

**STAFF REPORT
C32**

A 4
S 3

02/27/18
PRC 8361.1
M. Schroeder

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Natasha V. Sumner and Nicole Del Prado

APPLICANT/ASSIGNEE:

Dale W. Davis and Shere R. Davis

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to 1300 Milton Road, city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of two existing uncovered floating boat docks, ramp, six pilings, two 2-pile dolphins, and bank protection.

LEASE TERM:

10 years, beginning December 7, 2015.

CONSIDERATION:

Two Uncovered Floating Boat Docks, Ramp, Six Pilings, Two 2-Pile Dolphins: \$350 per year, with an annual Consumer Price Index adjustment.

Bank Protection: 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 interests.

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, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. C32 (CONT'D)

Public Trust and the State's Best Interests Analysis:

On February 9, 2016, the Commission authorized a General Lease – Recreational and Protective Structure Use to Natasha V. Sumner and Nicole Del Prado ([Item C10, February 9, 2016](#)). That lease will expire on December 6, 2025. On November 3, 2016, interest in the upland parcel was deeded to the Applicant. The Applicant agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease.

The lease facilities include two existing uncovered floating boat docks, ramp, six pilings, and two 2-pile dolphins used for boating in the Napa River. Recreational boating is water-dependent 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 subject structures do not significantly alter the land, and the lease assignment does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition.

The lease 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. The bank protection will maintain and improve the integrity of the Napa River channel, which will help protect the Public Trust resources of the Napa River for recreational and navigational use by the public.

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 lower Napa River, a tidally influenced site vulnerable to flooding at current sea levels that will be at higher risk of flood exposure given projected scenarios of sea-level rise.

The lease premises include two uncovered floating boat docks, a ramp, six pilings, two 2-pile dolphins, and bank protection. The existing facilities are in good condition. The fixed and moving components of the floating

STAFF REPORT NO. C32 (CONT'D)

boat dock and appurtenant facilities could be susceptible to damage from rising seas and flooding events. 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).

The lease premises are in an area that is designated as a Special Flood Hazard Zone by the Federal Emergency Management Agency. 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 lease is a 10-year General Lease – Recreational and Protective Structure Use that began on December 7, 2015, and may be subject to the climate change effects of the projected scenario of 1 foot of sea-level rise (from year 2000 levels) by 2030 provided above. Regular maintenance and implementing best management practices, 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 expires in 2025 if an application is submitted for a new lease and would be based on projected sea-level rise scenarios at that time.

Conclusion:

For all the reasons above, staff believes the assignment of the lease does not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

STAFF REPORT NO. **C32** (CONT'D)

OTHER PERTINENT INFORMATION:

1. The assignment of lease 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. Assignment of 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, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease assignment will not impair the public rights to navigation and fishing, or 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.

