

STAFF REPORT

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06/28/19

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PRC 3582.1
G. Asimakopoulos

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Anna Young, Trustee of the Anna Young Trust Dated April 21, 1997; Cattarina Birgitta Van Den Toorn, Trustee of the Cattarina Birgitta Van Den Toorn Separate Property Trust Dated December 2, 2002; and Linnea Alberta Bondoc, Trustee of the Linnea Alberta Bondoc Separate Property Trust Dated December 2, 2002

APPLICANT/ASSIGNEE:

Lauren Vogt

AREA, LAND TYPE, AND LOCATION:

0.038 acre, more or less, of sovereign land in the Petaluma River, adjacent to 55 Havenwood Road, near Novato, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing raised walkway, access ramp, and fixed boat dock.

LEASE TERM:

10 years, beginning December 2, 2013.

CONSIDERATION:

\$322 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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 December 2, 2013, the Commission authorized a General Lease – Recreational Use to Anna Young, Trustee of the Anna Young Trust Dated April 21, 1997; Cattarina Birgitta Van Den Toorn, Trustee of the Cattarina Birgitta Van Den Toorn Separate Property Trust Dated December 2, 2002; and Linnea Alberta Bondoc, Trustee of the Linnea Alberta Bondoc

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Separate Property Trust Dated December 2, 2002, for the continued use and maintenance of an existing raised walkway, access ramp, and uncovered fixed boat dock ([Item C23, December 03, 2013](#)). The lease will expire on December 1, 2023.

On February 12, 2019, ownership interest in the upland parcel was transferred to Lauren Vogt. The Applicant is now applying for an assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, February 12, 2019.

The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

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, will be at higher risk of flood exposure given projected scenarios of sea-level rise, and may require a new levee in the future to protect development from a 100-year flood event with approximately 4.6 feet of sea-level rise¹.

The lease premises consist of a walkway, access ramp, and a fixed boat dock. The existing facilities are in good condition. All components of these facilities are fixed and, due to the low elevation, could be susceptible to damage from rising seas and flooding events.

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

¹ See Heberger, Matthew, and Herrera, Pablo, 2009, Needed Protection Structures: The Impacts of Sea Level Rise on the California Coast, Pacific Institute, Oakland CA. Authors estimated the required protection structures as "necessary" based on flooding extents, generated by the Pacific Institute and Noah Knowles (USGS/SCRIPPS), overlaid on high resolution aerial imagery (NAIP 2005). <https://pacinst.org/publication/the-impacts-of-sea-level-rise-on-the-california-coast/>

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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. 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 structures within the lease premises during the term of the lease. All of the facilities are fixed and will likely need reinforcement or replacement in the future to withstand higher levels of flood exposure. The lease is a 10-year General Lease – Recreational Use that began on December 2, 2013 and may be subject to the climate change effects of the projected sea-level rise scenario provided above. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2023 if an application is submitted for a new lease and would be based on projected sea-level rise scenarios at that time.

Conclusion:

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for

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the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for assignment 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 existing raised walkway, access ramp, and boat dock and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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.
3. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

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AUTHORIZATION:

Authorize the assignment of Lease No. PRC 3582.1, a General Lease – Recreational Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Anna Young, Trustee of the Anna Young Trust Dated April 21, 1997; Cattarina Birgitta Van Den Toorn, Trustee of the Cattarina Birgitta Van Den Toorn Separate Property Trust Dated December 2, 2002; and Linnea Alberta Bondoc, Trustee of the Linnea Alberta Bondoc Separate Property Trust Dated December 2, 2002, to Lauren Vogt; effective February 12, 2019.

EXHIBIT A

PRC 3582.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to Swamp and Overflowed Lands Survey 115, patented April 29, 1874, Marin County, State of California and more particularly described as follows:

All those lands underlying the existing boat dock, walkway, gangway and pilings, lying adjacent to those parcels as described in Grant Deed, recorded February 12, 2019 as Serial Number 20190004054 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 04/25/19 by the California State Lands Commission Boundary Unit





PETALUMA RIVER

EXISTING BOAT DOCK
17' X 7'

10' IMPACT AREA

EXISTING GANGWAY
20' X 4'

EXISTING PILINGS

EXISTING WALKWAY
425' X 3'

O.H.W.M.

