

**STAFF REPORT  
C39**

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10/19/17  
PRC 6049.1  
V. Caldwell

**ASSIGNMENT OF LEASE**

**ASSIGNOR:**

Kenneth Toch, Successor Co-Trustee to Marilyn Toch; and Karen L. Waggerman, Co-Trustee under the Toch Revocable Inter Vivos Trust Dated April 8, 1983

**ASSIGNEE:**

Add T. Kennon, Jr. and Betty A. Kennon, Trustee of the Add T. Kennon, Jr. and Betty A. Kennon Family Trust u/d dated October 24, 2011

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

Sovereign land in Mare Island Strait, adjacent to 7 Sandy Beach Road, near Vallejo, Solano County.

**AUTHORIZED USE:**

Continued use and maintenance of a portion of an existing residence, deck, and appurtenant facilities.

**LEASE TERM:**

30 years, beginning February 9, 2016.

**CONSIDERATION:**

\$232 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:**

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

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, and 6505.5; California Code of Regulations, title 2, section 2000, subdivision (b).

**Public Trust and State's Best Interests Analysis:**

On February 9, 2016, the Commission authorized a General Lease – Recreational and Residential Use to Marilyn Toch and Karen L. Waggerman, Co-Trustees under the Toch Revocable Inter Vivos Trust

## STAFF REPORT NO. **C39** (CONT'D)

Dated April 8, 1983 (Trust), for a portion of an existing residence, deck, and appurtenant facilities ([Item 47, February 9, 2016](#)). The lease will expire on February 8, 2046.

Marilyn Toch is incapacitated and Kenneth Toch is now the Successor Co-Trustee as provided by the Trust. On July 25, 2017, interest in the upland parcel was deeded to Add T. Kennon, Jr. and Betty A. Kennon, Trustee of the Add T. Kennon, Jr. and Betty A. Kennon Family Trust u/d dated October 24, 2011. The Assignee is now applying for an assignment of the lease. The assignment would be effective as of the date of the transfer, July 25, 2017.

The lease assignment will not result in a change in the use of public resources or the impacts thereto. Commission staff believes approval of this assignment is consistent 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 lease area is located in Mare Island Strait, which is a tidally-influenced site 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 area includes portions of a residence, deck, and appurtenant facilities.

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. The subject facilities are also classified within FEMA's Coastal High Hazard Area as an area currently subject to inundation by the 1-percent-annual-chance flood event, with additional hazards due to storm-induced velocity wave action.

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

**STAFF REPORT NO. C39 (CONT'D)**

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

The lease is a 30-year General Lease – Recreational and Residential Use that began on February 9, 2016, and may be subject to the climate change effects of the projected scenario of 1 to 2 feet of sea-level rise (from year 2000 levels) by 2050 provided above. Regular maintenance, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation, dislodgement, or hazards from the electrical conduits. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2046 and would be based on projected sea-level rise scenarios at that time.

**Conclusion:**

For all the reasons above, Commission staff believes the assignment of this lease will not substantially interfere with the Public Trust needs at this location and at this time or the foreseeable term of the 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. Approval of the lease assignment is not a project as defined by the California Environmental Quality Act because they are administrative actions 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

STAFF REPORT NO. **C39** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

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

**AUTHORIZATION:**

Authorize the assignment of Lease No. PRC 6049.1, a General Lease – Recreational and Residential Use, of sovereign land as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; from Kenneth Toch, Successor Co-Trustee to Marilyn Toch; and Karen L. Waggerman, Co-Trustee under the Toch Revocable Inter Vivos Trust Dated April 8, 1983, to Add T. Kennon, Jr. and Betty A. Kennon, Trustee of the Add T. Kennon, Jr. and Betty A. Kennon Family Trust u/d dated October 24, 2011; effective July 25, 2017.

## **EXHIBIT A**

**PRC 6049.1**

### **LAND DESCRIPTION**

A parcel of submerged land situate in Mare Island Strait, City of Vallejo, County of Solano, State of California, lying adjacent to and within the external boundaries of Parcel 11 as shown on that certain Record of Survey titled "Sandy Beach Cabin Sites", filed February 14, 1944 in Book 1 of Maps, at Pages 1 and 2, Solano County Records, and being more particularly described as follows:

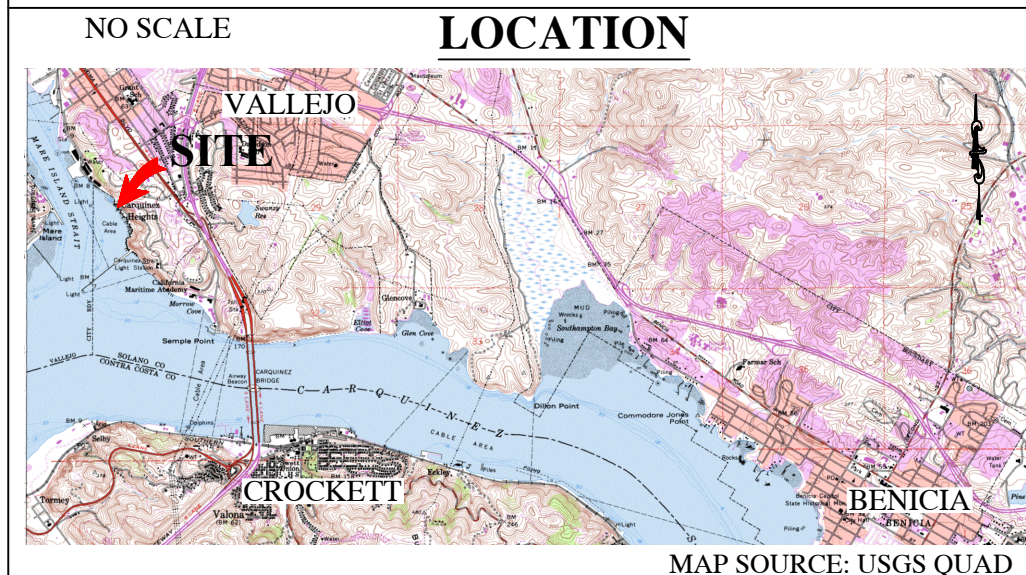
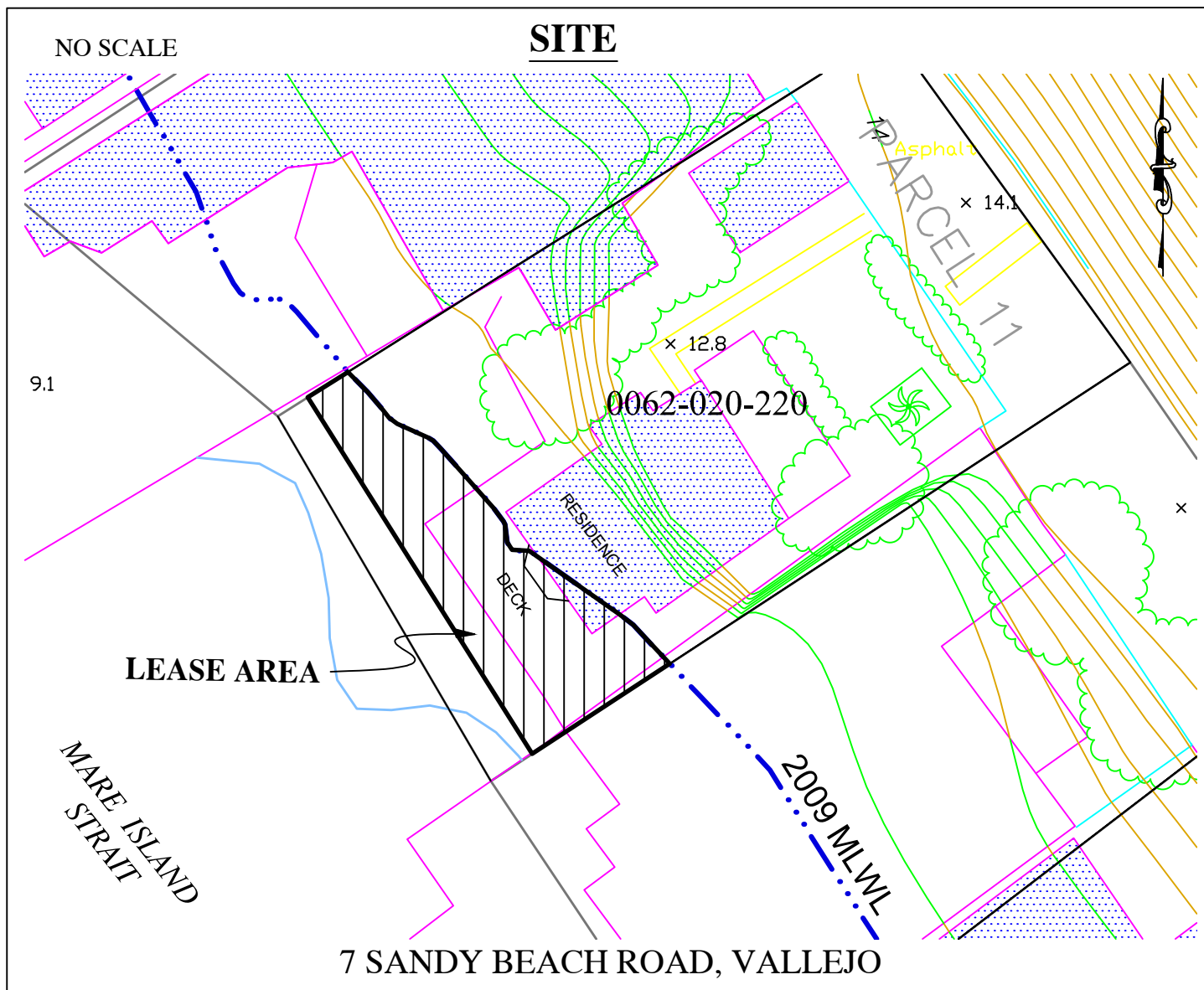
BEGINNING at the most northerly corner of said parcel; thence southwesterly along the northwesterly boundary and southwesterly prolongation thereof, 85.6 feet; thence leaving said line in a southeasterly direction perpendicular to said prolongation to a point on the southwesterly prolongation of the southeasterly boundary of said parcel; thence northeasterly along said southwesterly prolongation and the southeasterly boundary of said parcel, 88.9 feet to the easterly corner of said parcel; thence in a northwesterly direction along the northeasterly boundary of said parcel to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of Mare Island Strait.

### **END OF DESCRIPTION**

Prepared 01/11/2016 by the California State Lands Commission Boundary Unit.





## Exhibit B

PRC 6049.1

KENNON TRUSTEE

APN 0062-020-220

GENERAL LEASE -  
RESIDENTIAL &  
RECREATIONAL USE  
SOLANO COUNTY



TS 08/31/17

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.