

**STAFF REPORT  
C71**

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08/23/18  
PRC 4674.1  
J. Holt

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Paul B. Tietjen & Lana T. Tietjen, Trustees of the Paul B. Tietjen and Lana T. Tietjen Declaration of Trust dated August 6, 2002; and Howard A. Cooper

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land located in Corte Madera Creek, adjacent to 555 and 575 Larkspur Plaza Drive, Larkspur, Marin County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing floating boat dock, pier, ramp, boat lift, two concrete deadmen, and two wire cables.

*LEASE TERM:*

10 years, beginning June 7, 2018.

*CONSIDERATION:*

\$837 per year, with an annual Consumer Price Index adjustment.

*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.

**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 May 5, 2008, the Commission authorized issuance of a General Lease – Recreational Use to Paul B. Tietjen & Lana T. Tietjen, Trustees of the Paul B. Tietjen and Lana T. Tietjen Declaration of Trust dated August 6, 2002; and Howard A. Cooper for the joint use of an existing floating boat dock, pier, ramp, boat lift, two concrete deadmen, and two wire cables ([Item C11, May 5, 2008](#)). That lease expired on June 6, 2018.

On August 15, 2014, an amendment to reduce the lease premises and a rent review was authorized by the Commission ([Item C06, August 15, 2014](#)). This action resulted in a modification of annual rent from \$794 to \$702, effective June 6, 2014.

The Applicant is now applying for a new General Lease – Recreational Use, for the continued joint use and maintenance of an existing floating boat dock, pier, ramp, boat lift, two concrete deadmen, and two wire cables in Corte Madera Creek.

The proposed lease area contains the same facilities as authorized in the prior lease. These facilities are designed for recreational boating and fishing. The floating boat dock and appurtenant facilities have existed at this location for many years. Recreational boating is a water-dependent activity 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 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 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 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:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both

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open coastal areas and inland waterways in California. The subject facilities are located in Corte Madera Creek, 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 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). In rivers, creeks, 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, creeks, 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 boat dock, boat lift, and adjustable ramp 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 pier, concrete deadmen, and two wire cables may need reinforcement to withstand higher levels of flood exposure. 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 and adjacent upland 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 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

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

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. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that issuance of the lease 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 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 Use to the Applicant beginning June 7, 2018, for a term of 10 years, for the continued use and maintenance of an existing floating boat dock, pier, ramp, boat lift, two concrete deadmen, and two wire cables, 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 \$837, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 4674.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, lying adjacent to Swamp and Overflowed Land Survey 44, patented September 6, 1872, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing boat dock, pier, ramp, boat lift, two concrete deadmen and two wire cables, lying adjacent to those parcels, as shown on that certain Parcel Map entitled "Parcel Map, Johnsen Land Division", filed December 30, 1970 in Book 5 of Parcel Maps at Page 58, Marin County Records.

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 creek as per description in Superior Court Case No. 14851, and shown on "Map of STATE SOVEREIGN LANDS in Corte Madera Creek vicinity of Green Brae" on file at the Sacramento office of the State Lands Commission, (CB-1294).

