

**CALENDAR ITEM
C34**

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GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANT:

Josefina E. Jimenez, Trustee of the Josefina E. Jimenez 2014 Declaration of Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Filled and unfilled sovereign lands in Tomales Bay, adjacent to 19485 State Route 1, near the town of Marshall, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing pier, filled land with a boathouse, retaining wall, and one mooring buoy, not previously authorized by the Commission.

LEASE TERM:

10 years, beginning December 6, 2016

CONSIDERATION:

\$1,158 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 shall also provide Lessor with proof of current and valid Protection and Indemnity or Watercraft Liability Insurance in an amount no less than \$500,000 per occurrence.
3. Lessee agrees to comply with the Tomales Bay Mooring Program Requirements, available online at www.slc.ca.gov/Leases-Permits/TomalesBay.html. Lessor reserves the right to modify the program requirements at any time. Lessee agrees to abide by any reasonable modifications to the program made by Lessor. Any

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changes will be mailed to Lessee by Lessor to the mailing address on file with the Lessor.

BACKGROUND:

Tomales Bay is a significant biological resource that supports a diversity of habitats, including eelgrass beds, intertidal sand, mud flats, and salt and freshwater marshes. Thousands of species of birds, other vertebrates, invertebrates, and plants, including numerous threatened and endangered species, inhabit the bay. While Tomales Bay has long been considered a pristine body of water, human activity within the watershed has resulted in some degradation of the bay's habitat, water quality, and special status species.

Vessel use, both recreational and commercial, has played an important role throughout the modern history of Tomales Bay, and boating continues to be a popular activity for residents and visitors to the bay. Boats were identified as one of several pollution sources causing Tomales Bay to be listed as an impaired water body under the federal Clean Water Act. Consequently a proactive plan to prevent adverse impacts from boating on the bay was developed.

The Tomales Bay Vessel Management Plan (TBVMP) is the result of a long-term multiagency effort to streamline and coordinate vessel management activities for the benefit of the public. Implementation of the TBVMP is expected to improve water quality and protect wildlife, habitat, and public health, as well as facilitate recreational opportunities in Tomales Bay. The TBVMP was developed over the past decade by the Gulf of the Farallones National Marine Sanctuary (which was expanded north and west in 2015 and renamed the Greater Farallones National Marine Sanctuary (GFNMS)), and Commission staff in collaboration with nine other local, State, and federal agencies with jurisdiction in Tomales Bay. This group is collectively known as the Tomales Bay Interagency Committee (TBIC).

Over time, the concerns of the public and participating agencies evolved from focusing on vessel sewage discharge and impacts from moorings and derelict or abandoned vessels to include the introduction of invasive species, disturbance to wildlife, and discharge of oil, fuel, and vessel maintenance products. The participating agencies determined that they should act in a coordinated manner to address all of these vessel-related management issues including the consideration of vessel storage needs in Tomales Bay. The GFNMS facilitated this collaborative process through the TBIC.

Upon consultation with the TBIC, GFNMS and the Commission established criteria for the siting of moorings on Tomales Bay to achieve the three goals of

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the plan: 1) Protect public health and improve water quality; 2) Protect habitat and decrease threats to and disturbance of wildlife; and 3) Ensure safe and enjoyable water-related recreation. All moorings within Tomales Bay, except those used for aquaculture operations within State water-bottom lease areas, will be required to meet specific criteria protecting seagrass beds, seal haul-out areas, state parks, swimming beaches, boat launches, aquaculture lease areas, and navigational channels.

In 2015, the Commission was issued a permit by the National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries Program to implement the elements of the Tomales Bay Mooring Program (TBMP), which involve the installation, maintenance, and removal of individual moorings in Tomales Bay. The permit was for a term of 11 years, with an expiration date of May 31, 2026. On April 28, 2016, the expiration date of the permit was extended by two years to May 31, 2028.

The TBMP caps the total number of moorings allowed in Tomales Bay at 165, including littoral landowner moorings, and the 35 authorized moorings associated with Lawson's Landing. This cap does not include moorings permitted for use by aquaculture operations solely within State water-bottom lease areas. The TBMP is not intended to be a static plan, but rather a living document based on an adaptive management approach, allowing flexibility for the plan to adapt to changing circumstances. To ensure that it is still meeting its goals and objectives, the TBMP will continue to be informally reviewed and evaluated as needed by the members of the TBIC and adapted as necessary.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The existing pier and mooring buoy are for the docking and mooring of boats. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The filled land with a boathouse does not substantially interfere with the needs and values of the Public Trust Doctrine at this location and for the foreseeable future, as defined by the term of the proposed non-exclusive lease. The subject improvements are privately owned and maintained. The California Legislature has identified private recreational boating facilities as an

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authorized use of Public Trust lands (Public Resources Code section 6503.5).

The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use and maintenance of a pier, filled land with a boathouse, retaining wall, and one mooring buoy. The facilities have existed in Tomales Bay for many years and will not significantly further alter the land. The Applicant owns the upland adjoining the lease premises. The proposed lease is consistent with the TBMP.

The proposed lease also requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease requires the payment of annual rent to compensate the people of the State for the occupation of the sovereign land involved. The lease does not alienate the State's fee simple interest or 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.

