

**STAFF REPORT
C08**

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08/23/18
PRC 6168.1
M. Schroeder

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

John Gilardi dba Lakeville Marina

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Petaluma River, adjacent to 5688 Lakeville Highway, Petaluma, Sonoma County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing commercial marina facility known as Lakeville Marina consisting of three existing uncovered floating boat docks, walkways, gangways, a boat launch ramp, recreation area, and a utility shed previously authorized by the Commission; and use and maintenance of an artificially filled area, storage shed, parking area, and portions of a clubhouse and second storage shed not previously authorized by the Commission.

LEASE TERM:

15 years, beginning January 1, 2017.

CONSIDERATION:

\$1,267 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$2,000,000 per occurrence.
2. Surety bond or other security in the amount of \$25,000.
3. The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina

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Owners/Operators” and encouraging implementation of the Commission’s “Best Management Practices for Berth Holders and Boaters,” including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

4. Lessee shall provide records of timing and duration of flooding in the lease area that impedes access to the marina and parking area.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State’s Best Interests Analysis:

On January 29, 1999, the Commission authorized a 20-year General Lease – Commercial Use to Evelyn Gilardi dba Lakeville Marina, for the operation and maintenance of a commercial marina known as Lakeville Marina consisting of three uncovered floating boat docks, walkways, and a launching ramp ([Item C22, January 29, 1999](#)). On December 16, 2002, the Commission authorized a lease assignment from Evelyn Gilardi dba Lakeville Marina to Russell J. Gilardi dba Lakeville Marina, continuation of rent, and operation and maintenance of a recreation area and a utility shed ([Item C30, December 16, 2002](#)). On August 14, 2012, the Commission authorized continuation of rent, increase in liability insurance, and increase in surety bond ([Item C16, August 14, 2012](#)). Since assignment of the lease, Russell J. Gilardi died. The lease expired on December 31, 2016. The Applicant is applying for a General Lease – Commercial Use for the continued use, maintenance, and operation of an existing commercial marina known as Lakeville Marina consisting of three existing uncovered floating boat docks, walkways, gangways, a boat launch ramp, recreation area and a utility shed previously authorized by the Commission and use and maintenance of an artificially filled area, storage shed, parking area, and portions of a clubhouse and second storage shed not previously authorized by the Commission.

The artificially filled area, storage shed, parking area, and portions of a clubhouse and second storage shed have existed for many years but were not previously authorized by the Commission. During the processing of the application, staff became aware the ordinary high-water mark is located further landward, placing the artificially filled area, storage shed, parking area, and portions of a clubhouse and second storage shed on sovereign land. Staff recommends including these facilities in the lease.

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The Applicant owns the upland adjoining the lease premises. The subject commercial marina facilities, including the recreation area, utility shed, storage sheds, parking area, artificially filled area and portions of the clubhouse accommodate, promote, and support recreational boating and provide access to the adjacent State waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is privately owned and developed as a commercial marina. The marina is available for use by the general public.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 15 years, and a non-exclusive use provision. The commercial marina facilities have existed for many years at this location; they do not significantly alter the land; they do not permanently alienate the State's fee simple interest in the underlying land; and they do not 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.

The proposed lease requires the lessee 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.

Climate Change Analysis:

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 that is vulnerable to shallow coastal flooding at current sea levels, and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

The lease premises consist of three existing uncovered floating boat docks, walkways, gangways, a boat launch ramp, recreation area, a utility shed, two storage sheds, parking area, and portions of a clubhouse. The existing facilities are in good condition. The fixed and moving components of the lease facilities could be susceptible to damage and inundation 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

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(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). 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. 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 combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. The uncovered floating boat docks are adaptable to variable water levels, but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons. The fixed walkways may need reinforcement and the boating ramp may need additional grading to withstand higher levels of flood exposure. In addition, the recreation and parking areas, sheds, and clubhouse located on the adjacent upland may experience periodic or continuous inundation with rising water levels and more frequent flooding, creating a public safety hazard. Finally, the salt marsh habitat that currently provides some of the bank protection is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. 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 is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

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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 and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

2. 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-1. Site and Location Map
- B-2. 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:

1. Find that the existing and, for a limited period, continuing use and maintenance of the boat docks, walkways, gangways, boat launch ramp, parking area, and recreation area will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,

2. Find that issuing the proposed lease is in the best interests of the State.

- 3.

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AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to John Gilardi dba Lakeville Marina beginning January 1, 2017, for a term of 15 years, for the continued use, maintenance, and operation of an existing commercial marina, known as Lakeville Marina, consisting of three existing uncovered floating boat docks, walkways, gangways, a boat launch ramp, recreation area, and a utility shed previously authorized by the Commission and use and maintenance of an artificially filled area, storage shed, parking area, and portions of a clubhouse and second storage shed 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; annual rent in the amount of \$1,267, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$25,000.

