

STAFF REPORT

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08/23/19
PRC 3583.1
A2099
J. Holt

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Joseph J. Kaline and Norma F. Kaline, as Trustees under the Living Trust Agreement of Joseph J. Kaline and Norma F. Kaline dated August 1, 2006

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 25 Havenwood Road, near Novato, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing pier, ramp, and floating boat dock.

LEASE TERM:

10 years, beginning August 23, 2019.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
- Lessee agrees to indemnify the Commission for any liabilities arising from the period of unauthorized occupation of the State lands (prior to the issuance of the lease).

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 February 2, 2004, the Commission authorized a 10-year Recreational Pier Lease to Joseph J. Kaline and Norma P. Kaline ([Item C21, February 2, 2004](#)). The lease expired on July 21, 2011. After the lease expired, staff made several attempts to contact the Lessee about new application requirements. However, because the Lessee did not reside at the upland address; the solicitation efforts were unsuccessful until recently. On December 13, 2006, the Lessee transferred the upland parcel into a trust. In December 2018, Joseph J. Kaline passed away. Therefore, Norma P. Kaline is the sole surviving trustee. The Applicant is now applying for a General Lease – Recreational Use, for the use and maintenance of an existing pier, ramp, and floating boat dock in the Petaluma River, near Novato.

Staff recommends acceptance of compensation from the Applicant in the amount of \$623, for the occupation of State land during the time period of July 22, 2011, to August 22, 2019, the day preceding issuance of the proposed lease.

The proposed lease area contains the same facilities as the prior lease. These facilities have existed at this location for many years. The existing pier, ramp, and floating boat dock are designed for recreational fishing and boating purposes. Recreational fishing and boating are water-dependent and 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 associated geographic area contains unique terrain which limits public access opportunities near the lease premises. The existing pier protrudes over marshy land with minimal boating traffic. Therefore, the proposed lease will not interfere with navigation; and does not substantially interfere with any Public Trust needs at this time or the foreseeable future.

The lease does not alienate the State's fee simple interest or permanently impair public rights. 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. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

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. Furthermore, the Lessee agrees to indemnify the Commission for any liabilities arising from the period of unauthorized occupation of the State lands (prior to the issuance of the lease). 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 California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

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 Plan: 2018 Update* (California Natural Resources Agency 2018), 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

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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 combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The floating dock and ramp are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued functionality during and after storm seasons and to avoid dislodgement. The pier is fixed and will likely need reinforcement or replacement in the future to withstand higher levels of flood exposure.

Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2029 and would be based on projected sea-level rise scenarios at that time. 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, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the existing pier, ramp, and floating boat dock and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

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 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the existing and, for a limited period, continuing use and maintenance of the existing pier, ramp, and floating boat dock will not 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 Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$623, for the occupation of State land during the time period of July 22, 2011, to August 22, 2019.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2019, for a term of 10 years, for the use and maintenance of an existing pier, ramp, and floating boat dock, 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 \$140 per year, with an

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annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3583.1

LAND DESCRIPTION

A parcel of tide and submerged land, shown on that Plat of Tide and Submerged Lands Adjacent to Right Bank of the Petaluma River, on file as CB 166 and CB 167 in the Sacramento Offices of the California State Lands Commission, County of Marin, State of California, and more particularly described as follows:

All those lands underlying an existing pier, ramp and floating dock lying adjacent to that parcel as described in that Grant Deed recorded December 13, 2006 in Document Number 2006-0077470, of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the right bank of the Petaluma River.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared July 11, 2019 by the California State Lands Commission Boundary Unit.



