

**STAFF REPORT
C66**

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04/19/18
PRC 7629.9
R. Collins

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

California Department of Fish and Wildlife

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in central Morro Bay, San Luis Obispo County.

AUTHORIZED USE:

Resource protection, conservation, and management of wildlife and marine resources as part of the Morro Bay State Marine Reserve, Morro Bay Wildlife Area, and the Morro Bay State Marine Recreational Management Area.

LEASE TERM:

25 years; beginning May 1, 2017.

CONSIDERATION:

Public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000, 2002, and 2003.

Public Trust and State's Best Interests Analysis:

On May 5, 1992, the Commission authorized a General Lease – Public Agency Use, for approximately 1,300 acres of sovereign land located in Morro Bay for 25 years to the California Department of Parks and Recreation (State Parks) and California Department of Fish and Wildlife (CDFW) as co-lessees for public use purposes including resource protection and management ([Item C45, May 5, 1992](#)). The waters

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adjacent to Morro Bay State Park include two Marine Managed Areas (MMAs): (1) one Marine Protected Area (MPA), the [Morro Bay State Marine Reserve \(SMR\)](#); and (2) the [Morro Bay State Marine Recreational Management Area \(SMRMA\)](#). The lease area was divided into two distinct parcels with Parcel 1 managed by State Parks and Parcel 2 managed by CDFW. Parcel 1 is currently included in the Morro Bay SMR and Parcel 2 is currently included in the Morro Bay SMRMA and the Morro Bay Wildlife Area. The lease expired April 30, 2017. State Parks has indicated it no longer has an interest in managing or leasing Parcel 1. CDFW has applied for a new lease and has indicated its desire to lease both Parcel 1 and Parcel 2. The California Wildlife Conservation Board authorized CDFW to execute the lease for resource protection, conservation, and public access on [February 22, 2018, under Item 10 on its agenda](#).

Morro Bay is one of the California coast's largest wetland estuaries and includes important intertidal and marine habitat types including saltmarsh and eelgrass. Adjacent tidal mudflats provide habitat for large numbers of invertebrates. A need exists for the protection and on-site management of the significant natural resources within and adjacent to Morro Bay. CDFW has on-site personnel who can effectively manage and administer the lease areas in a manner benefiting the public in compliance with State laws. CDFW currently administers aquaculture leases, enforces hunting and fishing regulations, protects threatened and endangered species, and monitors and controls non-native invasive species within the bay.

The proposed lease is for a 25-year term and will protect and sustain coastal tidelands and submerged lands for public purposes ranging from navigation and commerce to recreation and conservation. The proposed lease directly promotes Public Trust needs and values by protecting and restoring Public Trust resources, including native wildlife and marine species, without interfering with Public Trust uses or resources. Moreover, Parcels 1 and 2 accommodate, promote, and support recreational boating, fishing, hunting, public access, and enjoyment of the State's sovereign land. The lease would not significantly alter the land, alienate the State's fee simple interest, or permanently impair public rights.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead

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to increased flooding and larger tidal events and can affect erosion and sedimentation rates.

The lease area includes the Morro Bay SMR, Morro Bay Wildlife Area, and Morro Bay SMRMA. There are no facilities within the lease area, except for aquaculture leases, administered by the California Fish and Game Commission, for commercial oyster farming. Barge facilities associated with current aquaculture leases for commercial oyster farming are currently anchored to the substrate using typical fluke-style boat anchors.

The lease area is located entirely within the tidal zone of Morro Bay, below the high tide line, and potential direct effects of climate change within the lease area will largely be associated with increased sedimentation from uplands within the watershed. The barge facilities are currently adaptable to variable water levels but may require more frequent maintenance to avoid dislodgement and ensure continued function during and after storm seasons.

Conclusion:

For the reasons above, staff believes that 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 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 protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Key Action 1.2.4 to prioritize the use of sovereign land where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties, and other conservation efforts, consistent with applicable law.
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 14, section 15301, example (i); Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (d); Class 7, Actions by

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Regulatory Agencies for the Protection of Natural Resources; California Code of Regulations, title 2, section 2905, subdivision (f)(1).

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

APPROVALS OBTAINED:

California Wildlife Conservation Board

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 14, section 15301, example (i); Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (d); Class 7, Actions by Regulatory Agencies for the Protection of Natural Resources; California Code of Regulations, title 2, section 2905, subdivision (f)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, or 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 – Public Agency Use to the California Department of Fish and Wildlife beginning May 1, 2017, for a term of 25 years, for resource protection, conservation, and management of wildlife and marine resources as part of Morro Bay State Marine Reserve, Morro Bay Wildlife Area, and the Morro Bay State Marine Recreational Management Area, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as

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specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A

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LAND DESCRIPTION

PARCEL 1

All that tide and submerged land within Morro Bay in and adjacent to Morro Bay State park, San Luis Obispo County, California, lying Easterly of the following described line:

COMMENCING at the United States Coast and Geodetic Survey Triangulation Station "WHITE" which is a 4 inch brass disk set in concrete located on the Westerly side of White Point near the Easterly shore of Morro Bay, from which United States Coast and Geodetic Survey Triangulation Station "TUB 2", which is a 4 inch brass disk set in 12 inch concrete cylinder up 20 inches, located near the Southerly end of Morro Bay on the Easterly shore bears South 21°37'55" West 11,245.08 feet, both of the above recited stations and the accessories thereto being described in detail in the publications of the National Geodetic Survey (formerly United States Coast and Geodetic Survey); thence South 71°06'41" West 272.45 feet to the point identified by index number 36 on sheet 2 of 4 of that certain Record of Survey filed August 27, 1970 in Book 17 of Licensed Surveys at Page 41, Records of said County and the TRUE POINT OF BEGINNING of the line to be described herein, said point marking an angle point on the general Easterly line of Tidelands Survey No. 13 and being marked by a 4 inch brass cap set in concrete according to said Record of Survey; thence South 02°24'05" East 5533.72 feet to a 2 inch brass disk set in concrete filled 4 inch vitrified clay pipe and stamped "LEASE BOUNDARY REF. MON. NO.1 1990" and the end of the herein described line, from which a 2 inch iron pipe with County Surveyor's tag set in monument well marking the intersection of the centerlines of Pasadena Drive and Bay Street as said streets are shown on the "MAP OF TRACT NO. 40" filed May 7, 1946 in Volume 5 of Maps at Page 59, Records of said County, bears South 77°33'42" East 230.55 feet and also which a 2 inch iron pipe with County Surveyor's tag set in monument well marking the intersection of the centerlines of Pasadena Drive and Santa Ysabel Avenue as said streets are shown on said Tract No. 40 bears South 11°40'19" West 572.63 feet.

PARCEL 2

All that tide and submerged land within Morro Bay, San Luis Obispo County, California, adjacent to, and lying westerly of the following described line:

COMMENCING at the United States Coast and Geodetic Survey Triangulation Station "WHITE" which is a 4 inch brass disk set in concrete located on the Westerly side of White Point near the Easterly shore of Morro Bay, from which United States Coast and Geodetic Survey Triangulation Station "TUB 2", which is a 4 inch brass disk set in 12 inch concrete cylinder up 20 inches, located near the Southerly end of Morro Bay on the Easterly shore bears South 21°37'55" West 11,245.08 feet, both of the above recited stations and the accessories thereto being described in detail in the publications of the National Geodetic Survey (formerly United States Coast and Geodetic Survey); thence

South 71°06'41" West 272.45 feet to the point identified by index number 36 on sheet 2 of 4 of that certain Record of Survey filed August 27, 1970 in Book 17 of Licensed Surveys at Page 41, Records of said County and the TRUE POINT OF BEGINNING of the line to be described herein, said point marking an angle point on the general Easterly line of Tidelands Survey No. 13 and being marked by a 4 inch brass cap set in concrete according to said Record of Survey; thence South 02°24'05" East 5533.72 feet to a 2 inch brass disk set in concrete filled 4 inch vitrified clay pipe and stamped "LEASE BOUNDARY REF. MON. NO.1 1990" and the end of the herein described line, from which a 2 inch iron pipe with County Surveyor's tag set in monument well marking the intersection of the centerlines of Pasadena Drive and Bay Street as said streets are shown on the "MAP OF TRACT NO. 40" filed May 7, 1946 in Volume 5 of Maps at Page 59, Records of said County, bears South 77°33'42" East 230.55 feet and also which a 2 inch iron pipe with County Surveyor's tag set in monument well marking the intersection of the centerlines of Pasadena Drive and Santa Ysabel Avenue as said streets are shown on said Tract No. 40 bears South 11°40'19" West 572.63 feet.

EXCEPTING THEREFROM the tidelands and submerged lands filled or unfilled Granted under Chapter 1076 of the Statutes of 1947, amended by Chapter 1874, Statutes of 1957, and amended by Chapter 70, Statutes of 1960.

ALSO EXCEPTING THEREFROM any validly patented tidelands as described within Tideland Locations 131 and 220.