Sea Level Rise 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 lease area is located in Tomales Bay, which is a tidally-influenced site vulnerable to flooding at current sea levels; therefore, this area may be at a higher risk of flood exposure given future projection scenarios of sea-level rise. By 2030, the region could see up to one foot of sea-level rise (from year 2000 levels), two feet by 2050, and possibly over five feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding, and larger tidal events, and can affect erosion and sedimentation rates. For example, in tidally-influenced waters such as Tomales Bay, increased storms and flooding will likely increase scour, leading to decreased bank stability and structure.

Improvements to the lease area include an existing fixed pier, filled land with a boathouse, retaining wall, and one mooring buoy. While the mooring buoy is designed to float on the water's surface and move with the ebb and flow of current tides, a longer chain connecting the buoy to the concrete drum on the bay bottom may be necessary in the future to accommodate rising sea levels. Regarding the boathouse and fixed pier, the Applicant noted that these structures are already frequently inundated with water during high tides, king tides, and storms, as well as from storm

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runoff. Additionally, the Applicant identified that the entirety of their parcel lies within the Federal Emergency Management Agency's flood hazard area. As a result, continued overtopping of the retaining wall, flooding, and increased water levels can be expected within the lease area as sea levels rise.

The combined impacts of these projected conditions raises the likelihood of damage to structures within the lease area. The boathouse and fixed pier may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of pier structures. While the retaining wall currently provides bank protection, this structure may need additional fortification or may need to be heightened in the future to withstand higher levels of flood exposure and sea-level rise. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgement that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

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.

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. **Existing Pier, Filled Land with a Boathouse, and Retaining Wall:** 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).

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Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. **Mooring Buoy:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit.14, § 15025), staff prepared a Negative Declaration (ND) identified as CSLC ND No. 749, State Clearinghouse No. 2012082074, for the Tomales Bay Vessel Management Plan. The ND was prepared and circulated for public review pursuant to the provisions of CEQA, and adopted by the Commission ([Calendar Item 113, April 26 2013](#)).
4. On April 26, 2013, the Commission found that, based upon the entire record before the Commission, including the Initial Study, the ND, and the comments received in response thereto, there is no substantial evidence that the project may have a significant effect on the environment; California Code of Regulations, title 14, section 15074, subdivision (b).
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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Tomales Bay Mooring Program Requirements

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Pier, Filled Land with a Boathouse, and Retaining Wall: 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).

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Mooring Buoy: Find that the ND, CSLC No. 749, State Clearinghouse No. 2012082074, was prepared by staff and adopted by the Commission on April 26, 2013.

Find that the Commission reviewed and considered the information contained in the previously adopted ND, and that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued under this authorization has been adequately analyzed, that none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with public rights to navigation and fishing or with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 a General Lease – Recreational and Protective Structure Use to Josefina E. Jimenez, Trustee of the Josefina E. Jimenez 2014 Declaration of Trust; beginning December 6, 2016, for a term of 10 years, for the use and maintenance of an existing pier, filled land with a boathouse, retaining wall, and one mooring buoy 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 \$1,158, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence; and Protection and Indemnity or Watercraft Liability Insurance in the amount of no less than \$500,000 per occurrence.

EXHIBIT A

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LAND DESCRIPTION

Two parcels of submerged lands situate in the bed of Tomales Bay, lying adjacent to those parcels as described in that Trust Transfer Deed recorded June 17, 2014, in Document No. 2014-0024950 Official Records of Marin County, State of California, and more particularly described as follows:

PARCEL 1 - Pier

BEGINNING at a point which marks the intersection of the low water mark of Tomales Bay with the southwesterly prolongation of the southeast line of that "Parcel Two" described as a portion of Tide Land Survey No. 233 in said Trust Transfer Deed (said Tide Land Survey No. 233 was redesignated as Tide Land Location No. 241 and is on file at the Sacramento Office of the California State Lands Commission), said point bears North 25° 12' 31" West 1303 feet more or less from a California Division of Highways Station Disk Stamped Boatworks 1972 (NGS PID-JT2653); thence leaving said low water mark along said southwesterly prolongation of said southeast line of said parcel 105.00 feet; thence leaving said southwesterly prolongation North 40° 03' 04" West 79.00 feet; thence North 8° 00' 00" West 107 feet more or less to a point on low water mark on Tomales Bay, also being the southwesterly line of Tide Land Survey No. 145 as described in that "Parcel One" of said Trust Transfer Deed; thence southeasterly along said low water mark of said southwesterly line of said Tide Land Survey No. 145, 107 feet more or less to the common corner of Tideland Survey No. 145 and 233; thence continuing southeasterly along the low water mark, also being the southwesterly line of said Tide Land Survey No. 233, 49 feet more or less to the POINT OF BEGINNING.

PARCEL 2 – Buoy

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels as described in said Trust Transfer Deed recorded June 17, 2014, in Document No. 2014-0024950 Official Records of Marin County.

BASIS OF BEARING for this description is CCS83, Zone 3 (1991.35). All distances are grid distances.

