

**CALENDAR ITEM  
C31**

A 6  
S 3

12/05/12  
PRC 7008.9  
D. Simpkin

**RESCISSION OF APPROVAL OF A GENERAL LEASE – PUBLIC AGENCY USE  
AND ISSUANCE OF A NEW GENERAL LEASE – PUBLIC AGENCY USE**

**LESSEE:**

Marin County Flood Control and Water Conservation District

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land along the west bank of Novato Creek and Black Point Antenna Field, near the city of Novato, Marin County

**AUTHORIZED USE:**

Continued use and maintenance of an existing flood control levee and a storm water detention basin and placement of water velocity and surface level sensors.

**LEASE TERM:**

25 years, beginning September 1, 2011.

**CONSIDERATION:**

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**OTHER PERTINENT INFORMATION:**

1. Lessee owns the upland adjoining the lease premises.
2. On January 26, 2012, the Commission authorized the issuance of a 25-year General Lease – Public Agency Use, Lease No. PRC 7008.9, to the Marin County Flood Control and Water Conservation Control District (District), for the continued use and maintenance of an existing flood control levee and a stormwater detention basin.
3. Subsequent to the Commission's authorization but prior to the execution of the lease, the District informed staff that it anticipates conducting a watershed study in the next five years and wishes to include the placement of water velocity and surface level sensors in the lease. The

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District has requested that the prior authorization be rescinded and a new General Lease – Public Agency Use be authorized.

4. **Rescission of Lease:** The staff recommends that the Commission find that the subject rescission of lease 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.

5. **Flood Control Levee and Storm Water Detention Basin:** The staff recommends that the Commission find that this activity is exempt from the requirements of the 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.

6. **Water Velocity and Surface Level Sensors:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, Title 2, section 2905, subdivision (e)(5).

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

7. 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

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Rescission of Lease:** Find that the subject rescission of lease 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.

**Flood Control Levee and Stormwater Detention Basin:** 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).

**Water Velocity and Surface Level Sensor:**

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 6, Information Collection; California Code of Regulations, Title 2, section 2905, subdivision (e)(5).

**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. Rescind its January 26, 2012, authorization of a General Lease – Public Agency Use to the Marin County Flood Control and Water Conservation District.
  
2. Authorize issuance of a General Lease – Public Agency Use to the Marin County Flood Control and Water Conservation District, for a term of 25 years, for the continued use and maintenance of an existing flood control levee, storm water detention basin and the placement of water velocity and surface level sensors as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration is the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the best interest of the State.

EXHIBIT A

WP 7008.9

LAND DESCRIPTION

Two Parcels of State owned lands lying in the County of Marin, State of California, more particularly described as follows:

PARCEL 1

A strip of California State lands along Novato Creek, Marin County, California, said strip of land being 105 feet in width, the southwesterly line of which is described as follows:

BEGINNING at a point from which the northeast corner of Parcel 1 of the map filed for record in 16-PM-67, Marin County Official Records, bears N 77° 11' 07" W, 127.87 feet; thence from said point of beginning S 76° 54' 25" E, 840.48 feet to the beginning of a tangent curve concave to the southwest and having a radius of 1540 feet; thence through a central angle of 32° 10' 25" along said curve 864.76 feet; thence tangent to said curve S 44° 44' 00" E, 553.69 feet to the beginning of a tangent curve concave to the northeast and having a radius of 1060 feet; thence through a central angle of 33° 57' 04" along said curve 628.11 feet; thence tangent to said curve S 78° 41' 04" E, 1386.82 feet to the beginning of a tangent curve concave to the southwest and having a radius of 1540 feet; thence through a central angle of 31° 04' 55" along said curve 835.42 feet; thence tangent to said curve S 47° 36' 09" E, 1175.28 feet; thence S 43° 47' 38" E, 388.27 feet to the northwesterly right of way line of State Highway 37 and the end of the herein described line.

This description is based on the California Coordinate System, Zone 3.

PREPARED AUGUST 20, 1986 BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

PARCEL 2

A parcel of California State proprietary land near Black Point, Marin County, California, described as follows:

Parcels 1 and 2 of that land described in the Quitclaim Deed from the United States of America to the State of California recorded January 17, 1985 in File No. 85002145, Official Records of Marin County.

