

STAFF REPORT

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02/28/20

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Lease 194.1

A. Franzoia

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

City of Point Arena

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean at Arena Cove, adjacent to 810 Port Road, City of Point Arena, Mendocino County.

AUTHORIZED USE:

Continued use and maintenance of an existing fishing pier and 17 mooring buoys previously authorized by the Commission; and use and maintenance of two existing boat hoists, two product hoists, a small office with an adjoining public restroom and shower facility, stairs, gangway, adjustable boarding platform, and National Oceanic and Atmospheric Administration weather and tidal station not previously authorized by the Commission.

LEASE TERM:

20 years, beginning February 28, 2020.

CONSIDERATION:

Mooring Buoys: \$140 per year, with an annual Consumer Price Index adjustment.

Fishing pier, two existing boat hoists, two product hoists, small office with an adjoining public restroom and shower facility, stairs, gangway, adjustable boarding platform, and National Oceanic and Atmospheric Administration weather and tidal station: 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.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On September 26, 1985, the Commission authorized a General Permit – Public Agency Use to the Applicant, for reconstruction and operation of a public fishing pier and mooring buoys for a term of 30 years beginning July 1, 1985, and ending June 30, 2015 ([Item C04, January 23, 1986](#)). When the lease was issued, the fishing pier and mooring buoys were entirely for the public's use and benefit and, therefore, no rent was charged. The Applicant has submitted an application for a new lease.

The Applicant provides a public benefit for recreational and commercial fishers, boaters, and the general public. Commercial fishing was a thriving business in the area but has declined in recent years.

The lease premises contain a pier with wood and metal pilings, fish cleaning stations, two boat hoists, two product hoists, a small office for pier operations with an adjoining public restroom and shower facility, stairs, adjustable gangway, adjustable boarding platform, a National Oceanic and Atmospheric Administration weather and tidal station, and 17 mooring buoys in Arena Cove. The pier and buoys have been continuously used and maintained by the Applicant since 1985. The mooring buoys are now owned by various local licensed fishers who allow non-owners and visitors to use the buoys free of charge when advised by the Applicant's Harbor Master on buoy availability. Because the mooring buoys are no longer entirely for the public's use and benefit, staff recommends charging annual rent for the buoys.

The Applicant has submitted unaudited financial statements for the Pier Operations Fund and the Pier Repair and Replacement Fund. The community holds an annual fundraiser called the Harbor and Seafood Festival to fund the Pier Repair and Replacement Fund. These funds are consolidated in the Pier Enterprise Fund. A review of the Applicant's financial statements shows that, from 2016 to 2019, the Applicant has operated the pier at an accumulated loss of \$187,310 with a projected loss in 2020 of \$48,107. Previous years show similar losses.

The proposed lease would allow for the Applicant's continued use and maintenance of the pier and mooring buoys. Moreover, because the pier has been an integral component of the City of Point Area for more than

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100 years, use of the lease premises is essential to its ability to provide recreational and commercial benefits to the community and statewide visitors. The proposed lease requires the lessee to conduct annual inspections and after heavy storm events. The Applicant's continued use of the lease premises will promote and support Public Trust needs and values at this location. The pier and mooring buoys will promote and support uses such as navigation, commercial and recreational fishing, recreational boating, and other traditional Public Trust uses. The proposed lease does not significantly alter the land, and does not alienate the State's sovereign interest, or permanently impact public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease the lessee may be required to remove any improvements and restore the lease premise to its original condition. Additionally, the proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities under the lease.

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 Point Arena, 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 Arena Cove 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 Arena Cove¹

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

Source: Table 7, 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.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains fixed features (pier pilings) and movable features (buoys). Flooding conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation. The floating nature of the movable features will allow them to rise and fall with tides and waves, increasing their resiliency to some sea-level rise impacts. The fixed features may need to be raised or reinforced to withstand future conditions.

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 the effects of climate change, including sea-level rise.

Conclusion:

The lease does not alienate the State's fee simple interest or permanently impair public rights. The recommended action is consistent with the Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding the proposed action 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, appurtenant facilities, and mooring buoys and restore the premises to their original condition. Upon expiration or prior

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termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

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 protect, 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. Legal 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 the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning February 28, 2020, for a term of 20 years, for

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continued use and maintenance of an existing fishing pier and 17 mooring buoys previously authorized by the Commission; and use and maintenance of two existing boat hoists, two product hoists, small office with an adjoining public restroom and shower facility, stairs, gangway, adjustable boarding platform, and National Oceanic and Atmospheric Administration weather and tidal station not previously authorized by the Commission; as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the 17 mooring buoys: \$140 per year, with an annual Consumer Price Index adjustment; consideration for fishing pier, two existing boat hoists, two product hoists, small office with an adjoining public restroom and shower facility, stairs, gangway, adjustable boarding platform, and National Oceanic and Atmospheric Administration weather and tidal station: 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; liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 194.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in Arena Cove, Pacific Ocean lying adjacent to fractional Section 11, Township 12 North, Range 17 West, M.D.B.&M., as shown on Government Township Plat approved August 13, 1867, County of Mendocino, State of California being more particularly described as follows:

COMMENCING at the section corner common to Sections 11, 12, 13, and 14, Township 12 North, Range 17 West, Mount Diablo Base and Meridian, as shown on that Record of Survey filed in Map Case 2, Drawer 42, Page 61, Mendocino County Records; thence North $37^{\circ} 43' 26''$ West 1192.70 feet; thence North $61^{\circ} 12' 32''$ West 308.71 feet; thence North $73^{\circ} 43' 51''$ West 564.50 feet to the POINT OF BEGINNING; thence the following eight (8) courses:

- 1) South $13^{\circ} 25' 06''$ East 211.98 feet;
- 2) South $77^{\circ} 30' 00''$ West 449.28 feet;
- 3) South $85^{\circ} 19' 38''$ West 859.22 feet;
- 4) North $04^{\circ} 40' 22''$ West 495.50 feet;
- 5) North $85^{\circ} 19' 38''$ East 1200.00 feet;
- 6) South $04^{\circ} 40' 22''$ East 176.63 feet;
- 7) North $85^{\circ} 19' 34''$ East 37.40 feet;
- 8) South $40^{\circ} 25' 17''$ East 59.36 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark of the Pacific Ocean.

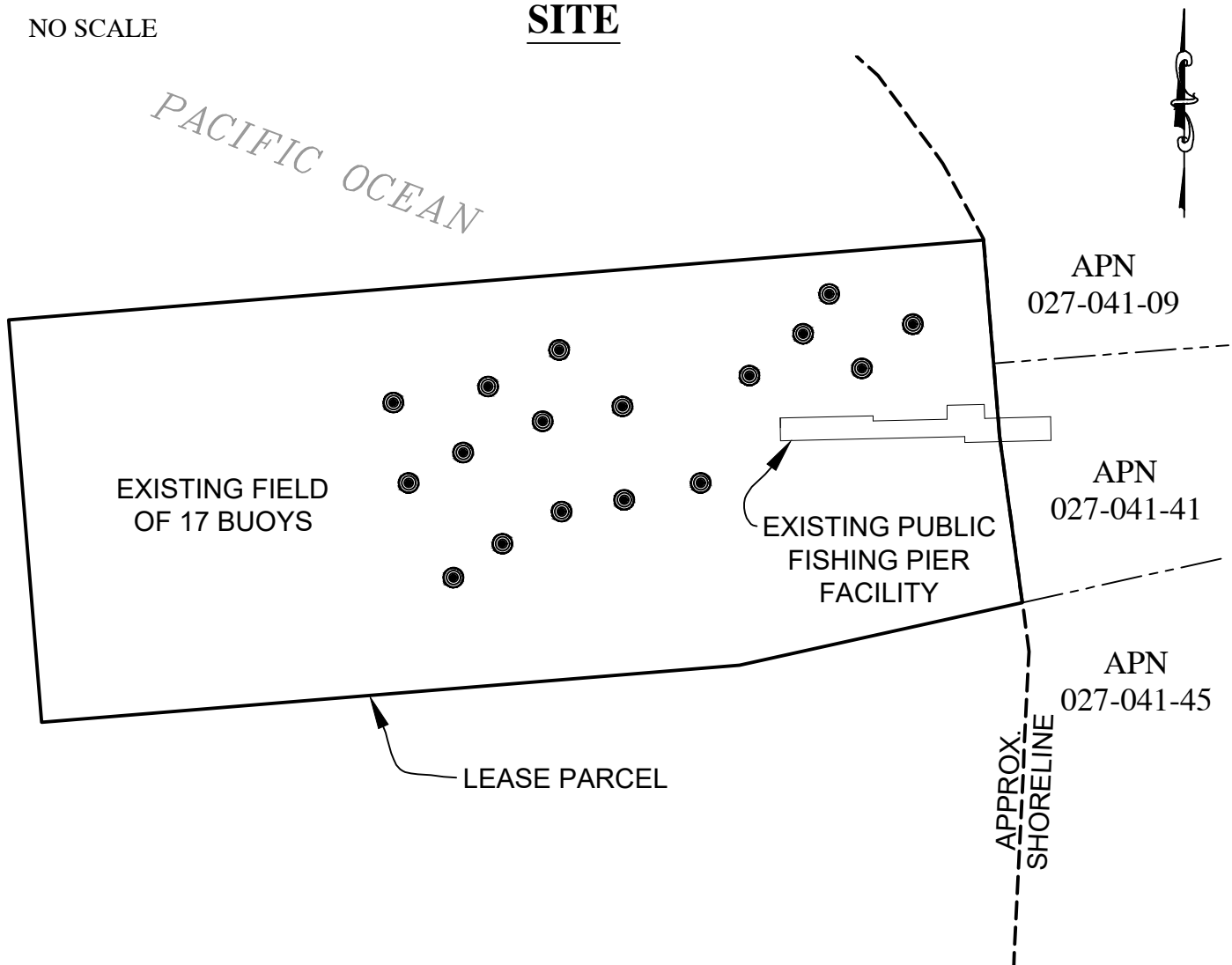
END OF DESCRIPTION

Prepared 12/14/2016 by the California State Lands Boundary Unit.



NO SCALE

SITE



810 PORT ROAD, NEAR CITY OF POINT ARENA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 194.1
CITY OF POINT ARENA
APN 027-041-41
GENERAL LEASE -
PUBLIC AGENCY USE
MENDOCINO 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.

RGB 12/15/16