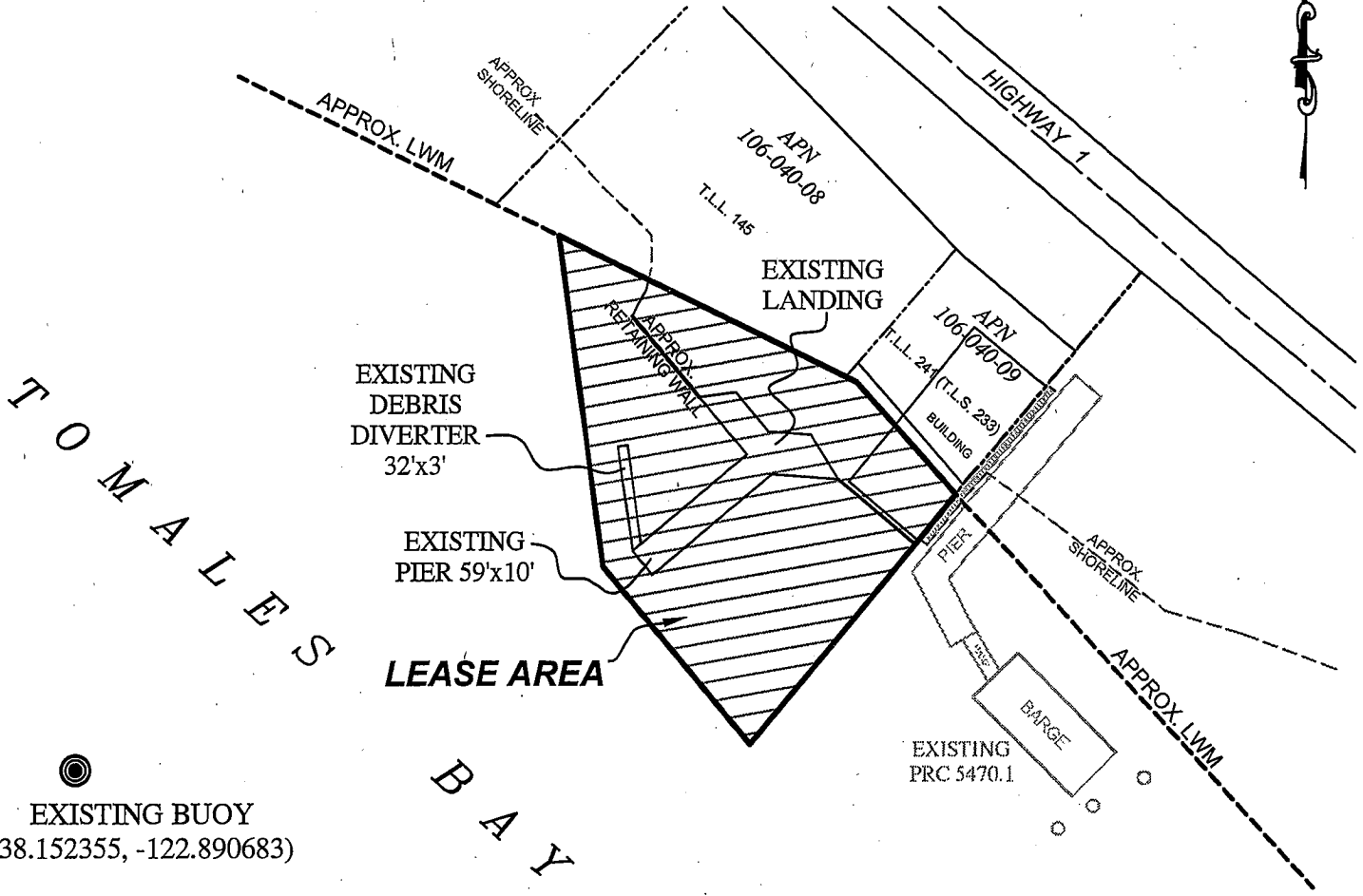
END OF DESCRIPTION

Prepared on 07/18/2016 by the California
State Lands Commission Boundary Unit



NO SCALE

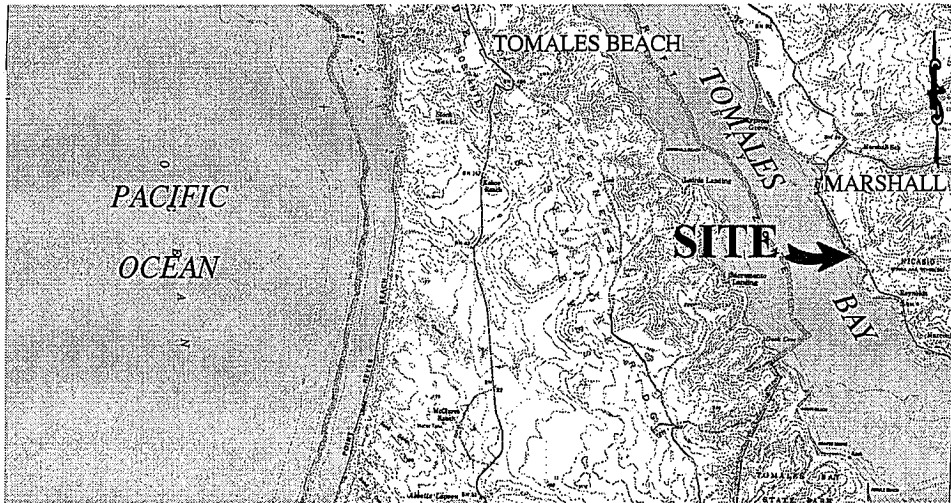
SITE



19485 ROUTE 1, NEAR MARSHALL, TOMALES BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26946

JIMENEZ, TRUSTEE

APN 106-040-08 & 09

GENERAL LEASE-

RECREATIONAL AND

PROTECTIVE STRUCTURE 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.

