

Staff Report 24

APPLICANT:

East Bay Regional Park District

PROPOSED ACTION:

Issuance of General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Carquinez Strait at Eckley Cove, near Crockett, Contra Costa County.

AUTHORIZED USE:

Use and maintenance of an existing public fishing pier.

TERM:

20 years, beginning June 10, 2020.

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.

SPECIFIC LEASE PROVISIONS:

- Before June 9, 2022, Lessee or its licensed contractor shall perform an external inspection of the existing Lease Improvements, and at least once each year thereafter. Further, Lessee or its licensed contractor shall perform a condition assessment of the existing Lease Improvements before June 9, 2022, and at least once every 5 years thereafter. Additionally, Lessee or its contractor shall perform an external inspection and condition assessment when warranted by extraordinary circumstances such as an accident, a King Tide, a major flood, or a significant seismic event, including tsunamis. The schedule of the external inspection and condition assessment may be modified by mutual agreement among the parties hereto.

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:

On July 6, 1995, the Commission authorized a 25-year General Lease – Public Agency Use to the East Bay Regional Park District (“District”) ([Item C16, July 6, 1995](#)). That lease expired on June 9, 2020. The District is now applying for a General Lease – Public Agency Use, for the use and maintenance of an existing public fishing pier in Carquinez Strait at Eckley Cove, near Crockett, in Contra Costa County.

The subject pier has existed at this location for many years. The existing improvements are designed for outdoor recreation and public use, including fishing and walking near coastal waterways. The proposed use enhances access to Public Trust resources, enjoyed by people of all ages and socioeconomic levels. Recreational facilities that encourage and promote public access, use, and enjoyment of the State's waterways are generally consistent with the common law Public Trust Doctrine. The subject pier offers a significant public benefit and year-round access to a water-dependent recreational amenity. The public can safely access the fishing pier on a regular basis, as facilitated by the Applicant and its contractual agreement with the Union Pacific Railroad. Moreover, the Applicant enhances public safety through visual signage around the lease area and adjacent upland. From the pier, the public can fish in Carquinez Strait and enjoy scenic views. The availability of open space and outdoor recreation areas helps to offset social and environmental strains on the general population. According to a representative of the East Bay Regional Park District (2020), “Generally, setting aside land for passive public recreation and conservation protects ecosystems that are important for the overall health of the State shoreline and helps achieve statewide goals for the conservation of nature and habitat corridors.”

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 lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent 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 indemnify the State for any liability incurred as a result of the lessee's activities thereon.

CLIMATE CHANGE:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased storm events and flooding. The lease area is located in Carquinez Strait within a region identified as tidally influenced and vulnerable to flooding at current sea levels.

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 San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update
 Note: Projections are with respect to a 1991 to 2009 baseline.

This effect could increase inundation levels within the lease area. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease water levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to the pier during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the pier to higher flood risks and cause the structure to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing

previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings and pier. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the pier.

The fixed features, such as the pilings, may need reinforcement to withstand higher levels of flood exposure and more frequent storm events. 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 District 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 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 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 District, as the prior lessee, may be required to remove the fishing pier and restore the premises to their original condition. Upon expiration or prior 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 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 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 this 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 issuance of 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 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 June 10, 2020, for a term of 20 years, for the use and maintenance of an existing public fishing pier, 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 if the Commission finds such action to be in the State's best interests.

EXHIBIT A

LEASE 7834

LAND DESCRIPTION

A parcel of submerged land, whether filled or unfilled, lying in the bed of the Carquinez Strait, near the Town of Crockett, Contra Costa County, State of California, more particularly described as follows:

COMMENCING at the concrete monument at the Station 2762+49.54 as shown on that certain map CXB 89 (Sheet 2) titled "MAP OF RE-SURVEY OF TIDELAND SURVEY No. 32 CONTRA COSTA COUNTY CALIFORNIA" approved on April 18, 1927, said map is on the file with California State Land Commission, Sacramento Office; thence along the northerly line of said re-survey map South 73° 36' 15" East 319.26 feet to the POINT OF BEGINNING; thence leaving said line North 12° 31' 47" East 310.00 feet; thence South 77° 28' 13" East 100.00 feet; thence South 12° 31' 47" West 316.76 feet to said northerly line of said re-survey; thence along said line North 73° 36' 15" West 100.23 feet to the POINT OF BEGINNING;

END OF DESCRIPTION

Prepared on 04/29/2020 by the California State Lands Commission Boundary Unit.



