

**CALENDAR ITEM
C39**

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06/28/16
PRC 2745.1
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GENERAL LEASE – RESIDENTIAL AND RECREATIONAL USE

APPLICANT:

Didrik W. Pedersen, Jr.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 5 Havenwood Road, in Black Point, near the city of Novato, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing cabin with deck, a separate covered deck, shed, dock, walkway and ramp.

LEASE TERM:

10 years, beginning March 1, 2016.

CONSIDERATION:

\$1,016 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b); section 2002, subdivision (a)(6); and section 2003.

Public Trust and State's Best Interests Analysis:

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes that include, but are not limited to,

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waterborne commerce, navigation, fisheries, water-related recreation, visitor-serving amenities, habitat preservation, and open space. The Commission is the trustee of the State's sovereign land at Black Point.

The subject dock and appurtenant facilities are for the docking and mooring of boats. 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 are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence. 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.

The subject cabin and deck are used for residential purposes and are generally not associated with traditional public trust uses. However, these improvements have existed for many years at this location. There is no public access from the upland to the water at the subject location. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, nor does it permanently impair 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. Based on the foregoing, Commission staff believes that the subject lease 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 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. For all the reasons above, Commission staff believes the issuance of this lease is in the best interests of the State at this time.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On February 12, 1997, the Commission authorized a 10-year General Lease – Recreational Use to Didrik W., Sr. and Dorothy E. Pedersen, 1991 Living Trust. That lease expired on February 28, 2007, and remained in holdover status until February 28, 2016. On December 28, 2012, the upland was deeded to the Applicant, Didrik W. Pedersen, Jr. The

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Applicant is now applying for a General Lease – Residential and Recreational Use.

3. The proposed 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.
4. 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.

5. 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 the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the 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 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 the public trust needs and values at this location at this time and is in the best interests of the State.

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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:

Authorize issuance of a General Lease – Residential and Recreational Use to Didrik W. Pedersen, Jr., beginning March 1, 2016, for a term of 10 years, for an existing cabin with deck, a separate covered deck, shed, dock, walkway and ramp, as described on 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 \$1,016 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 2745.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to Rancho De Novato, patented April 10, 1866, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing cabin with deck, platform with covered deck, platform with a shed, floating boat dock, walkway, ramp and three pilings lying adjacent to those parcels as described in Gift Deed, recorded December 28, 2012 in Document Number 2012-0082179 in 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 said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 04/05/16 by the California State Lands Commission Boundary Unit