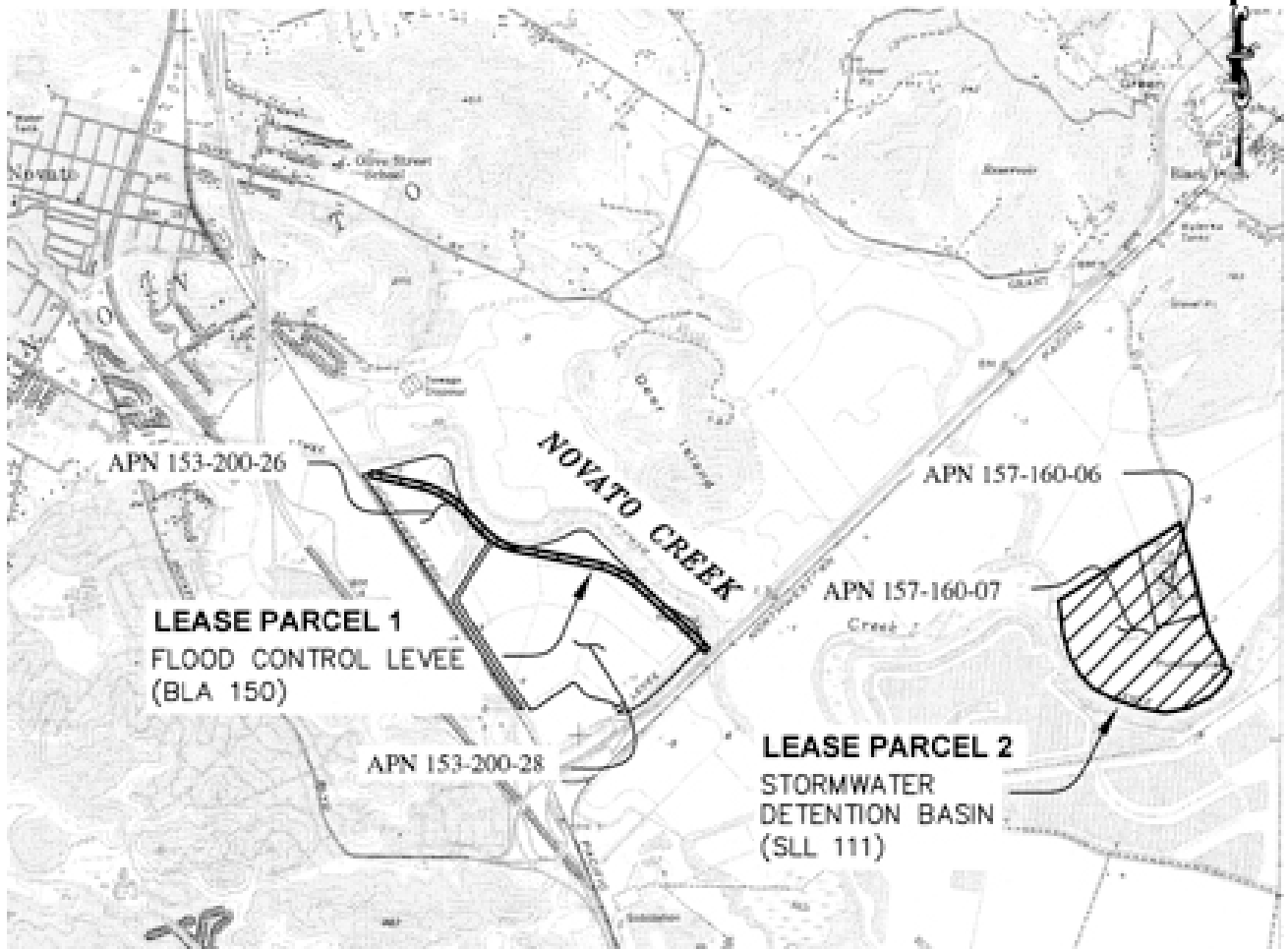
TOGETHER WITH the perpetual easement along the existing private road connecting the site with the San Rafael-Napa Highway as said easement is described in the above mentioned recorded Quitclaim Deed.

END OF DESCRIPTION

PREPARED MAY 28, 1986 BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

NO SCALE

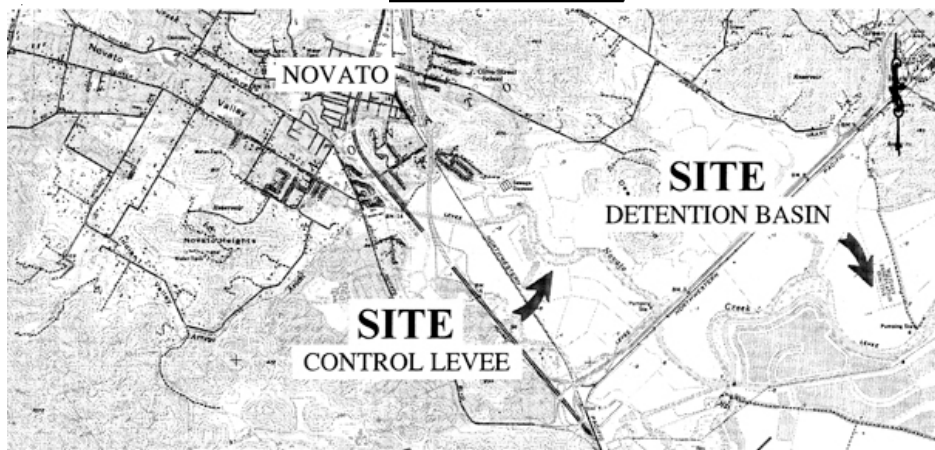
### SITE



NOVATO CREEK, NEAR NOVATO

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### **Exhibit B**

WP 7008.9  
 MARIN COUNTY FLOOD  
 CONTROL & WATER  
 CONSERVATION DISTRICT  
 APN 157-160-06 & 07  
 153-200-26 & 28  
 GENERAL LEASE - PUBLIC  
 AGENCY 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.

DJP 01/04/12