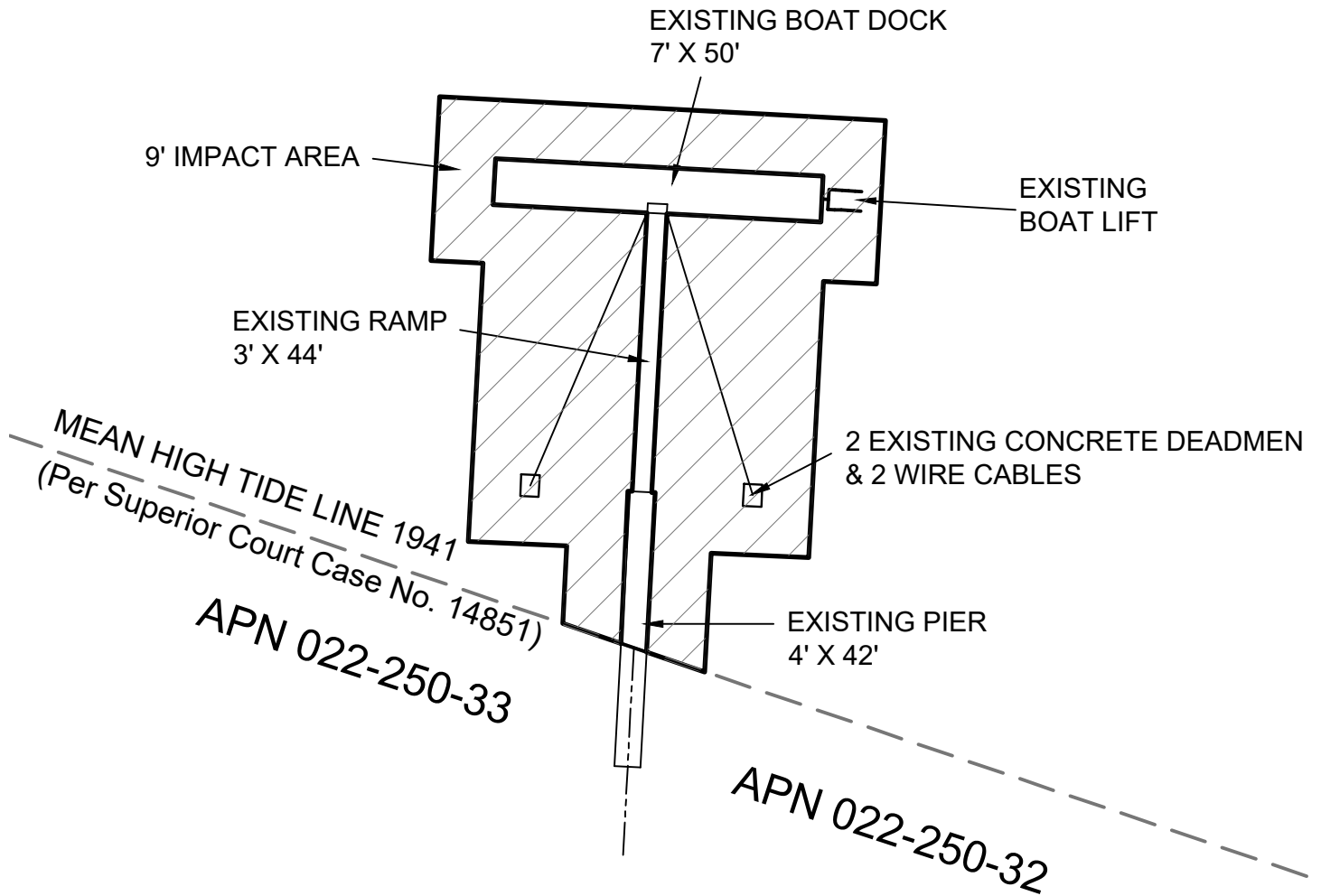
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 07/06/2018 by the California State Lands Commission Boundary Unit