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EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

I. Introduction:

The *Tomales Bay Mooring Program* (MP) was developed as part of the Tomales Bay Vessel Management Plan by NOAA's Greater Farallones National Marine Sanctuary (GFNMS) staff in partnership with California State Lands Commission (CSLC) staff. Since 1981, when the GFNMS was designated, Sanctuary regulations have prohibited the discharge of materials into GFNMS and disturbance to the seabed, which includes the placement of moorings. Although mooring installation is still a prohibited activity, the establishment of the Vessel Management Plan in April 2013 and subsequent Mooring Program now allows for a mechanism to permit moorings. The program includes specific criteria for where moorings may be located on the bay, introduces mandatory specifications for mooring tackle, and requirements for the inspection and maintenance of moorings. Pursuant to the National Marine Sanctuaries Act, 16 USC §1431 *et seq.*, and regulations thereunder (15 CFR Part 922) and California Code of Regulations (Title 2, Division 3, Chapter 1), all private mooring holders must obtain a CSLC lease.

GFNMS and CSLC are administering the Mooring Program together because regulations of both agencies apply in Tomales Bay. GFNMS has issued a permit to CSLC that makes it possible for CSLC to lease areas of state sovereign lands in the bay for moorings that comply with federal and state laws. The GFNMS permit to CSLC requires, for example, that leases not be located in seagrass beds and that mooring anchor must be appropriate for the specific conditions at each mooring lease location. CSLC will include the necessary lease provisions pursuant to the GFNMS permit. Therefore, while mooring lease applicants will only be dealing with CSLC and CSLC applications, the conditions that will apply to mooring leases in Tomales Bay will reflect CSLC and GFNMS requirements that were developed collaboratively with input from numerous agencies and stakeholders.

The primary goals for establishing a program for siting and permitting moorings on the bay are to: protect habitat; decrease threats to and disturbance of wildlife; and ensure safe and enjoyable water-related recreation by allowing moorings and removing and preventing illegally and improperly placed moorings and mooring materials. The Mooring Program (MP) uses an adaptive management approach for decisions regarding various mooring technologies (anchor and all other equipment) in Tomales Bay to select those that are the least damaging to the environment and appropriate for Tomales Bay hydrodynamic conditions. As new information is acquired and analyzed, requirements and specifications may be amended by GFNMS and CSLC in collaboration with the Tomales Bay Interagency Committee.

II. Tomales Bay Mooring Program Applicability and Exemptions:

- The MP allows for up to 165 moorings on Tomales Bay within CSLC and GFNMS jurisdiction. This includes 130 available leases for the use of State sovereign lands for privately owned vessel moorings and up to 35 moorings at Lawson's Landing. Use of State sovereign land for moorings at Lawson's Landing are subject to the terms and conditions of a 25-year commercial lease issued by CSLC in 1998 and that existing lease is not subject to

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the requirements of the MP for the remaining lease term. The 130 remaining leases are subject to the requirements of the MP.

- Moorings directly associated with aquaculture operations and located within state water bottom lease areas for aquaculture pursuant to a valid lease, permit, license or other authorization are regulated by California Department of Fish and Wildlife and Department of Public Health and not subject to the requirements of the MP.

III. CSLC Tomales Bay Mooring Program Lease Requirements:

- CSLC administers the MP and may issue leases for the use of sovereign land for individual moorings within Tomales Bay under a permit from GFNMS. Without exceptions, all owners of private vessel moorings located within Tomales Bay are required to obtain a lease from the CSLC.
- GFNMS has issued a permit to CSLC to allow for the issuance of mooring leases consistent with the criteria in the MP; therefore, in accordance with GFNMS regulations 15 CFR 922.82, moorings without a valid CSLC individual or commercial mooring lease are prohibited. No current or past Tomales Bay mooring owner is granted an automatic right to moor and no moorings will be automatically grandfathered in as exempt from the requirements of the MP.
- The cost of removal of an unauthorized mooring is the responsibility of the mooring owner.
- The Lessee purchases and owns all mooring tackle and pays for all installation, inspection, maintenance, and removal costs.
- CSLC *General Lease- Recreational Use* may have a term of no greater than 10 years.

IV. Special Conditions for Tomales Bay Mooring Leases:

- Only one vessel is allowed on a mooring at one time. The vessel on the mooring must be registered to that mooring and to the Lessee or be registered to a guest of the Lessee. Guest boats are allowed, with permission from the Lessee, for no longer than 30 consecutive days and only if they are the same size and weight or smaller than the vessel for which that mooring was designed.
- No sale or sub-leasing of mooring leases shall be allowed. Any sale, rental or sub-leasing of the mooring will result in immediate termination of the mooring Lease.
- Transfer of moorings will require an assignment authorized by the CSLC. Transfers are not automatic with the sale of a vessel or the littoral property.
- All moored vessels (including guest boats) must be registered, and must display a current

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registration sticker or other visible proof of registration consistent with the requirements of applicable state and/or federal law.

