

**STAFF REPORT
C16**

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08/17/17
PRC 5694.1
N. Lee

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Kelly F. Crane

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Petaluma River, adjacent to 5636 Lakeville Highway, Lakeville, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock with two wood pilings, gangway, walkway, landing, and shed previously authorized by the Commission, and use and maintenance of an existing storage building and deck with shed not previously authorized by the Commission.

LEASE TERM:

10 years, beginning July 1, 2017.

CONSIDERATION:

\$356 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
3. Restrictions on the expansion or rebuild of the deck if substantially destroyed.

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.

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Public Trust and State's Best Interests Analysis:

On December 3, 1999, the Commission authorized a General Lease – Recreational Use to Mercedes See ([Item C34, December 3, 1999](#)). On June 20, 2005, the Commission authorized a continuation of the annual rent ([Item C28, June 20, 2005](#)). On June 26, 2006, the Commission authorized an assignment of the lease to Kelly F. Crane ([Item C56, June 26, 2006](#)). That lease expired on June 30, 2009. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of existing floating boat dock with two wood pilings, gangway, walkway, landing, and shed previously authorized by the Commission, and an existing storage building and deck with shed not previously authorized by the Commission.

After the prior lease expired, the Applicant continued to pay the annual rent in effect during the term of that lease through June 30, 2015. Staff recommends the Commission approve a new lease beginning July 1, 2017, and accept additional holdover rent in the amount of \$425 for the period beginning July 1, 2015, through June 30, 2017, the day before the new lease, if authorized by the Commission, becomes effective.

The upland parcel adjoining the lease premises is owned by John Gilardi and the Applicant has a right to use the upland. The lease includes provisions requiring the Applicant maintain the right to utilize the upland to access the lease premises. The storage building and deck with shed have existed for many years but were not previously authorized by the Commission. Staff recommends including these facilities in the lease.

With the exception of the deck and sheds, these facilities are used for boating. Recreational boating is a water-dependent activity and 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 lands (Pub. Resources Code, § 6503.5).

The deck and sheds are not associated with traditional Public Trust uses. While new decks are generally disfavored, decks that have been in place for years have been permitted, if, as in this instance, they do not significantly interfere with Public Trust needs. The deck with one shed is attached to the home situated on the upland parcel and the other shed is attached to the walkway. These improvements do not interfere with the public right of navigation or access because they do not extend over the present channel of the river. However, the lease contains provisions that the deck may not be expanded or rebuilt if substantially destroyed.

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The subject facilities do not significantly alter the land; the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Therefore, by issuing this lease, the Commission would gain a contractual obligation from the Applicant to remove the deck and other improvements if the Commission requests removal. Based on the foregoing, staff believes that the existing facilities will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

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. It 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:

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 floating boat dock, two wood pilings, gangway, walkway, landing, shed, storage building, and deck with shed. The risk of flood exposure for the lease premises is likely to increase with time. The region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). 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* (California Natural Resources Agency 2014), 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

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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. 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, landing, shed, storage building, and deck with shed) 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 vegetation currently provides some bank protection, it is also at risk of accelerated deterioration from higher and stronger currents and floods. The floating boat dock and gangway may 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, or for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine and 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)

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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 15300.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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:

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:

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

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. Authorize acceptance of holdover rent in the amount of \$425 for the period of July 1, 2015, through June 30, 2017.

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2. Authorize issuance of a General Lease – Recreational Use to Kelly F. Crane beginning July 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing uncovered floating boat dock with two wood pilings, gangway, walkway, landing, and shed previously authorized by the Commission, and use and maintenance of an existing storage building and deck with shed not previously authorized by the Commission, 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 \$356, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5694.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to those lands described in Rancho Petaluma patented November 19, 1874, County of Sonoma, State of California and more particularly described as follows:

All those lands underlying an existing floating boat dock, gangway, landing, walkways, storage buildings, sheds, deck and walkway remnants lying adjacent to the left bank of said river and being adjacent to and southwesterly of that parcel of land as described in that Grant Deed, recorded July 11, 2002 in Document Number 2002105091 in Official Records of said County.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 6/26/15 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



