

**CALENDAR ITEM
C21**

A 4
S 2

03/29/12
WP 6003.1
V. Caldwell

**CONSIDER RATIFICATION OF UNAUTHORIZED ASSIGNMENTS,
ACCEPTANCE OF A QUITCLAIM DEED, AND
ISSUANCE OF A GENERAL LEASE – RESIDENTIAL USE**

LESSEES:

Jean Audrey Bullock and James Benbow Bullock as Trustees of the Jean Audrey Bullock and James Benbow Bullock Revocable Living Trust

APPLICANT:

Richard Benbow Bullock

AREA, LAND TYPE, AND LOCATION:

0.02 acres, more or less, of sovereign land and a Public Trust Easement within patented tidelands located in Mare Island Strait, adjacent to 12 Sandy Beach Road, near the city of Vallejo, Solano County.

AUTHORIZED USE:

Continued use and maintenance of an existing recreational deck and a portion of the residence.

LEASE TERM:

10 years, beginning March 29, 2012.

BACKGROUND:

On April 1, 1868, the State issued patents for Tideland Survey numbers 10 and 11 for certain lands in Solano County. These patents were issued for land located between the ordinary high tide line and the ordinary low tide line, but remain subject to the State's Public Trust Easement. In ensuing years, the patented area was subdivided into numerous small lots, which were developed with homes built upon pilings in an area known as Sandy Beach.

The boundaries of the Tideland Surveys were litigated by private land owners in November 1945; however, the State was not a party to the suit. The court adjudicated the waterward boundaries of the tideland lots at the ordinary low water mark. State Lands Commission staff surveyed the private judgment line in

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1955 and it was found that many of the porches, decks, and portions of some residences encroached below the adjudicated low water line, onto sovereign lands.

Some property owners at Sandy Beach, whose structures encroach below the adjudicated low water line onto State-owned lands, have a lease from the Commission. Staff is in the process of notifying those other homeowners, who are encroaching on State lands and do not have a lease, that they must obtain a lease or remove the structures from State lands. It is the position of the Commission and staff supported by advice from the office of the Attorney General, that private residential use is a use that is not consistent with the Public Trust under which the Commission holds State-owned sovereign lands, and may be authorized at Sandy Beach only to the extent the structures now exist, and for so long as the trust lands are not needed for Public Trust purposes.

Because portions of the improvements are situated below the adjudicated low water line and at this time do not appear to interfere with the public's needs or constitute a nuisance, staff recommends issuance of the proposed lease. The Lease contains specific provisions for uses within the Public Trust Easement (those lands located between the adjudicated low water line and the high water line) and provides for the removal of improvements from fee and easement lands under certain circumstances.

CONSIDERATION:

\$7,125 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance: Combined single limit coverage of not less than \$1,000,000.

Bond:

\$20,000.

Other:

The proposed lease contains specific provisions prohibiting expansion of the residential structures and requiring removal of the residential structures from the State's sovereign land under specific circumstances.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

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2. On March 8, 1994, the Commission authorized a 19-year General Lease – Recreational and Residential Use to James Benbow Bullock. The lease expires on March 5, 2013.
3. On May 3, 1995, the Commission authorized an assignment of the Lease to Jean Audrey Bullock and James Benbow Bullock as Trustees of the Jean Audrey Bullock and James Benbow Bullock Revocable Living Trust.
4. On June 16, 2009, the upland was deeded to James Benbow Bullock, Trustee of the 2009 Amendment and Restatement of Trust B under the Jean Audrey Bullock and James Benbow Bullock Revocable Living Trust, without Commission authorization. The lease was never assigned to the new ownership.
5. On September 13, 2010, Carol Ann Bullock, Successor Trustee of the 2009 Amendment and Restatement of Trust B under the Jean Audrey Bullock and James Benbow Bullock Revocable Living Trust, deeded the upland property to Richard Benbow Bullock. Richard Benbow Bullock has provided the Commission with a quitclaim deed for the existing lease. Staff recommends acceptance of the quitclaim deed executed by Richard Benbow Bullock and issuance of a new lease.
6. Because the residential use and related improvements were previously approved by the Commission, the improvements constitute a relatively minor encroachment below the adjudicated low water line, the use does not currently interfere with the public's needs, and the improvements do not appear to constitute a nuisance, staff recommends issuance of the lease subject to the conditions contained therein, including but not limited to, the specific provisions referenced above.
7. **Ratification of Assignments and Acceptance of Lease Quitclaim Deed** The staff recommends that the Commission find that the subject ratification of assignments and acceptance of lease quitclaim does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

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8. **Issuance of New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined that this activity 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 15300 and California Code of Regulations, Title 2, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Ratification of Assignments and Acceptance of Lease Quitclaim

Deed: Find that the subject ratification of assignments and acceptance of lease quitclaim is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of New Lease: 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).