- All mooring lessees shall maintain, and upon the due date of their rent annually submit proof of, liability insurance that shall adequately protect both Lessee and Lessor against public liability and property damage. Guest boats should also meet these insurance requirements.
- Each Lessee is responsible for ensuring that mooring tackle is inspected and maintained. Failure to maintain a mooring shall be considered grounds for termination of the mooring Lease.
- The moored vessel is required to be secured firmly and the anchor shall be of a size and design sufficient to prevent the vessel or mooring anchor from drifting, dragging or otherwise moving off the assigned mooring site.
- All vessels that are authorized to moor within Tomales Bay must remain in operable condition while attached to the mooring. Any vessel that presents a threat to life, property, or the environment may be removed or impounded at the owner's expense.

V. Tomales Bay Mooring Program Mooring Criteria:

All CSLC mooring Leases subject to the MP shall only be issued in locations meeting all of the following eight criteria (as depicted as “the combined mooring exclusion areas” in Figure 1, Figure 1a. and Figure 1b.):

1. Seagrass: No vessel moorings shall be allowed in seagrass beds.
2. Wildlife Disturbance: No moorings shall be allowed in areas within 300 feet of seal haul-out areas.
3. Parcels Under Private Ownership Outside of CSLC Jurisdiction: No vessel moorings shall be allowed on tidelands and submerged lands under private ownership.
4. NPS-owned Tide and Submerged Lands Outside of GFNMS Jurisdiction: Other than as necessary for NPS administrative use, no moorings shall be allowed on the submerged lands owned by NPS outside of GFNMS jurisdiction.
5. Swimming Beach/Boat Launch Areas: No moorings shall be allowed within 100 feet of swimming beaches and boat launch ramps.
6. State Parks: No moorings shall be allowed within 1000 feet offshore of State Parks property.
7. Aquaculture: No moorings shall be allowed within areas that fail to meet the California Department of Public Health calculations for safe distances between moorings and shellfish growing operations. No moorings shall be located within state water bottom lease areas for aquaculture unless authorized by the State of California.
8. Navigation Channels: No moorings shall be allowed within navigation channels of Tomales Bay.

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The Interactive PDF Map contains layers showing the MP Mooring Criteria.

VI. Requirements for Location of Moorings:

- The CSLC will only issue leases on ungranted sovereign land under its jurisdiction. No mechanism through GFNMS and CSLC currently exists for authorizing moorings on private parcels.
- Moorings and associated ground tackle shall be located within the boundaries of the MP *Mooring Zones* depicted on *Figure 1*, with the following exceptions:
 1. *Aquaculture*: State of California authorized aquaculture moorings used for aquaculture operations within state water bottom lease areas;
 2. *Adjacent to Developed Littoral Properties*: Owners of developed littoral properties must apply for a lease for the use of submerged lands for the placement, use, and maintenance of one mooring directly adjacent to and offshore of that developed littoral parcel. The mooring and attached vessel must meet all of the requirements of the MP including criteria for siting, installation, inspection, and maintenance.
 3. *Preexisting Vessel Moorings*: Mooring owners that applied for a Lease during the MP initial rollout period (between August 10, 2015 and February 10, 2016), for moorings that existed prior to August 2013, were allowed to keep their moorings in the original location if that location met all MP mooring criteria, and the mooring passed an initial inspection.
- CSLC does not guarantee that a Lease will be issued for the same location as the desired mooring location proposed by the applicant, even if that site meets all MP mooring criteria and is within an approved mooring zone. Space and capacity for moorings may be limited in some mooring zones. Spacing limitations will be initially determined by the mooring contractor and his/her expert opinion, but capacity in each zone is subject to agency review and approval based on proximity to aquaculture operations or other sensitive sites, or restricted land access to the mooring sites. If the proposed site is not accepted, then CSLC will provide the applicant with an alternate location within a designated mooring zone, as near in proximity to the proposed location as feasible.

VII. Mooring Tackle Requirements:

In order to prevent vessels from separating from their moorings during extreme weather and sea conditions on Tomales Bay, and to minimize environment impacts and public safety hazards, all vessel moorings authorized under the MP shall be subject to the following requirements for the design and construction, and inspection and maintenance of the mooring system:

- Mooring Lessees shall own and be responsible for maintaining all mooring tackle.
- All mooring equipment must be installed and inspected in accordance with the MP tackle and

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inspection requirements and by a GFNMS approved Mooring Contractor, at the lessee's sole cost and expense.

- Private vessel mooring tackle will need to meet design standards, as described in this section, developed for Tomales Bay by the TBIC. Mooring tackle that has been installed but not reviewed by an approved Mooring Contractor might not comply with MP Mooring Tackle standards and could violate the terms of the mooring lease.
- Owners of vessels over 55-feet must submit mooring plans from a credentialed marine engineer along with a completed CSLC lease application.
- The mooring tackle and anchor shall be appropriate for Tomales Bay benthic habitat and geologic and hydrodynamic conditions, and capable of withstanding extreme weather and sea conditions. Extreme conditions within Tomales Bay can include: maximum sustained winds of over 30 knots, with gusts over 75 knots; wave heights of up to six feet (3-6 second intervals); maximum current speed of 2-3 knots, and; a maximum tidal variation of 9.1 feet.