APN
068-060-050
RANCHO PETALUMA (1860)

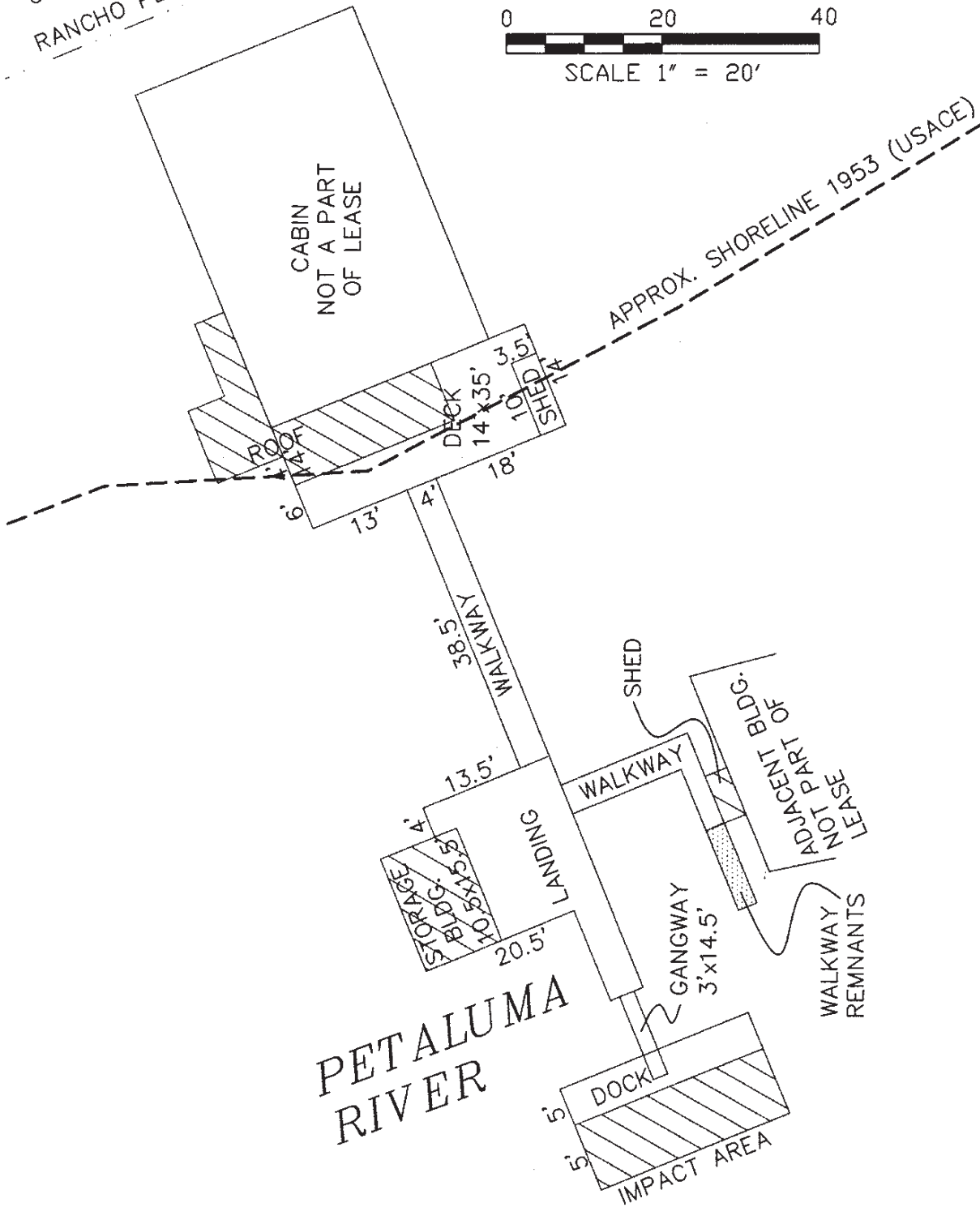
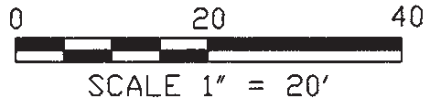
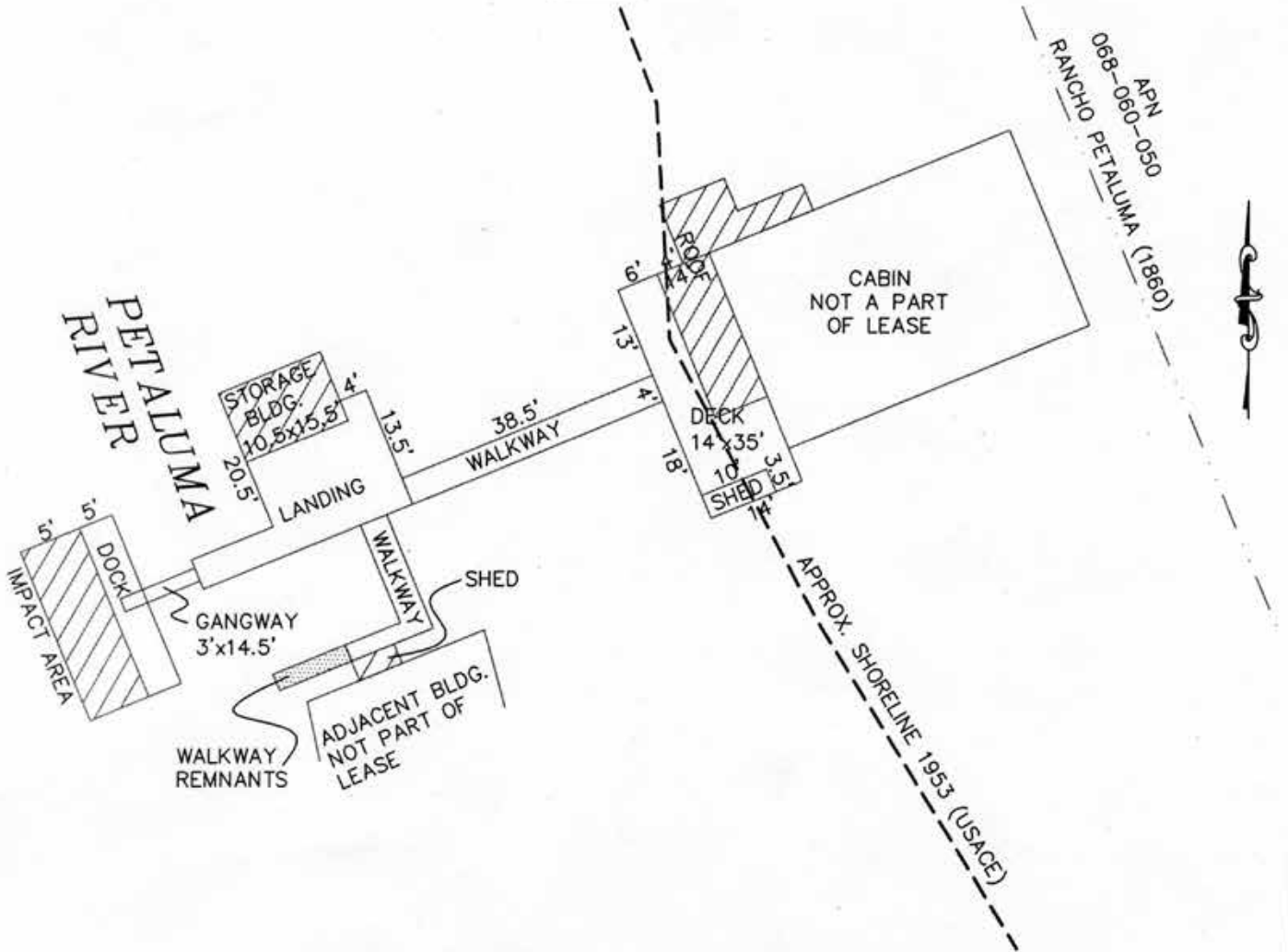


EXHIBIT A



NO SCALE

SITE



5636 Lakeville Hwy, Lakeville, Petaluma River

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5694.1

CRANE

APN 068-060-050

GENERAL LEASE -
RECREATIONAL USE
SONOMA 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.

MJF 6/09/15