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SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Ratify the prior unauthorized assignments of Lease No. PRC 6003.1, effective March 28, 2012.
2. Authorize acceptance of a Lease Quitclaim Deed for Lease No. PRC 6003.1, effective March 28, 2012.
3. Authorize a General Lease – Residential Use to Richard Benbow Bullock beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing residential deck and a portion of the residence 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 \$7,125, with the State reserving the right to fix a different rent periodically during the term of the lease as provided in the lease; liability insurance coverage in the amount of no less than \$1,000,000; and surety bond in the amount of \$20,000.

EXHIBIT A

PRC 6003.1

LAND DESCRIPTION

Two (2) parcels of land situate in Mare Island Strait, lying adjacent to and being a portion of Parcel 18 Sandy Beach Cabin Sites as shown on that Record of Survey of the same name filed February 14, 1944 in Book 1 of Maps Pages 1 and 2, Solano County Records, City of Vallejo, County of Solano, State of California, more particularly described as follows:

Parcel 1 – Submerged Land

COMMENCING at the most northerly corner of said Parcel 18; thence South 63°52'58" West 95.70 feet along the northerly line of said Parcel 18 to the intersection of said northerly line with the ordinary low water mark of Mare Island Strait, said ordinary low water mark depicted on that Survey of the Ordinary Low Water Mark along the Banks of the Mare Is. Strait filed May 28, 1959 in Book 7 of Surveys Page 19 of said County, and set forth per judgment in Superior Court Case No. 19259 of said County, said intersection also being the POINT OF BEGINNING; thence South 63°52'58" West 29.18 feet along said northerly line and the southwesterly prolongation of said northerly line; thence South 28°01'45" East 42.62 feet along a line parallel with said ordinary low water mark to the intersection of said parallel line with the southwesterly prolongation of the southerly line of said Parcel 18; thence North 60°53'03" East 29.17 feet along said southwesterly prolongation and said southerly line to the intersection of said southerly line and said ordinary low water mark; thence North 28°01'45" West 41.09 feet along said ordinary low water mark to the POINT OF BEGINNING.

Parcel 2 – Tide Land

All that portion of said Parcel 18 lying between the ordinary high water mark and ordinary low water mark as set forth per judgment in Superior Court Case No. 19259 of said County.

BASIS OF BEARINGS for this description is California Coordinate System of 1983, Zone II. All distances are grid distances.

END OF DESCRIPTION

Prepared 3/20/2012 by the Boundary Unit of the California State Lands Commission.