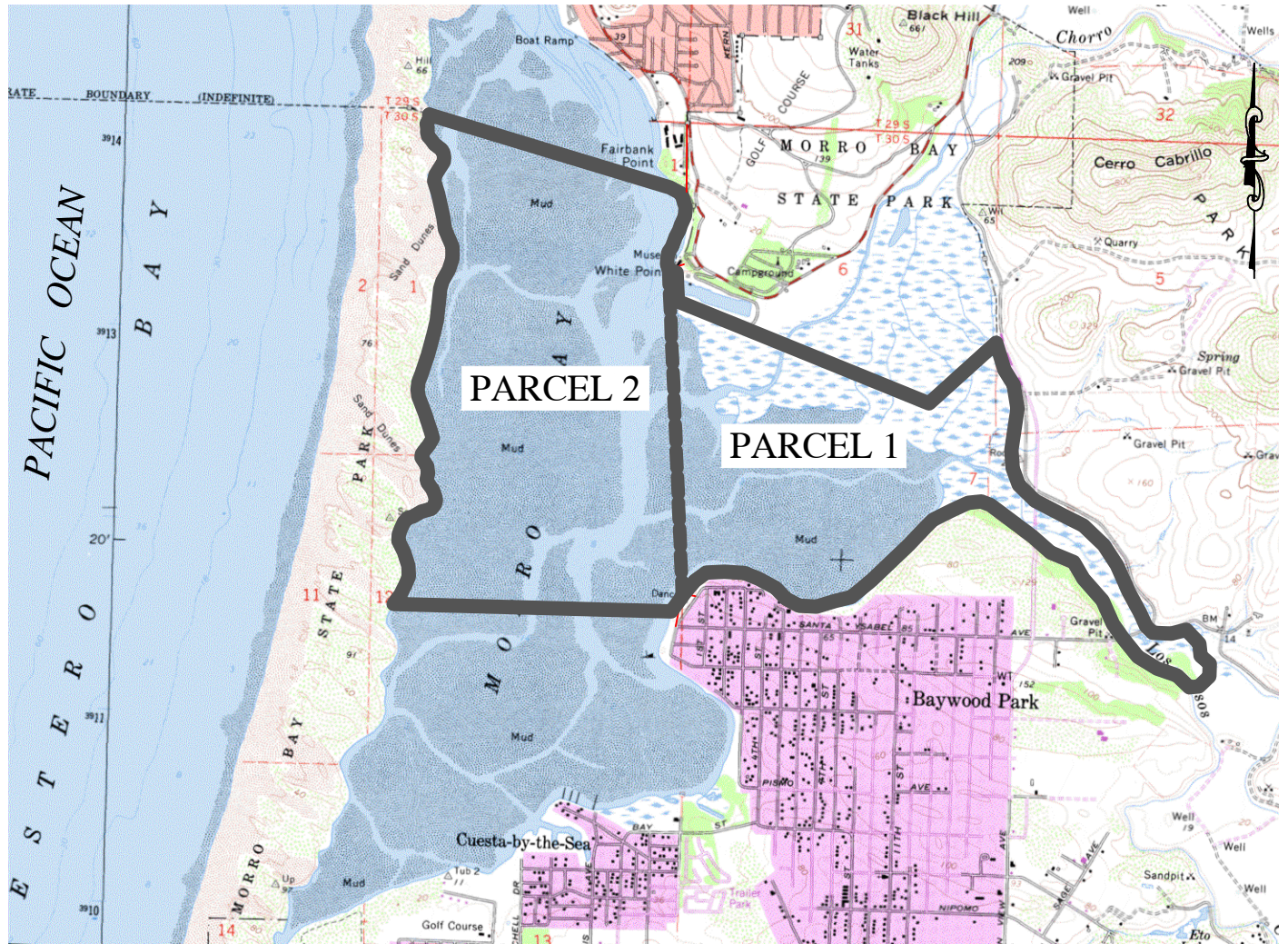
END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit on 01/10/18. Original description prepared by CSLC Boundary Unit in May 1992 as found in PRC 7629 file, Calendar Item C 45.



NO SCALE

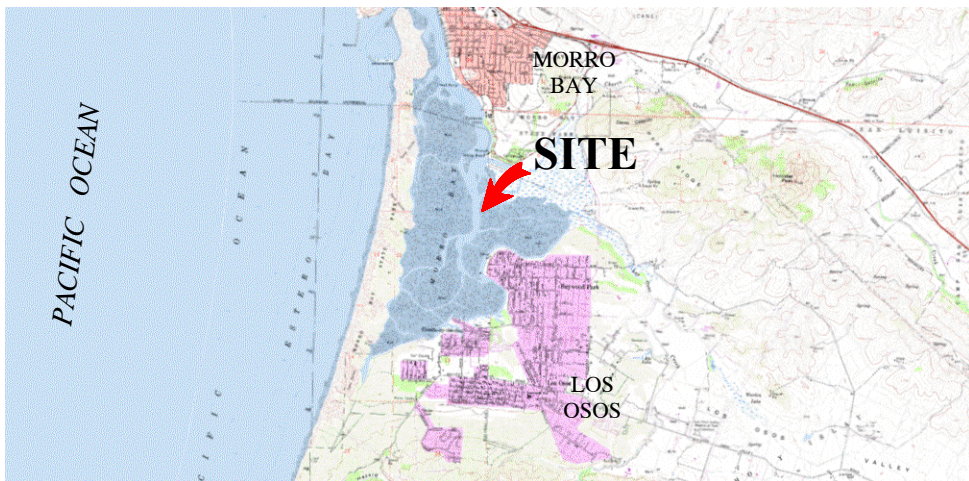
SITE



MORRO BAY, CALIFORNIA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 7629.9

CALIFORNIA DEPARTMENT
OF FISH & WILDLIFE
APN 074-011-010
GENERAL LEASE-
PUBLIC AGENCY USE
SAN LUIS OBISPO COUNTY



TS 01/10/18