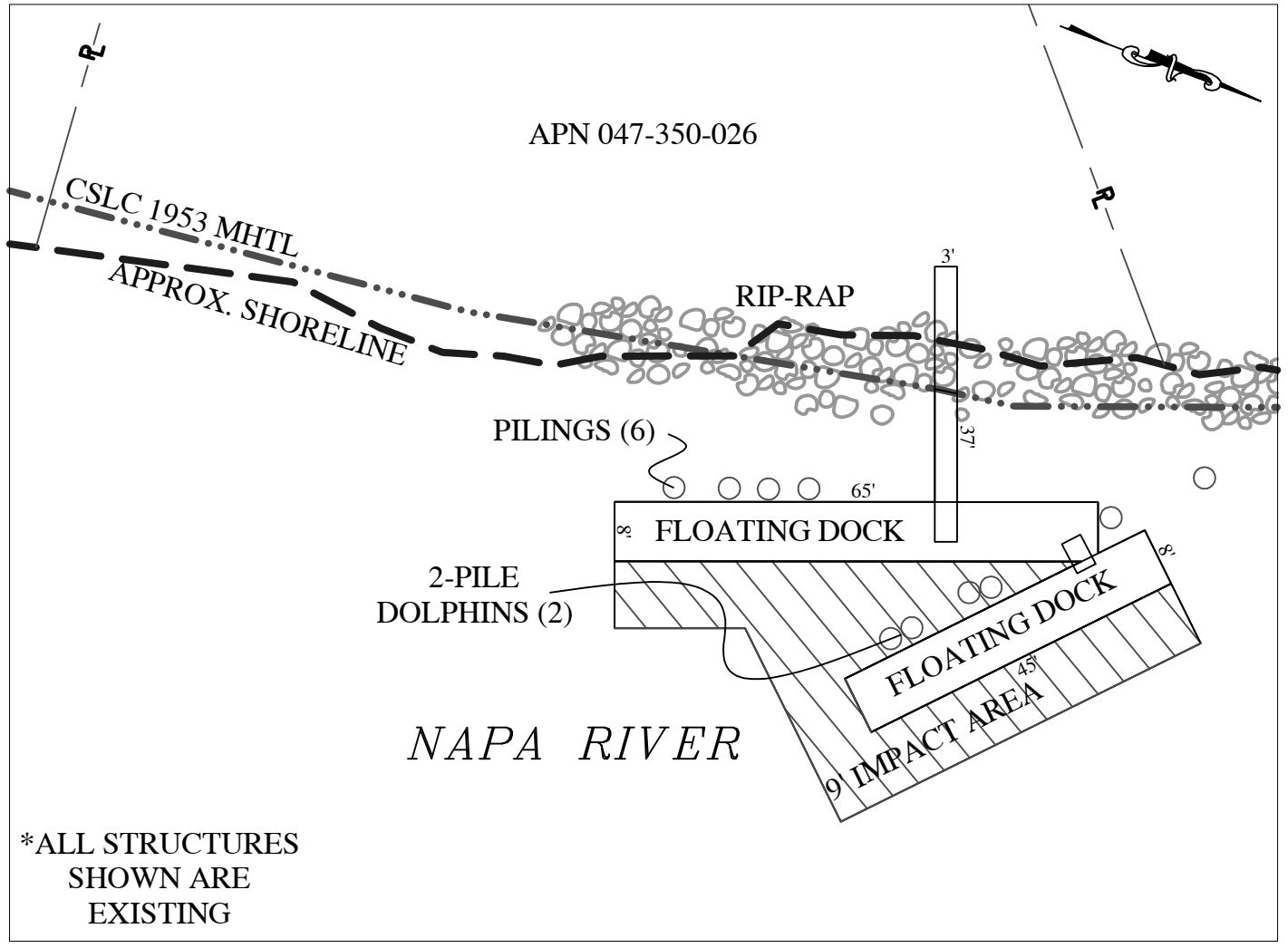
AUTHORIZATION:

Authorize the assignment of Lease No. PRC 8361.1, a General Lease – Recreational and Protective Structure Use, of sovereign land as shown on Exhibit A, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Natasha V. Sumner and Nicole Del Prado, to Dale W. Davis and Shere R. Davis; effective November 3, 2016.

NO SCALE

SITE

APN 047-350-026

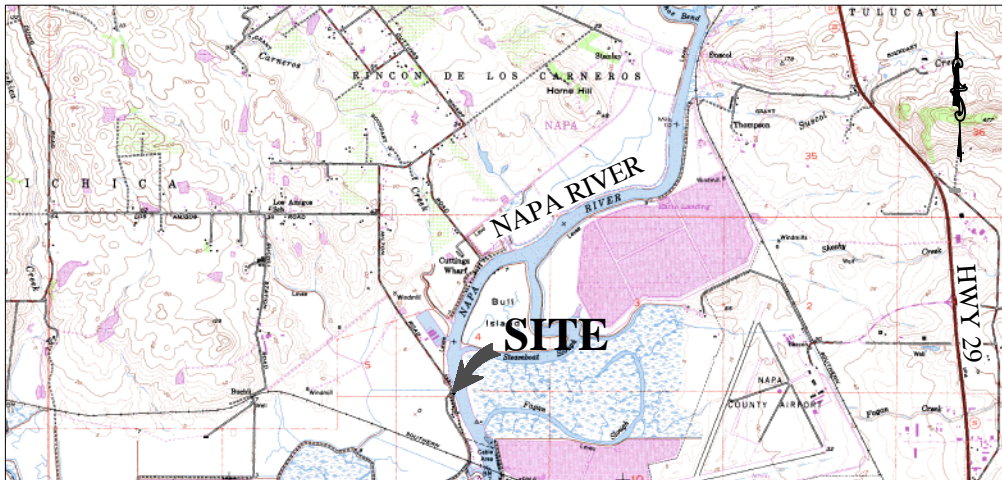


*ALL STRUCTURES SHOWN ARE EXISTING

1300 Milton Road, Napa

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8361.1
 DAVIS
 APN 047-350-026
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 NAPA COUNTY



MJF 1/11/18

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.