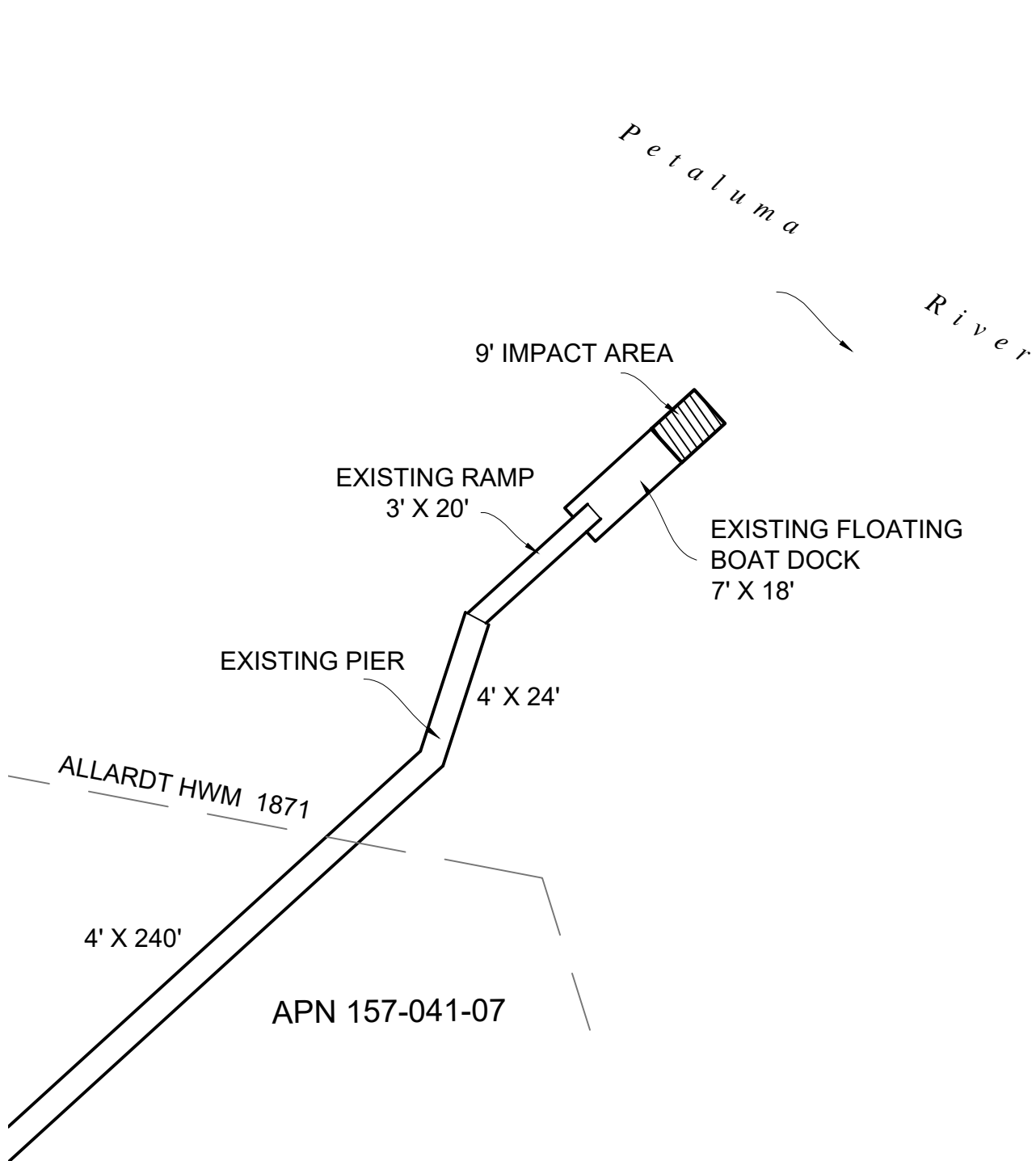


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 3583.1, KALINE, TRUSTEES
 MARIN COUNTY

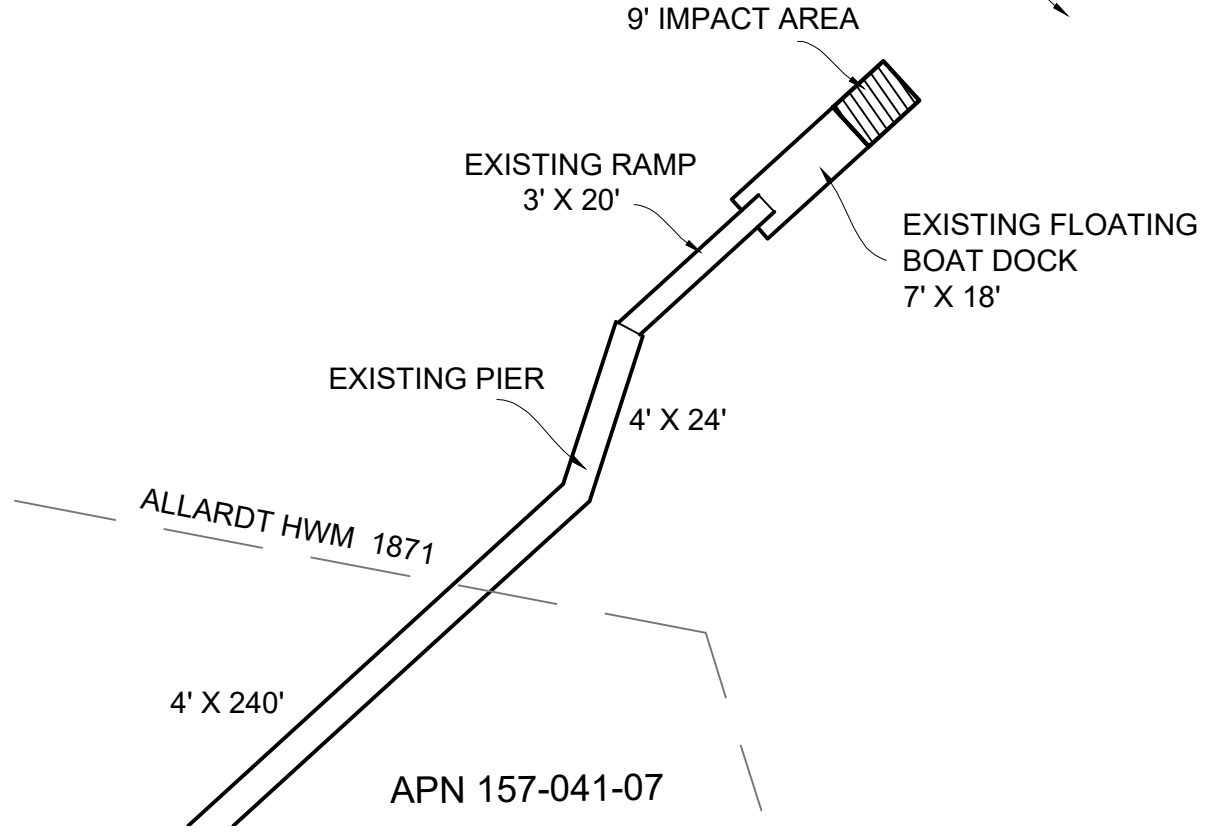
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

Petaluma River



25 HAVENWOOD ROAD, NEAR NOVATO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3583.1
 KALINE, TRUSTEES
 APN 157-041-07
 GENERAL LEASE -
 RECREATIONAL 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.