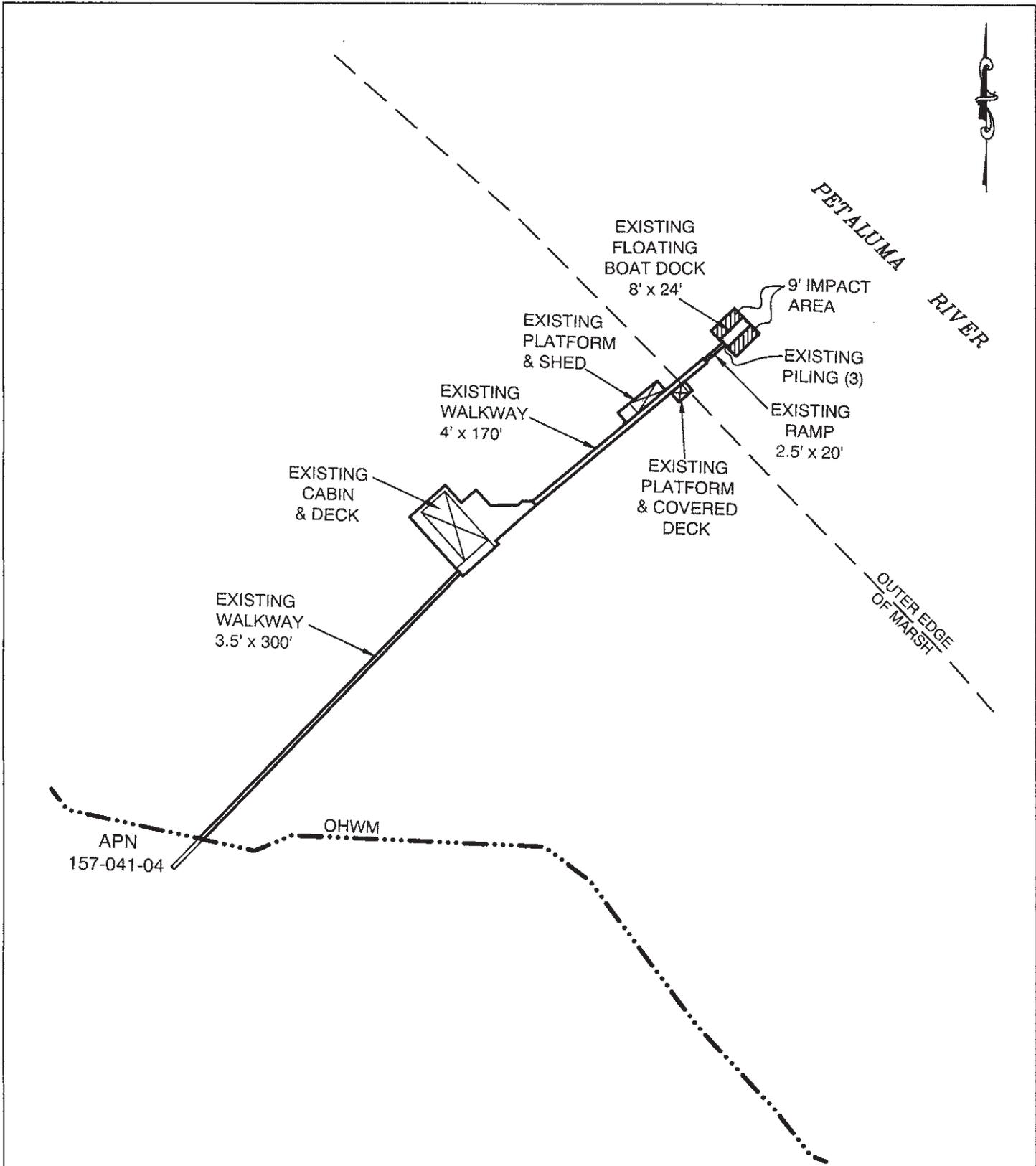
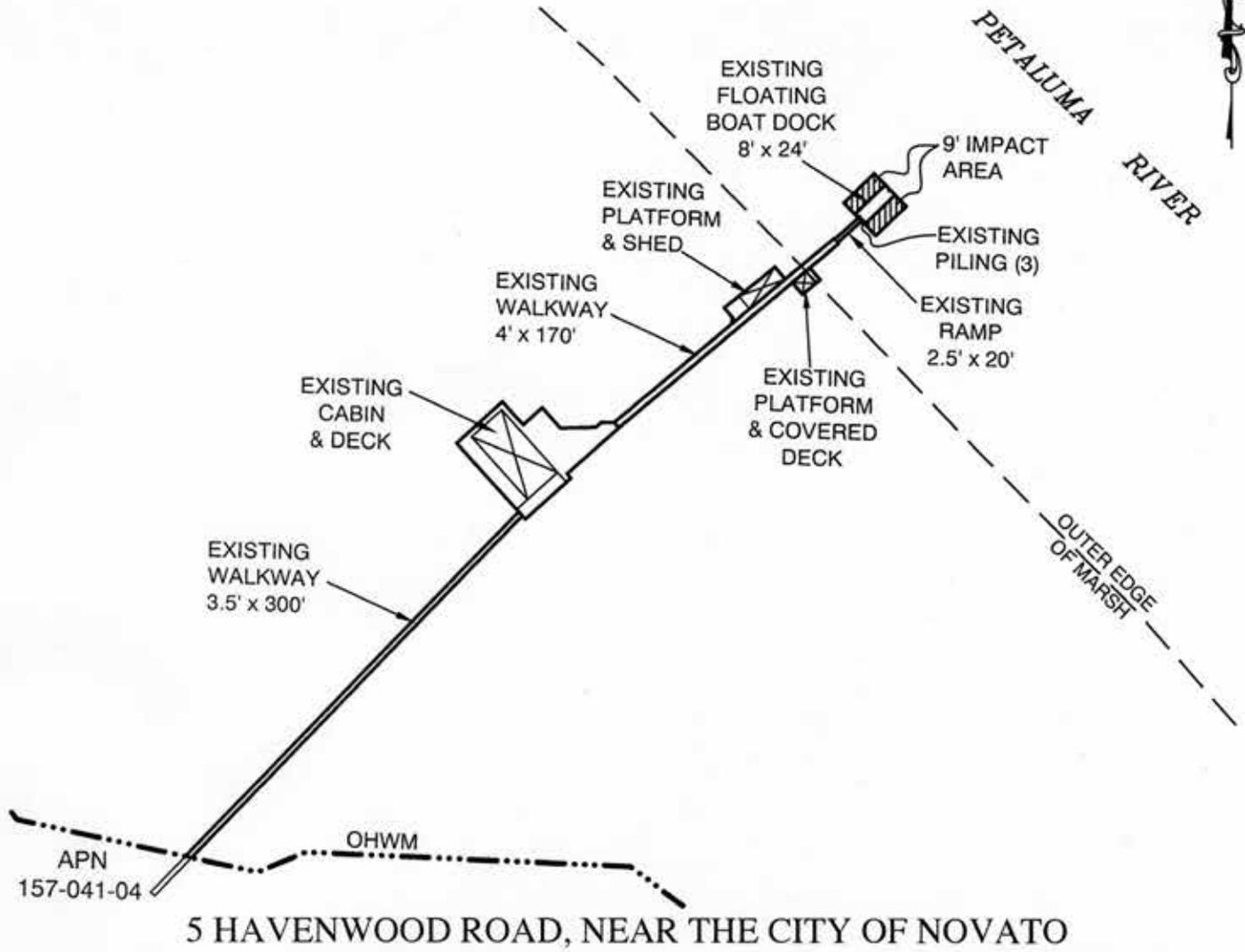


