

**STAFF REPORT
C20**

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06/21/18
W 27138
J. Toy

GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Christopher McCook

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Russian River, adjacent to 21786 Moscow Road, near Monte Rio, Sonoma County.

AUTHORIZED USE:

Use and maintenance of an existing floating boat dock with ramp and two anchor cables and bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 21, 2018.

CONSIDERATION:

Floating boat dock, ramp, and two anchor cables: \$125 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:

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.

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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.

Public Trust and State's Best Interests Analysis:

On January 8, 2003, the upland property was deeded to Christopher McCook. The Applicant is applying for a General Lease – Recreational and Protective Structure Use for use and maintenance of an existing floating boat dock with ramp and two anchor cables and bank protection not previously authorized by the Commission.

In January 2017, flooding eroded the bank supporting the upland residence. On October 18, 2017, a letter of non-objection was issued to the Applicant for a stream bank restoration and protection project to protect against the undermining of the residence. The project to address the slumping stream bank required completion by the end of 2017 to avoid further catastrophic damage from impending winter storms and to minimize potential impacts to threatened and endangered salmonid species. Stabilization of the 169-foot-length of the stream bank included placement of riprap and vegetated coir lifts and rock. At the time of this project, staff became aware of the existing dock at this location.

The subject facilities are privately owned and maintained. The floating boat dock has existed for many years and is used for the docking and mooring of boats. Recreational boating is a water-dependent use that 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 land (Pub. Resources Code, § 6503.5). The bank protection will maintain and improve the integrity of the Russian River, which will help protect the Public Trust resources of the Russian River for recreational and navigational use by the public.

The proposed lease 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 from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's

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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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

Climate Change:

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures within the lease area are located along the Russian River within a tidally-influenced region. The subject facilities are vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level rise. The facilities associated with the lease area are identified in the above subject heading. As noted above, the bank within the lease area that supports the upland residence was recently subject to erosion due to flooding.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Russian River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. 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, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and

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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 uncovered floating dock is 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 to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The bank protection may need to be reinforced to withstand higher levels of flood exposure. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine 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. **Streambank Restoration, Protection, and Repair:** The North Coast Regional Water Quality Control Board (RWQCB), acting as the lead agency under the provisions of the California Environmental Quality Act (CEQA), determined that the project, as described above, was categorically exempt from CEQA pursuant to California Code of Regulations, title 14, section 15304, under Class 4, Minor Alterations to Land. A Notice of Exemption was filed to the State Clearinghouse on September 18, 2017 (SCH No. 2017098288). Staff concurs with the North Coast RWQCB's determination. Staff recommends the Commission also find that this activity is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. **Existing Floating Boat Dock:** 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 1,

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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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Streambank Restoration, Protection, and Repair: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Existing Floating Dock: 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).

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, 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 issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning June 21, 2018, for a term of 10 years, for the use and maintenance of an existing floating boat dock with ramp and two anchor cables and bank protection 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; consideration for the floating boat dock with ramp and two anchor cables: \$125 per year, with an annual Consumer Price Index

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adjustment; consideration for the 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27138

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Russian River, lying adjacent to Swamp and Overflow Surveys 555 and 570 in the County of Sonoma, State of California, and more particularly described as follows:

All those lands underlying an existing walkway, floating boat dock and two anchor cables adjacent to Parcel Three as described in Exhibit "A" that Grant Deed recorded as Book 20171116 Page 1381 filed November 16, 2017 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure lying adjacent to said parcel.

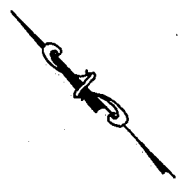
EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Russian River.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared March 19, 2018 by the California State Lands Commission Boundary Unit.





