

STAFF REPORT

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D. Simpkin

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GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

San Luis Obispo County Parks and Recreation Department

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean, Cayucos, San Luis Obispo County.

AUTHORIZED USE:

Use and maintenance of a public recreational use pier.

LEASE TERM:

20 years, beginning August 7, 2019.

CONSIDERATION:

The 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 and 2003.

Public Trust and State's Best Interests Analysis:

On August 19, 2003, the Commission authorized issuance of a General Lease – Public Agency Use, for a 19-year term, to the Applicant, for the use and maintenance of an existing wooden pier for public recreational use at Cayucos State Beach ([Item C76, August 19, 2003](#)). The lease expired on August 6, 2019. The Applicant is now applying for a General Lease – Public Agency Use for the continued use and maintenance of the existing approximately 953-foot-long Cayucos Pier.

Traditionally, Public Trust uses were limited to water-related commerce, navigation, and fishing but courts have expanded consistent uses to

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include swimming and general water-dependent recreational purposes. The pier is available for public recreational access and use, including fishing, year-round at no cost. The Applicant has an operating agreement with the California Department of Parks and Recreation which allows for the operation and maintenance of the pier for the portion located on its property. The pier does not produce income for the Applicant.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-year term, does not grant the Applicant exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the Applicant may be required to remove all improvements from State land. The proposed lease requires the Applicant to insure the lease premises and indemnify the State for any liability incurred as a result of the Applicant's activities thereon.

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. The lease area is located at Cayucos State Beach in Estero Bay in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Port San Luis tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea-Level Rise for Port San Luis¹

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 19, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

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As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). The combination of these conditions will likely result in increased wave run-up, storm surge, and flooding in coastal areas. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates as beaches and coastal landscapes are exposed to increased wave force.

These projected conditions could increase the likelihood of damage to the pier within the lease premises during the term of the lease. The pier was rehabilitated in 2015 and included rehabilitation from Bent 18 (tidal zone) out to Bent 61 (seaward end of Pier). Rehabilitation components included replacing approximately 57 piles and performing cap repairs. The upgrades also included the addition of cross bracing, T-straps, and batter piles. Continued maintenance may need to take place during the lease term to withstand future conditions, as any degradation of these components could result in property damage and public safety concerns within the lease area. Regular maintenance, as required by the terms of 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 will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pier and restore the premises to their original condition. Upon expiration or prior termination of the lease, the Applicant also has no right to a new lease or to renewal of any previous lease.

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2. 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 promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. 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 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 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 – Public Agency Use to the San Luis Obispo County Parks and Recreation Department beginning August 7, 2019, for a term of 20 years, for use and maintenance of a public recreational use pier, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part

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hereof; consideration being the 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.

EXHIBIT A

LEASE 5589.9

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of Estero Bay, situated in the town of Cayucos, County of San Luis Obispo, State of California, said parcel being all that land immediately beneath and extending 10 feet on all sides of an existing pier; said pier being adjacent to the Cayucos Beach State Park and extending southwesterly of "C" Street in the town of Cayucos.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Estero Bay.

END OF DESCRIPTION

Prepared

M. L. Shap

Checked

C. N. Perry

Reviewed

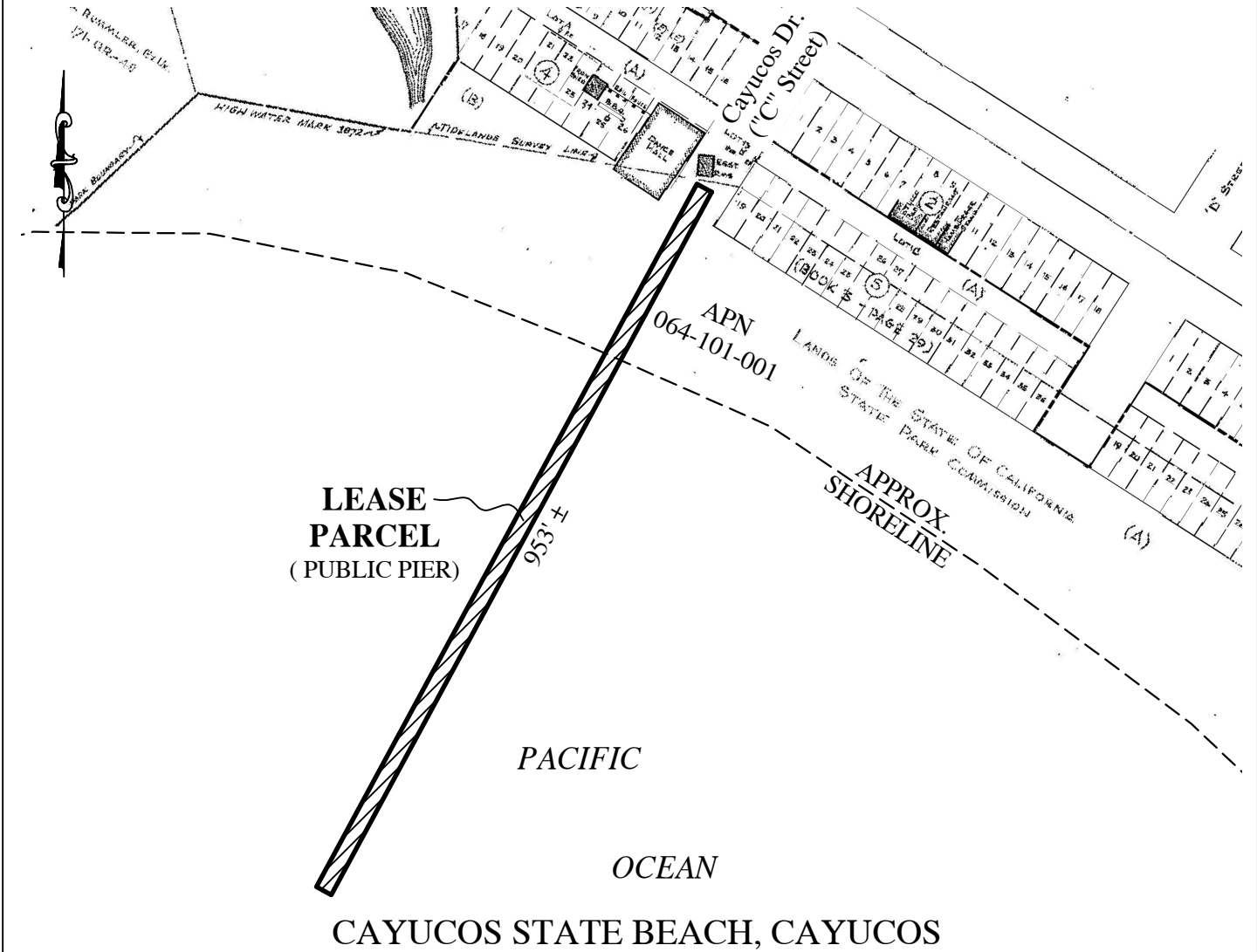
Ray Mink

Date

6/27/78

NO SCALE

SITE



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

LEASE 5589.9

SAN LUIS OBISPO CO. PARKS
& RECREATION DEPARTMENT

APN 064-101-001

GENERAL LEASE -
PUBLIC AGENCY USE
SAN LUIS OBISPO COUNTY



TS 05/14/19