Buoys:

- Mooring buoys must be standard white, hard shell, with foam interior and with blue horizontal stripe.
- The associated CSLC lease number must be prominently displayed on two opposite sides of the mooring buoy in block letters (minimum of 4") using black oil-based paint or permanent marine-quality stickers appropriate for use on mooring buoys.
- The cleat, post or deck hardware, which attaches to the pendant, shall be visibly free of rot, corrosion or disrepair and capable of withstanding loads, to the satisfaction of the approved Mooring Contractor.
- If a pendant is used, then chafing gear is required between the pendant and vessel.

Mooring Anchors:

- Mooring anchors must be appropriate for the specific conditions at each mooring lease location and must be approved by an approved Mooring Contractor. Engine blocks, Manta Ray and helical type anchors are not authorized. Examples of acceptable mooring anchors include pyramid (e.g., Dor Mor) or mushroom type anchors, properly designed and constructed one or two concrete filled 55-gallon drums, and clean railroad wheels.
- Anchor weight and design shall be proportional to the size of the vessel being moored and must be sufficient to hold the vessel in extreme weather conditions.
- Helix anchors are not permitted at this time but may be reconsidered upon further demonstration of their effectiveness, including long-term testing in Tomales Bay.

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Rode:

- Chain and all metal components such as shackles, swivels, and eyes, shall be appropriately sized and of a high manufacturing quality (e.g. hot-dipped galvanized), to the satisfaction of the Mooring Contractor.
- Stainless steel safety wire or other binding material shall be required on all shackles to prevent unscrewing.
- If two individual lengths of chain (top and bottom chain) are required, they shall be shackled together, with swivel, to form one continuous length.
- Where the mooring chain is a single piece the shackle and swivel shall be placed between the anchor and chain.
- A shackle and swivel shall be used between buoy and top of mooring chain.
- All chain ½” and smaller shall be new upon initial installation.
- Seaflex or other elastic rodes shall not be permitted at this time but may be reconsidered upon further demonstration of their effectiveness including long-term testing in Tomales Bay.

VIII. List of GFNMS Approved Mooring Contractors:

- GFNMS staff have developed and will maintain a list of mooring services contractors approved for installing, inspecting and repairing/maintaining all moorings subject to the MP. Mooring installations will need to be inspected annually by an approved Mooring Contractor. Completed installation and annual inspection forms will be provided to CSLC.

IX. Inspection and Maintenance Requirements:

- Inspections by an approved Mooring Contractor shall be required for all moorings leased under the MP, at the mooring Lessee’s sole cost and expense. Inspection is required upon submission of a lease application (for preexisting mooring owners), or installation at the mooring site and annually thereafter on the lease anniversary date.
- It is the mooring Lessee’s responsibility to schedule and ensure that the required inspections occur.
- The mooring inspector must complete an *Annual Mooring Inspection Form*, which includes the current GPS location, in decimal degrees with an accuracy of a minimum of 6 decimal place digits, of the mooring anchor and a statement certifying the condition of the mooring tackle and whether or not it passes inspection. This form must be submitted by the mooring Lessee or Mooring Contractor to CSLC on or before the lease anniversary date, along with

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the payment of annual rent, proof of liability insurance, and current vessel registration.

- If the mooring does not pass inspection then the Lessee shall be given 45-days to take corrective actions, and submit a revised *Annual Mooring Inspection Form* signed by an approved Mooring Contractor. If corrective action is not taken within 45-days, the lease will be considered in default and CSLC may take action to terminate the lease. Once the lease is terminated, mooring tackle is subject to removal, at the owner's expense, pursuant to the authority of local, state, and federal laws and regulations.
- Moorings/vessels that are determined during an inspection to be at risk of equipment failure shall be reported immediately by the Mooring Contractor to CSLC and GFNMS staff, and shall require immediate action including potential removal at the lessee's expense.
- Mooring pendants, if used, shall be inspected annually and kept in good condition at all times. The mooring Lessee shall routinely check pendant for chafing and wear, and replace as necessary to prevent pendant failure.

X. Mooring Lease Application Process and Submittal Information Requirements For New Moorings:

The following section outlines the general lease application process for all new moorings.

- The following information shall be submitted by the applicant along with a completed *Application for Lease of State Lands* for review prior to consideration of a mooring lease by the CSLC at a public meeting:
 - ✓ The name and address of the vessel owner/mooring lease applicant;
 - ✓ Detailed description and schematic diagram of all mooring tackle planned for use, including the planned size, shape and color of the buoy;
 - ✓ Recent color photograph(s) of and general description of the size and type of vessel(s) to be attached to the mooring;
 - ✓ Documentation of vessel ownership in the lease applicant's name, consisting of applicable valid Department of Motor Vehicle registration or U.S. Coast Guard Certificate of Documentation;
 - ✓ Proof of valid liability insurance upon the due date of their rent for the vessel(s) proposed to be moored;
 - ✓ Letter authorizing or permitting access through a privately owned parcel if applicable;
 - ✓ Request for a proposed mooring location, such as the approximate latitude/longitude coordinates for the anchor placement location and the name of Mooring Zone requested (i.e. Zone 4);
 - ✓ Statement of need if more than one mooring is being requested.

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- If the mooring lease application is for a littoral property owner then the following information, in addition to the above requirements, shall be required to be submitted:
 - ✓ The address and *Assessor's Parcel Number* of the developed littoral parcel.
 - ✓ Copy of the current upland vesting document (Deed).
- Lessees shall be responsible for promptly notifying CSLC staff of any changes to the original information provided on the application.