Russian River

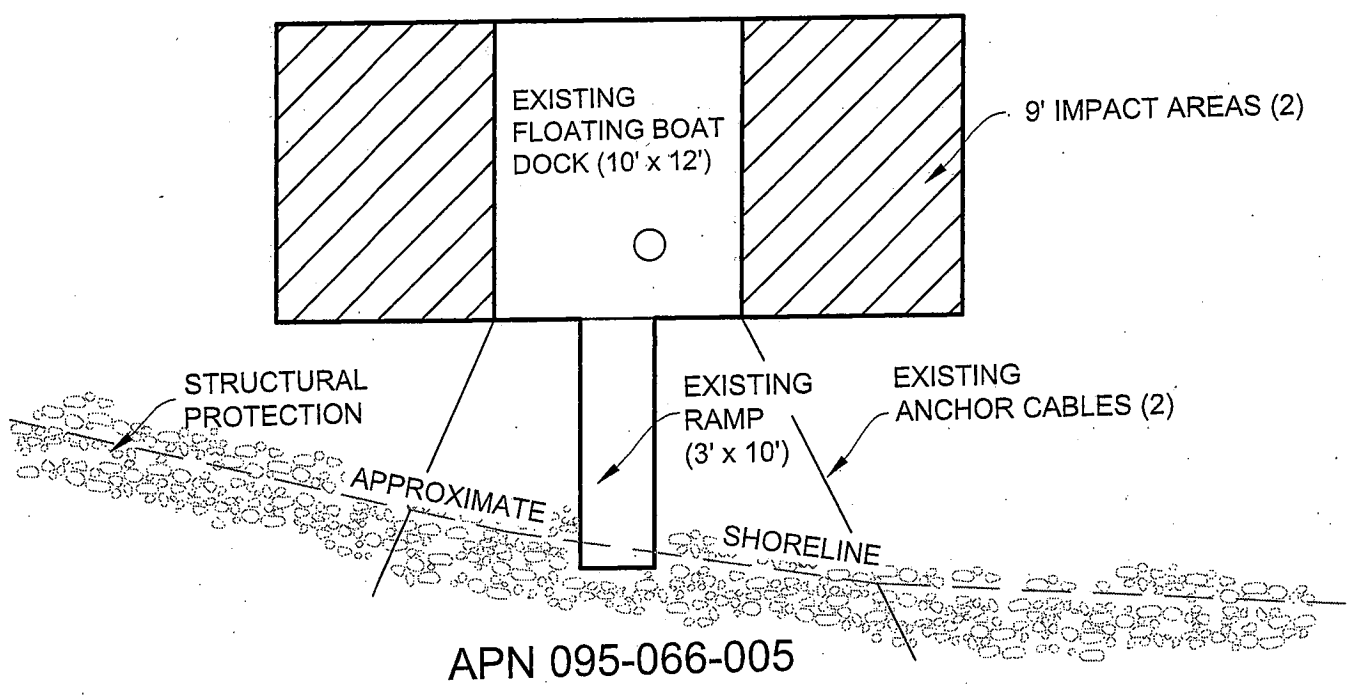


EXHIBIT A

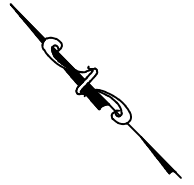
LAND DESCRIPTION PLAT
W 27138 , McCOOK
SONOMA COUNTY

CALIFORNIA STATE
LANDS COMMISSION

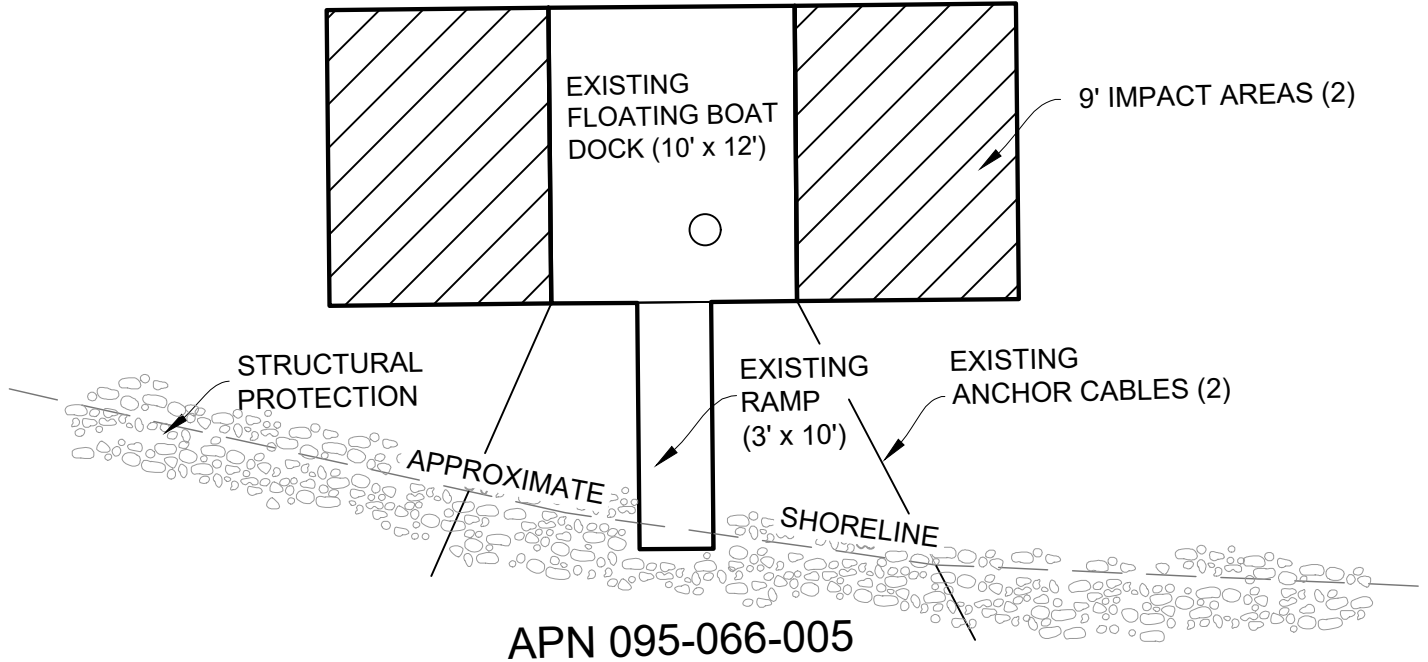


