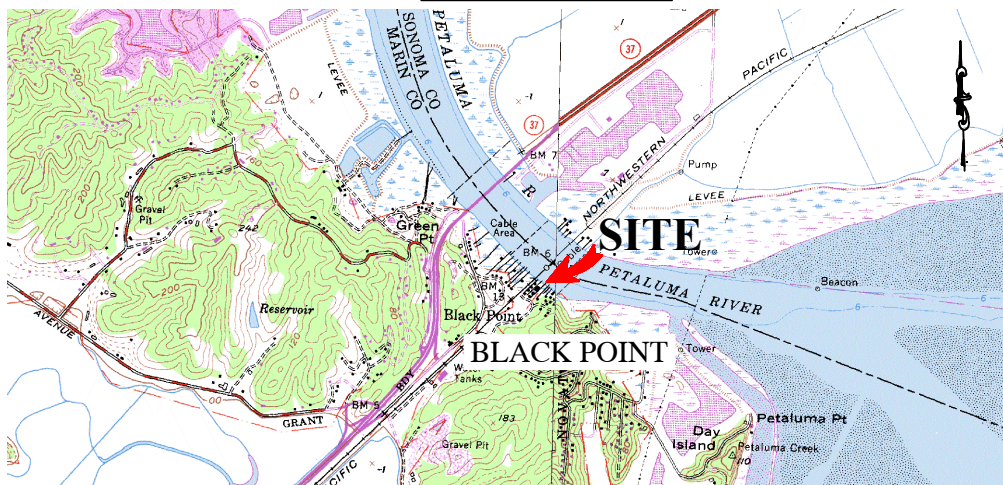
SITE



128 BEATTIE AVE., NOVATO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3869.1
 STEVENOT
 APN 157-061-08
 GENERAL LEASE-
 RECREATIONAL USE
 MARIN COUNTY



SITE

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

TS 10/01/18