XI. Mooring Lease Costs:

- An application fee and filing fee will be required by CSLC upon receipt of a mooring lease application.
- Mooring lease rent shall be payable annually.
- Lease Application Fees do not include the costs of the mooring equipment or its installation, inspection, maintenance, annual rent, or removal.

XII. Mooring Installation and Positioning:

- Lessee shall be required to have the mooring installed by an approved Mooring Contractor (as close in proximity to the authorized location as is feasible) within 90-days of CSLC issuance of the lease.
- The Mooring Contractor who is responsible for installation of a mooring is required to fill out a *Pre-installation Mooring Proposal Form*, which shall be submitted to CSLC by the contractor or applicant with the CSLC mooring lease application. Required submittal information on this form includes: GPS location of the proposed mooring anchor; a detailed description and schematic diagram of the proposed mooring tackle demonstrating that all mooring tackle meets MP requirements; current vessel registration and Lessee's contact information.

XIII. Mooring Lease Termination:

A Lease will include provisions that the lease may be terminated by CSLC upon a breach of the lease, which includes, but is not limited to the following occurrences upon described notification as outlined in the lease:

- Failure to pay mooring lease rent on time;
- Failure to provide evidence of the required liability insurance;
- Failure to submit an *Annual Mooring Inspection Form* (within 15 days of inspection due date);
- Failure to pay annual rent, and show annual proof of the required liability insurance and current vessel registration when due;
- Failure to comply with MP mooring tackle requirements or mooring inspection requirements;
- Failure to maintain mooring or perform required repairs and maintenance within 45 days of failing an annual mooring inspection;

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- Failure to maintain the moored vessel in seaworthy and operable condition;
- Selling, renting, or subleasing a mooring lease; and
- Transferring ownership of a non-littoral property mooring lease, or transfer of a littoral property lease without prior approval by CSLC.

If the mooring owner does not remove a mooring system and associated vessel within 45 days of lease termination, then the mooring system and associated vessel shall be removed at the mooring owner's expense and would subsequently be in violation of state and federal laws and regulations including, but not limited to violations of California Public Resources Code, California Code of Regulations Title 14, The National Marine Sanctuaries Act and Regulations at 15 CFR, Part 922, Section H.

XIV. Compliance Monitoring and Enforcement:

- Current laws and regulations shall be enforced. No unauthorized moorings are allowed to exist within Tomales Bay. GFNMS staff, in coordination with other TBIC agencies shall conduct regular ongoing compliance monitoring and maintain a database of permitted moorings on the bay.
- Once the MP initial rollout process is completed unauthorized moorings are subject to removal at the owner's expense and would be in violation of local, state and federal laws and regulations.

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Figure 1: Map of Tomales Bay Mooring Zones