INNER EDGE OF MARSH

OUTER EDGE OF MARSH

APN 157-041-13

EXHIBIT A

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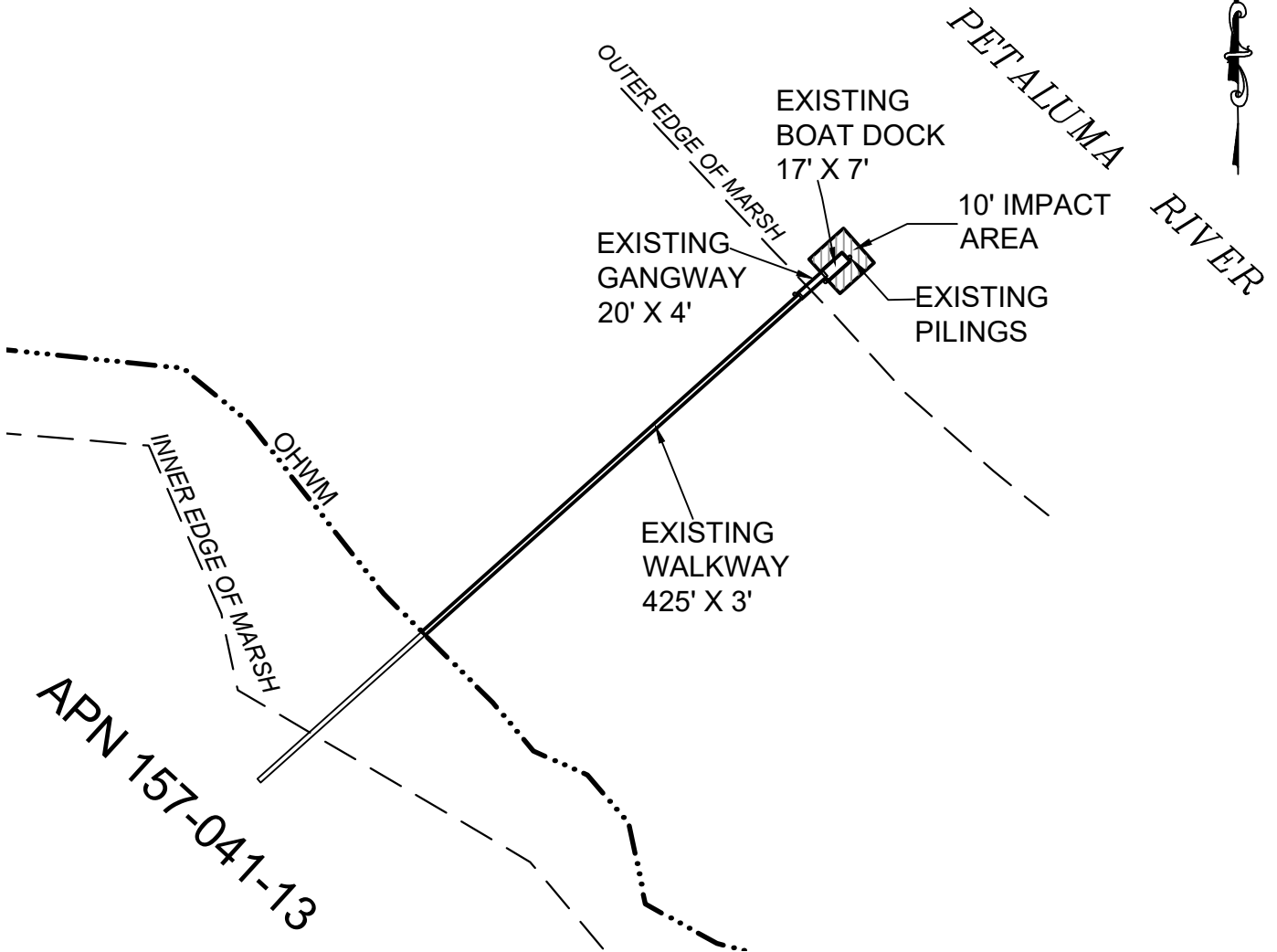
LAND DESCRIPTION PLAT
PRC 3582.1, LAUREN VOGT
MARIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

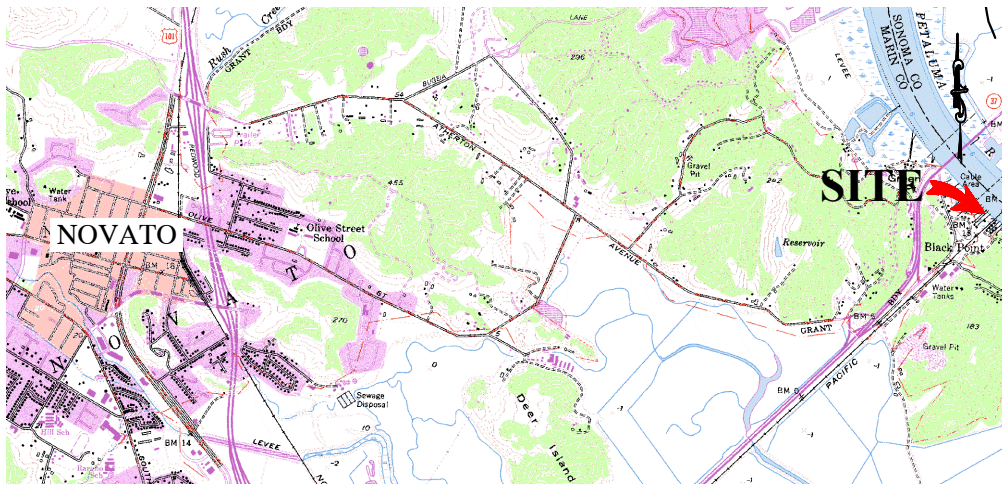
SITE



55 HAVENWOOD ROAD, CITY OF NOVATO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3582.1
 LAUREN VOGT
 APN 157-041-13
 GENERAL LEASE-
 RECREATIONAL USE
 MARIN COUNTY



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.