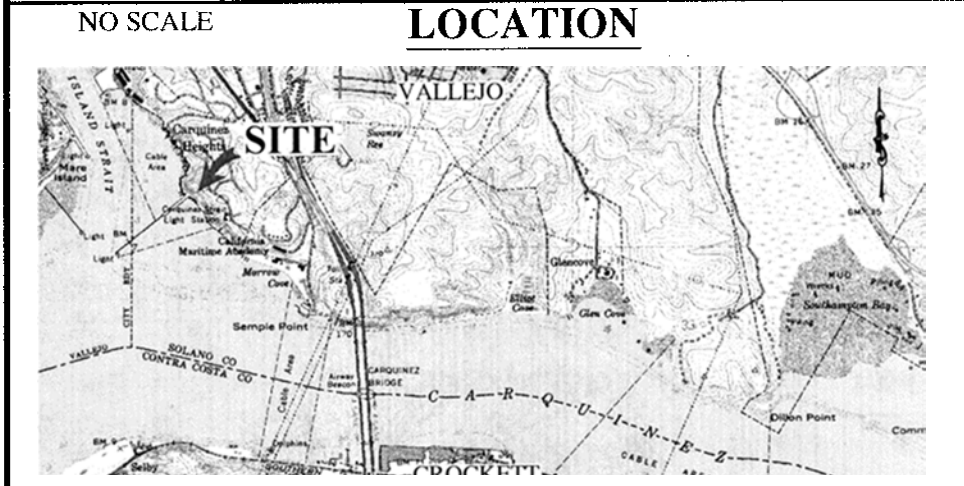
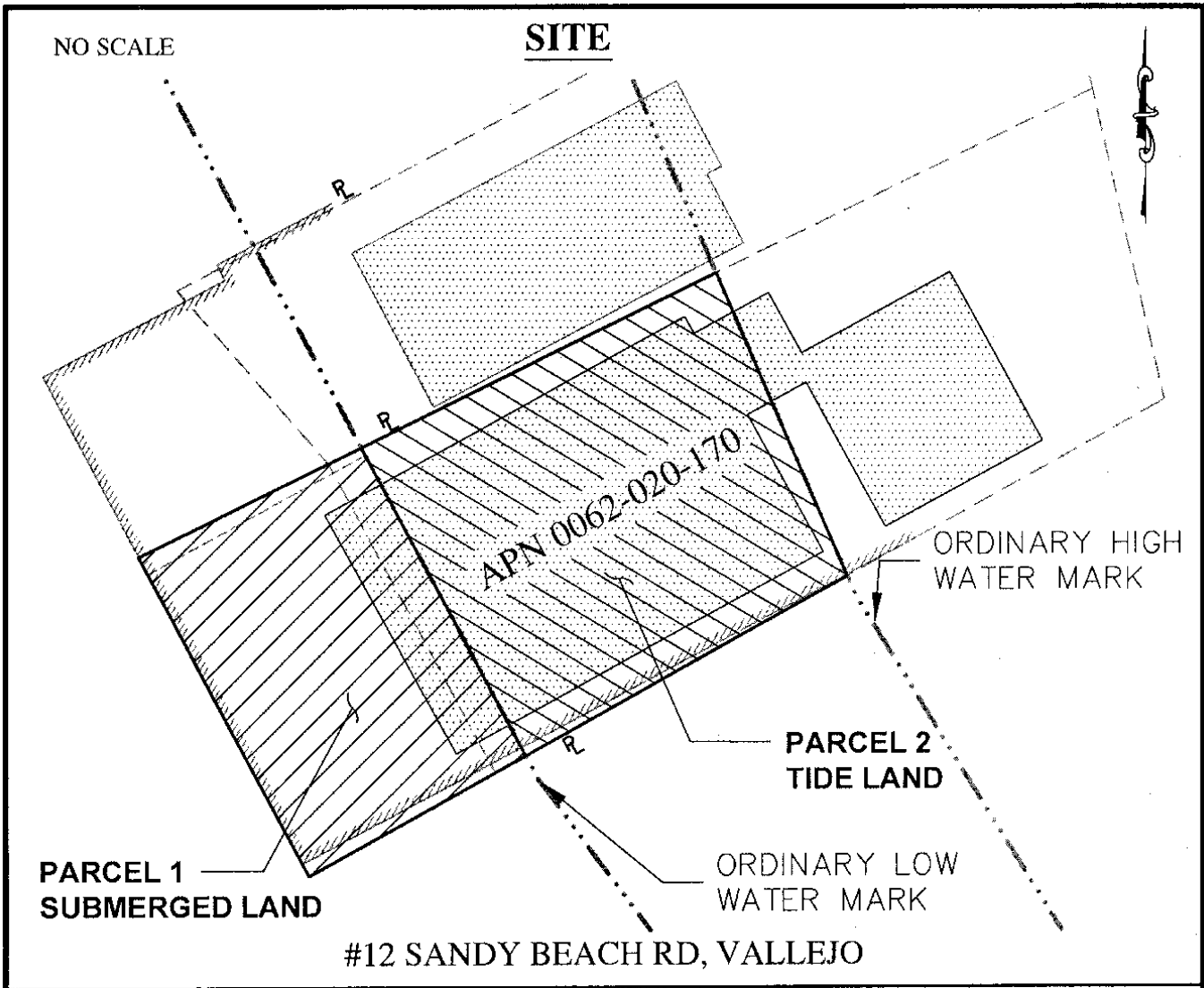


Exhibit B

PRC 6003.1
 BULLOCK
 APN 0062-020-170
 GENERAL LEASE -
 RESIDENTIAL USE
 SOLANO COUNTY



MAP SOURCE: USGS QUAD

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.