EXHIBIT A



NO SCALE

SITE



NO SCALE

LOCATION

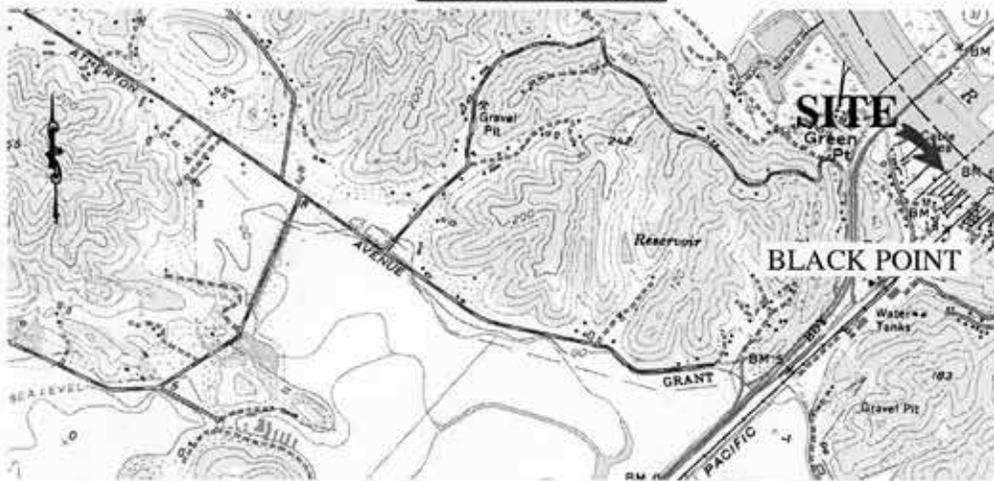


Exhibit B

PRC 2745.1
 PEDERSEN
 APN 157-041-04
 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.

TS 04/05/16