EXHIBIT A

PRC 6168.1

LAND DESCRIPTION

A parcel of tide and submerged land situate on the left bank of the Petaluma River, lying adjacent to Tideland Survey 23, patented October 19, 1875, County of Sonoma, State of California, and more particularly described as follows:

All those lands underlying one existing marina with three (3) uncovered floating boat docks, walkways and launching ramp lying adjacent to a parcel as described in that Document Title recorded April 24, 2015 in Document Number 2015-034647, 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 June 19, 2018 by the California State Lands Commission Boundary Unit.



#1 EXISTING
FLOATING BOAT DOCK
WALKWAY, GANGWAY

9' IMPACT AREAS

NO. BLDG

PARKING
AREA

1953 ARMY
CORPS LINE

APN 068-060-50

BOAT LANCH

#2 EXISTING
FLOATING BOAT
DOCK, WALKWAY,
GANGWAY

9' IMPACT AREAS

BLDG

RECREATION
AREA

Petaluma
River

9' IMPACT AREAS

BLDG

SO. BLDG

APN 068-060-50

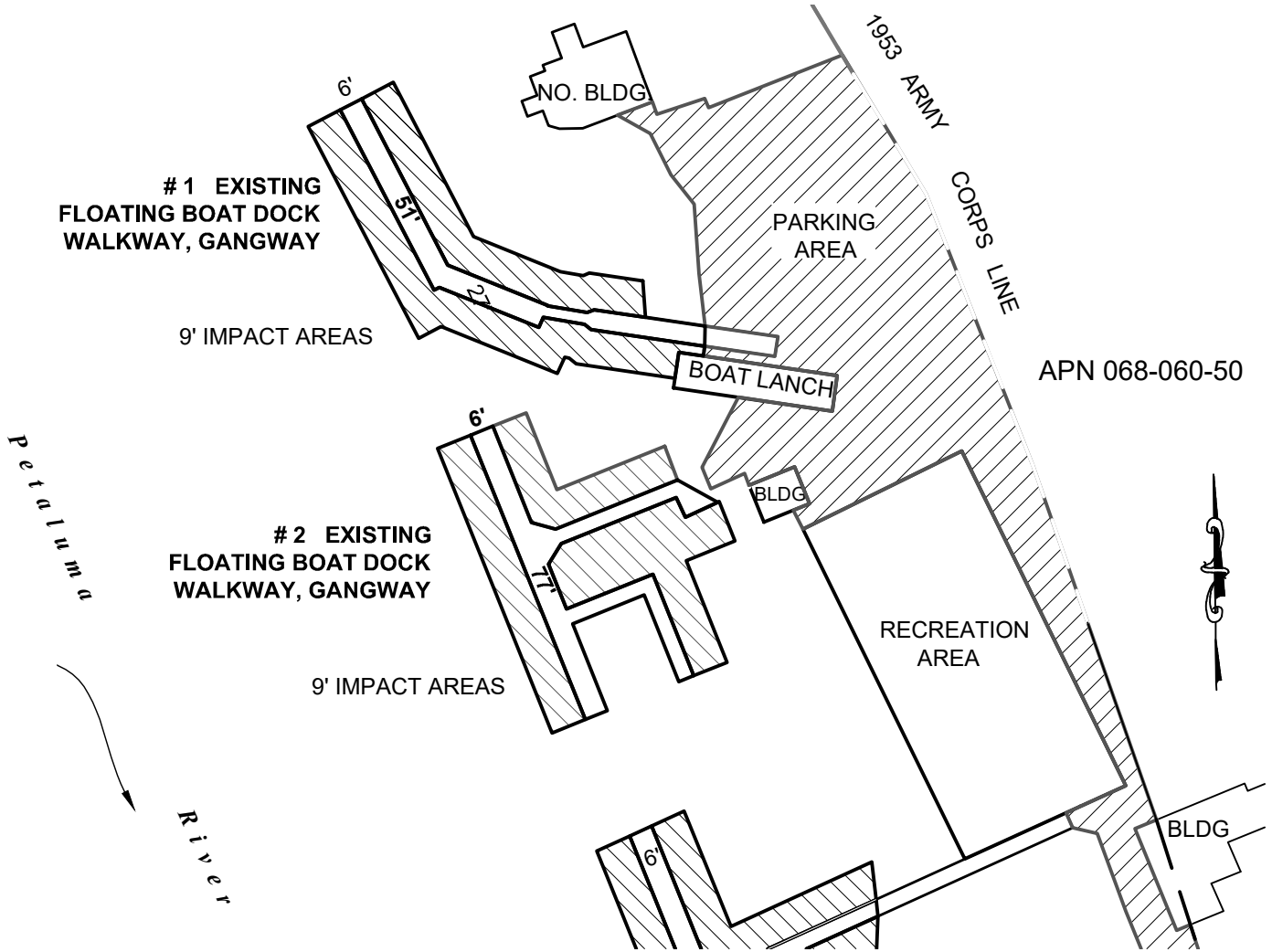
#3 EXISTING
FLOATING BOAT DOCK,
WALKWAY, GANGWAY

1953 ARMY
CORPS LINE



NO SCALE

SITE



APN 068-060-50

5688 LAKEVILLE HWY., PETALUMA RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-1

PRC 6168.1
 GILARDI
 APN 068-060-50
 GENERAL LEASE -
 COMMERCIAL USE
 SONOMA COUNTY

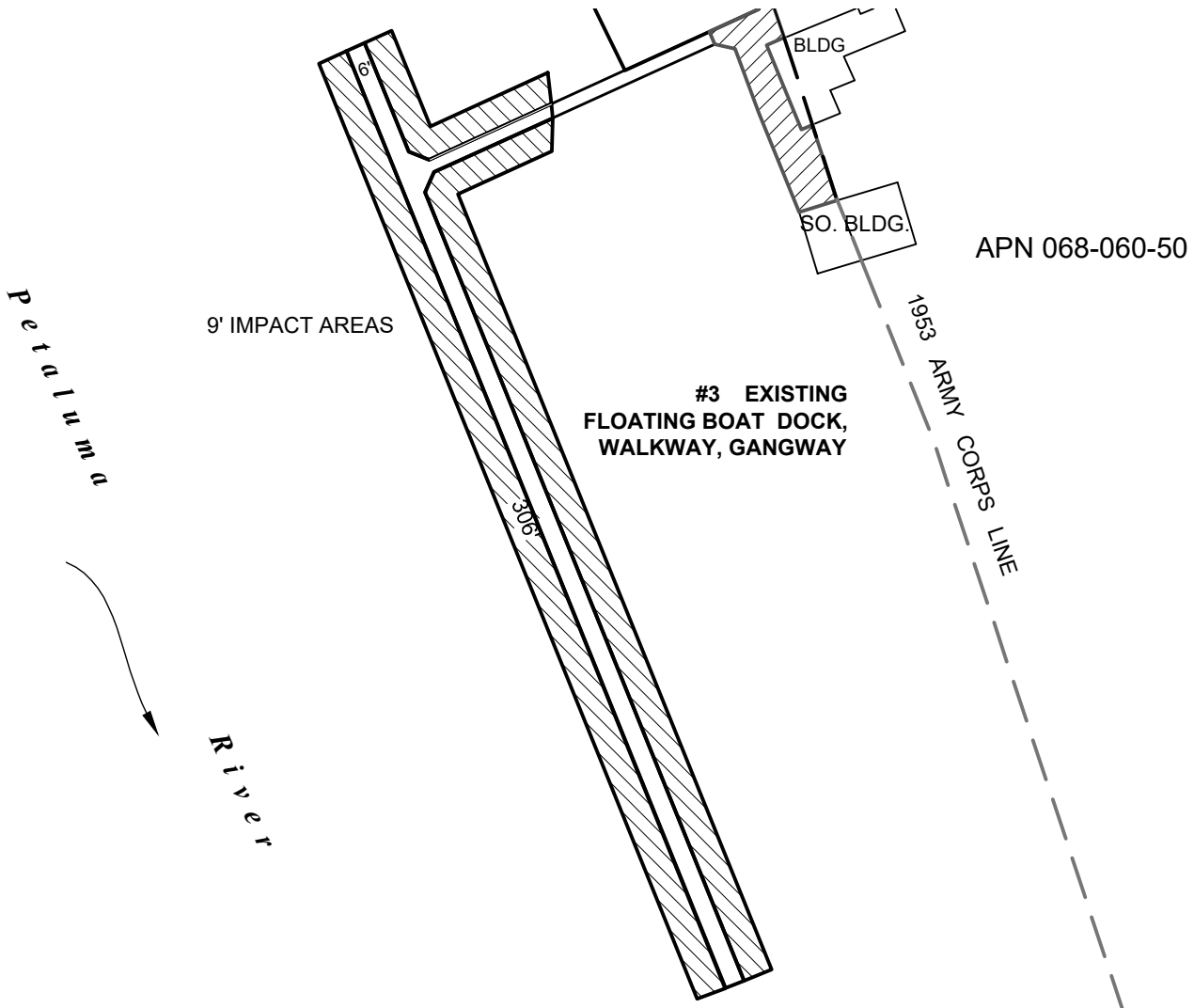


This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MJJ 08/22/18

NO SCALE

SITE



5688 LAKEVILLE HWY., PETALUMA RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-2

PRC 6168.1
 GILARDI
 APN 068-060-50
 GENERAL LEASE -
 COMMERCIAL USE
 SONOMA COUNTY



MJJ 08/22/18

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