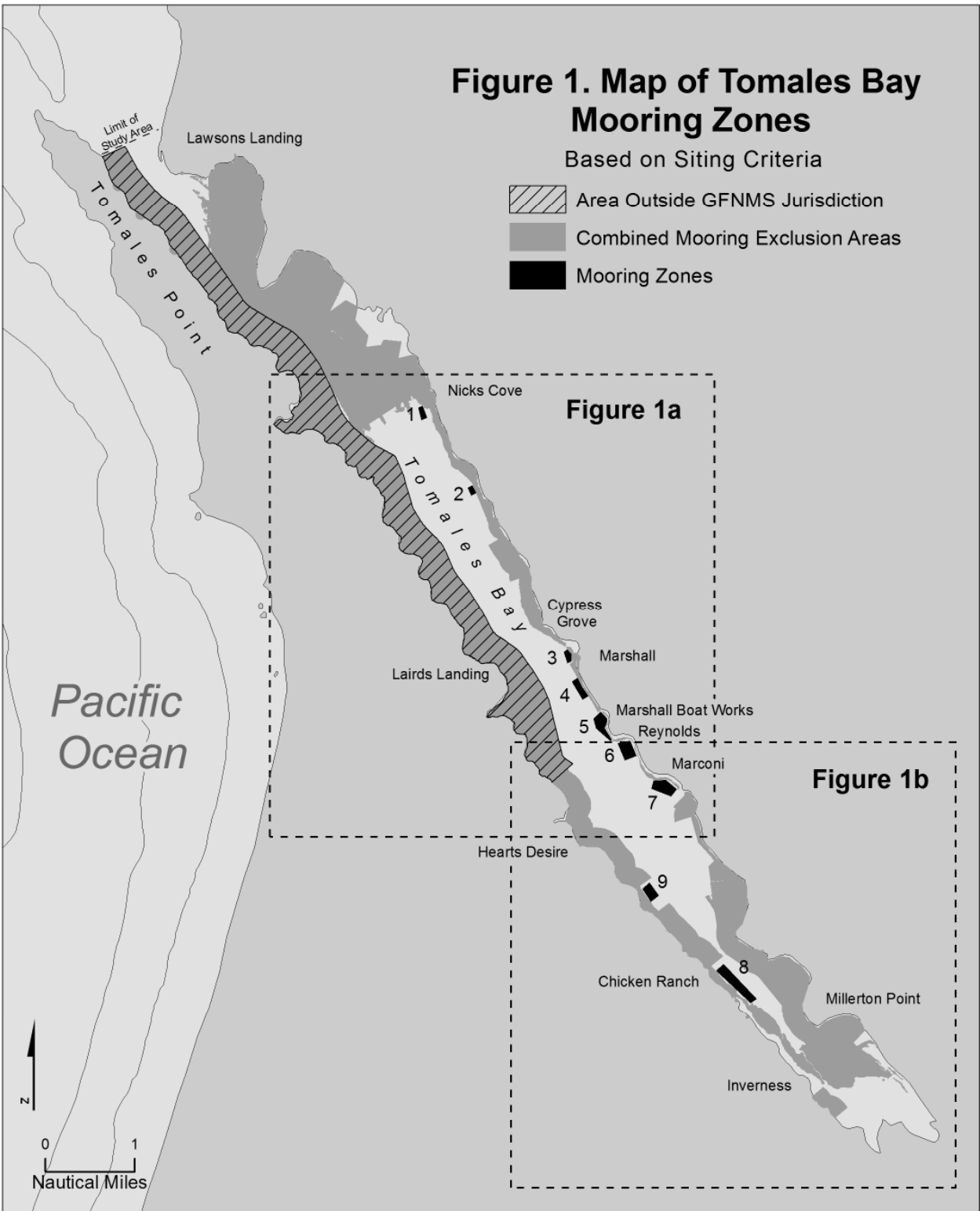


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Figure 1a: Map of Tomales Bay Mooring Zones

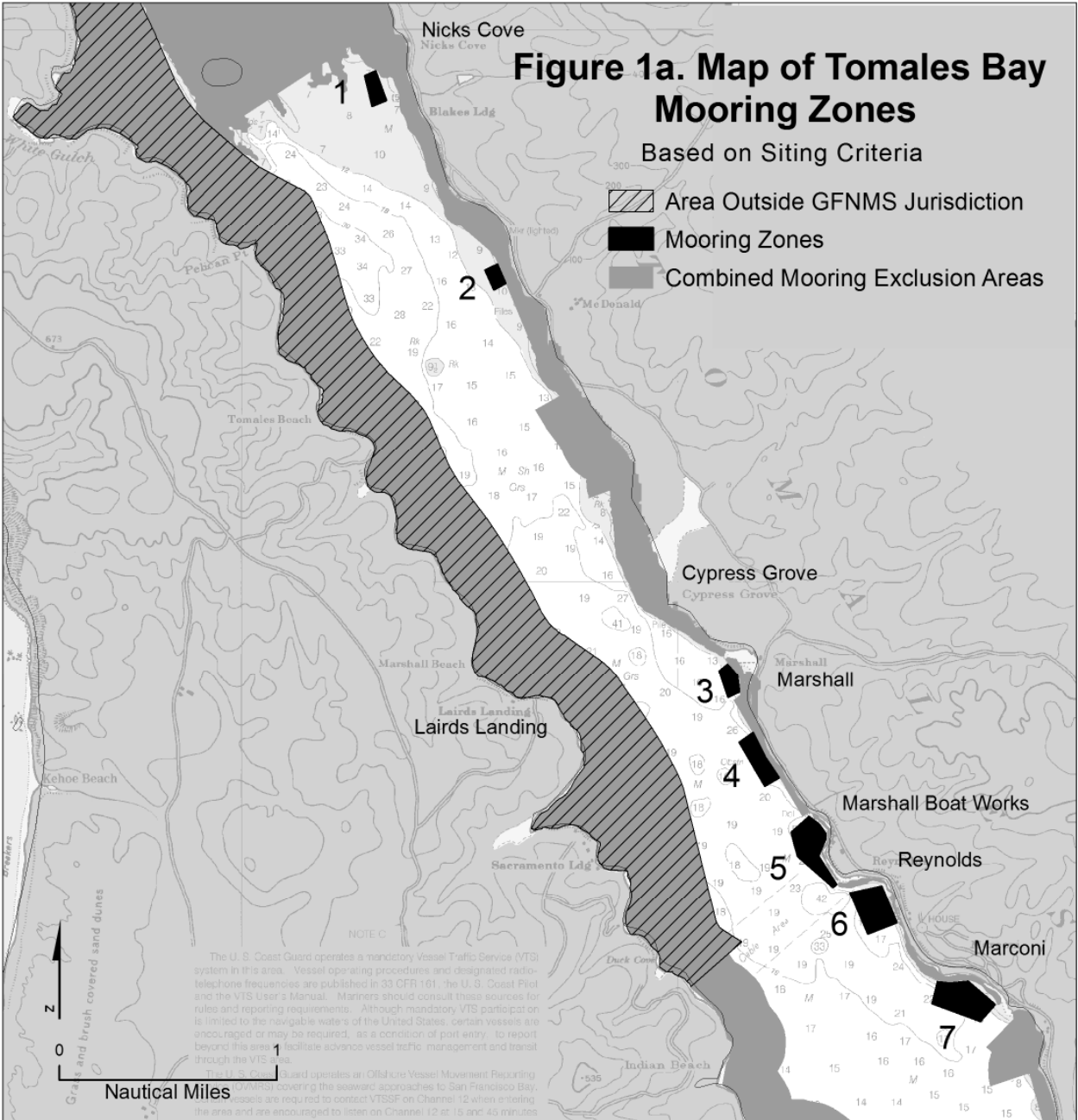


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Figure 1b: Map of Tomales Bay Mooring Zones