NO SCALE

SITE



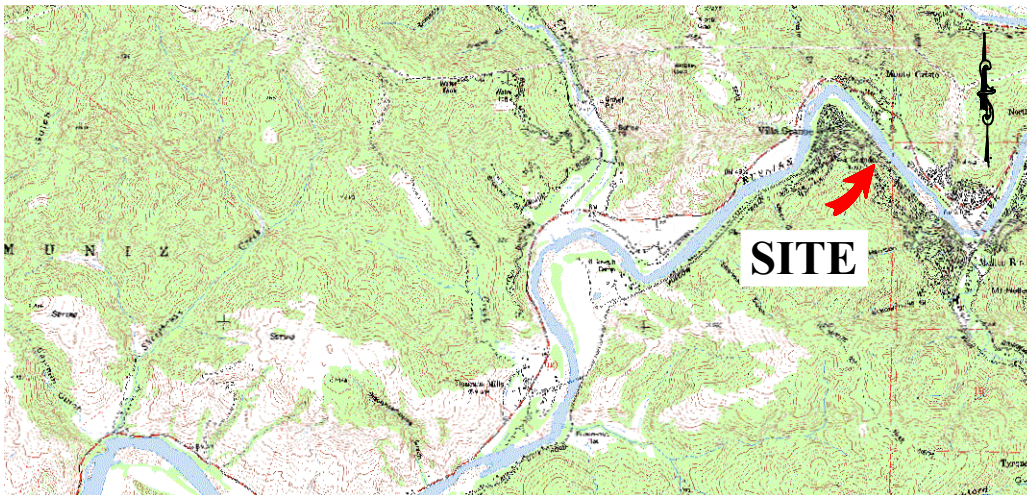
Russian River



21786 MOSCOW ROAD, MONTE RIO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 27138
 McCOOK
 APN 095-066-005
 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.