*Corte Madera Creek*



# EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 4674.1, TIETJEN TRUST & COOPER  
MARIN COUNTY

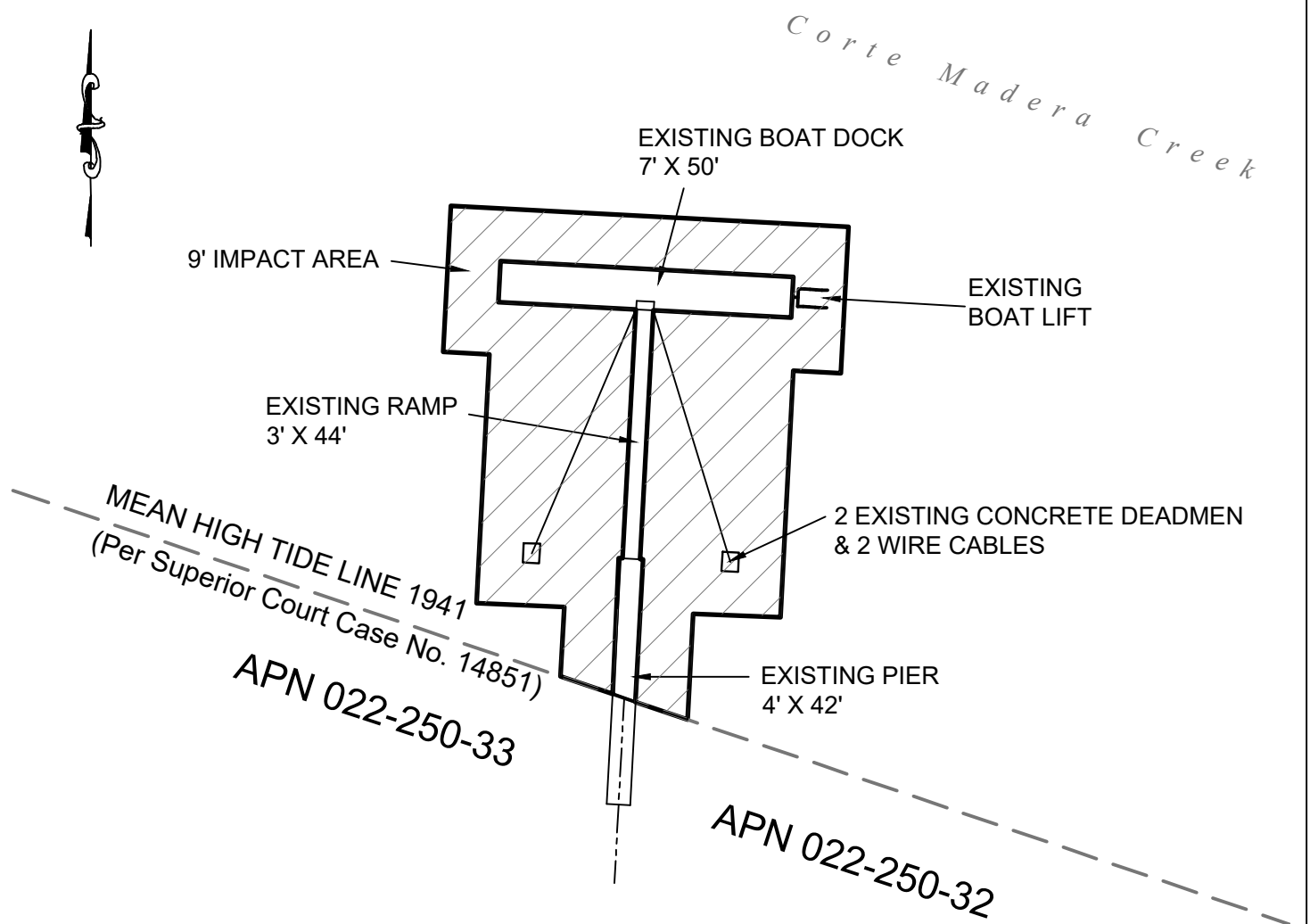
CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE

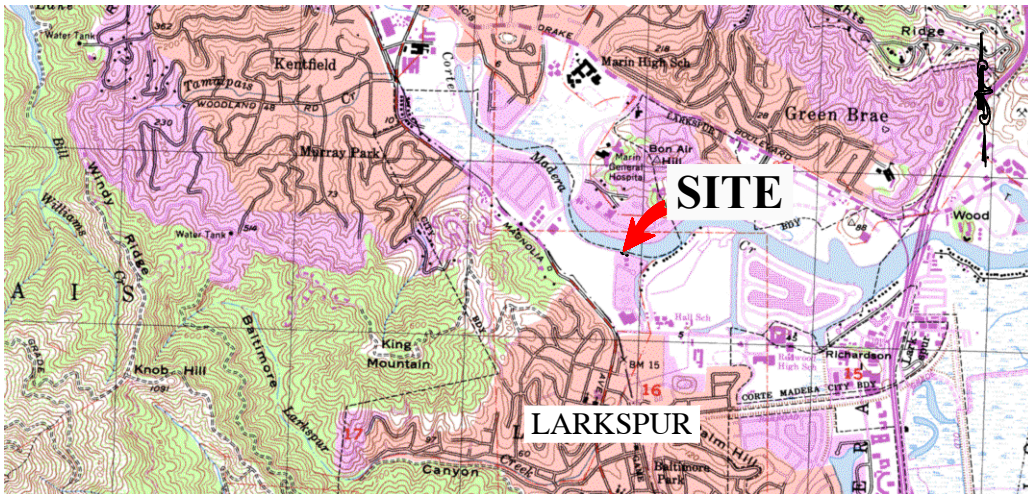
*Corte Madera Creek*



555 & 575 LARKSPUR PLAZA DRIVE, LARKSPUR

NO SCALE

# LOCATION



# Exhibit B

PRC 4674.1  
 TIETJEN TRUST & COOPER  
 APN 022-250-32 &  
 APN 022-250-33  
 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.