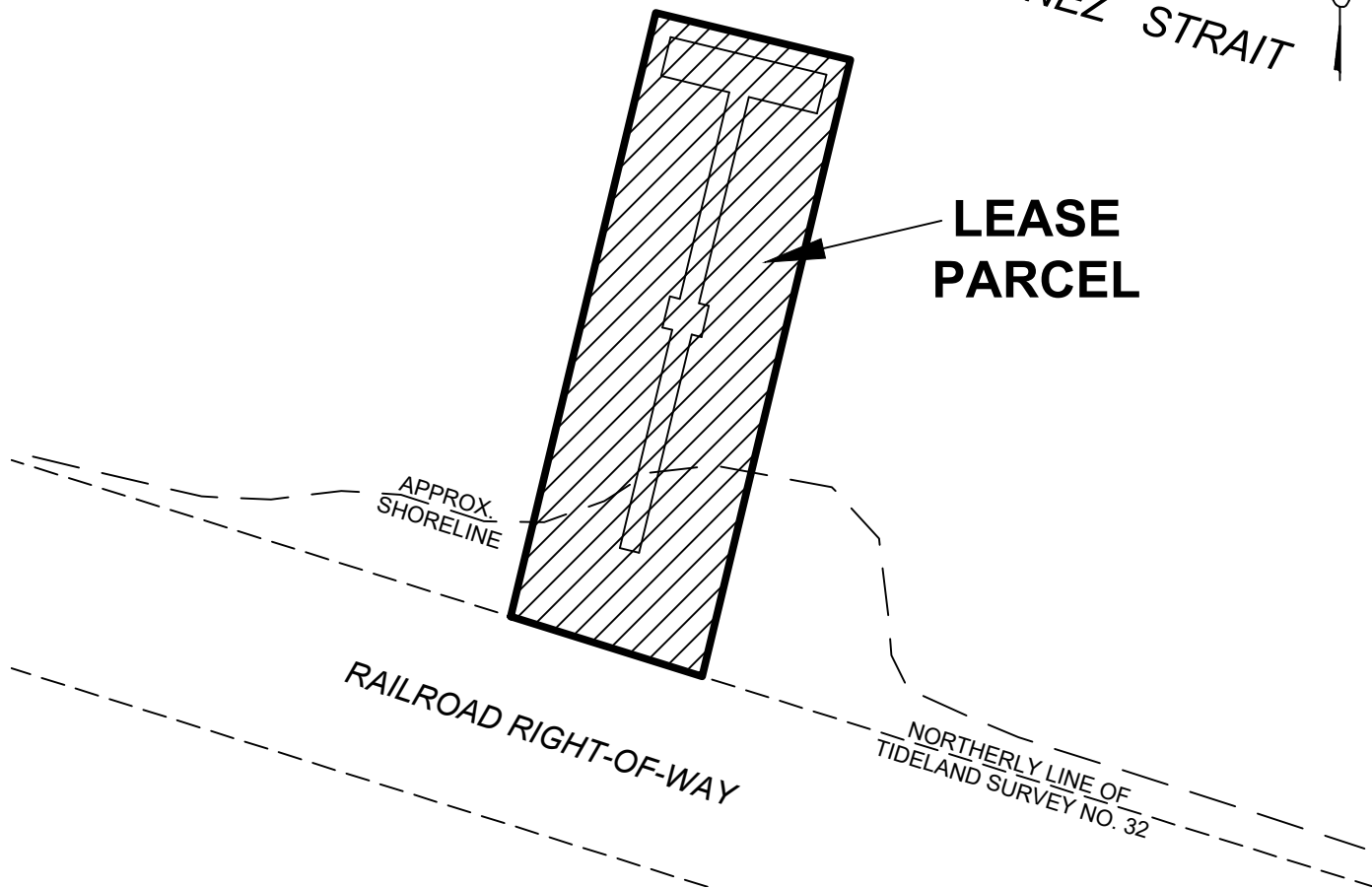
NO SCALE

SITE

CARQUINEZ STRAIT



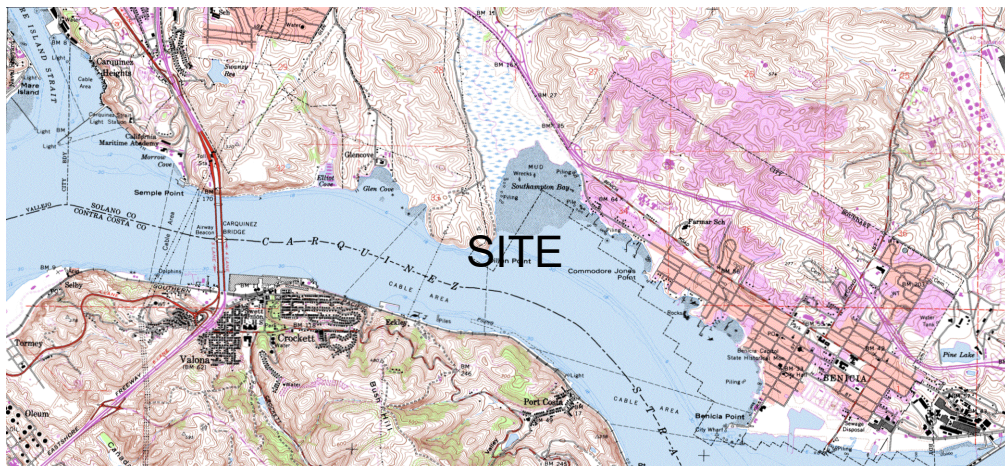
**LEASE
PARCEL**



CARQUINEZ STRAIT, NEAR TOWN OF CROCKETT

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

EXHIBIT B
 LEASE 7834
 EAST BAY REGIONAL
 PARK DISTRICT
 GENERAL LEASE-
 PUBLIC AGENCY USE
 CONTRA COSTA 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.

TS 04/29/2020