

Staff Report 09

LESSEE/SUBLESSOR:

Humboldt Bay Harbor, Recreation and Conservation District

SUBLESSEE:

Peninsula Community Services District

PROPOSED ACTION:

Endorsement of a Sublease

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near Samoa, adjacent to Assessor's Parcel Number 401-111-006, Humboldt County.

AUTHORIZED USE:

Lease: Use, operation, and maintenance of a 36-inch internal diameter effluent outfall pipeline

Sublease: Use of the outfall pipeline for discharge of additional treated effluent.

TERM:

Lease: 25 years, beginning August 14, 2013, and ending August 13, 2038, unless sooner terminated as provided under the lease.

Sublease: Effective, beginning December 17, 2020, and ending August 13, 2038, unless sooner terminated as provide under the lease.

CONSIDERATION:

\$450 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 29, 2015, the Commission authorized a General Lease – Right-of-Way Use to the Humboldt Bay Harbor, Recreation and Conservation District beginning August 14, 2013, for a term of 25 years, for the continued use and maintenance of a 36-inch inside diameter effluent outfall pipeline and endorsement of a sublease to DG Fairhaven Power, LLC (DGF) ([Item C35, June 29, 2015](#)). Portions of the pipeline are on Lessee owned land and within a private easement.

On April 9, 2018, Humboldt County approved the Town of Samoa Master Plan and certified an Environmental Impact Report (EIR) for the development of a multi-phased subdivision by the Samoa Pacific Group, LLC (SPG) who owns the Town of Samoa (Samoa). The subdivision improvements include construction of a wastewater treatment plant (WWTP) to treat wastewater from Samoa and other places, including commercial and ocean related industrial uses. The Peninsula Community Services District (District) was formed for the purpose of providing certain utility services to Samoa including ownership and operation of the WWTP following its construction. As part of the WWTP construction, SPG has constructed a 3,810 linear foot, 4-inch diameter, PVC sanitary sewer force main along Vance Avenue and across the Lessee's land to connect to the 36-inch diameter ocean outfall pipeline.

The outfall pipe has a 1/4-mile-long diffuser at the end of the 1-1/2-mile-long outfall pipe located approximately 80 feet below the water surface of the Pacific Ocean. The diffuser contains 144 ports, each approximately 2 inches in diameter. The outfall pipe and diffuser have a rated capacity of approximately 40 million gallons per day.

The outfall pipeline consists of four joints and five sections. Section 1 is 1,500 feet in length with a blind flange on the offshore end and connects to Joint #4, Section 2 consisting of 1,900 feet in length. MM Diving Inc., (MM) Underwater Construction, Class A-General Engineering License #817400 inspected the pipeline diffuser ports on October 7, 2019. Divers found seven of eight diffuser ports clogged and Joint #4 exposed and covered in marine growth and crab rope. On October 8, 2019, divers used a water jet inserted in the diffuser ports to jet sediment and debris including

sand, sediment with shell, sand dollars, and small wood debris clearing an 80-foot section of open diffusers and establishing flow to the eight diffuser ports.

On August 18, 2020, MM added six anodes to Joint #4 and 80-feet of pipe with eight pair of diffuser ports. Divers jetted a trench along the north side creating clearance for the diffuser ports. Good flow was established from the beach as head pressure was applied during jetting. All eight pair showed good discharge and was determined by MM to be in good overall condition.

On June 4, 2020, the Lessee entered into a Sublease Agreement with the District for the use of the existing 36-inch-diameter effluent outfall pipeline to discharge additional treated effluent. The District has informed the Lessee that the WWTP will be operational in December 2020 and will begin discharging through the outfall pipeline following Commission authorization and execution of an endorsement of the sublease in compliance with their Sublease Agreement, Coastal Development Permit, and National Pollutant Discharge Elimination System permits. The Lessee has submitted an application to endorse a sublease.

DGF can discharge up to 350,000 gallons per day (gpd) into the ocean outfall pipe in batches (DGF discharge is limited by national pollutant discharge elimination system (NPDES) permit No. R1-2018-0013). However, average daily discharges from DGF are approximately 170,000-200,000 gpd requiring two pair of diffuser ports. The Sublessee is permitted to discharge treated wastewater effluent from Samoa at a projected maximum volume of 75,600 gallons per day (gpd) into ocean waters (per North Coast Regional Water Quality Control Board Order No. R1-2020-0005 and NPDES No. 1000001). The combined discharge will be less than 1% of the pipeline's capacity, even with the proposed additional discharge from the Sublessee. The current lease authorizes the use of an existing 36-inch inside diameter outfall pipeline, which has a maximum daily capacity of 40 million gdp. Historically, this pipeline was used to discharge as much as 15 million gdp of wastewater from a pulp mill when it was fully operational.

The existing lease requires the Lessor/Sublessor to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from Lessor/Sublessor or Sublessee's activities within the lease premises. The proposed sublease does not alienate the State's fee simple interest or permanently impair public rights. The sublease is limited to the 25-year term of the lease and does not grant the Lessor/Sublessor or Sublessee exclusive rights to the lease premises, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

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 offshore of the Samoa Peninsula in Humboldt County, which is 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 North Spit 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 North Spit

Year	Projection (feet)
2030	1.0
2040	1.6
2050	2.3
2100	7.6

Source: Table 4, State of California Sea-Level Rise Guidance: 2018 Update

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

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.

The existing submerged outfall is approximately 8,200-feet long and terminates in an 852-foot multipoint diffuser aligned perpendicular to the shoreline. The diffuser is approximately 82 feet below the surface; therefore, it is unlikely that these projected conditions would increase the likelihood of damage to the outfall within the lease premises during the term of the lease. Regular maintenance, as required

by the terms of the lease, will reduce the likelihood of structural degradation or dislodgement.

CONCLUSION:

For the reasons stated above, staff believes the endorsement of the proposed sublease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed sublease; 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. Upon expiration or prior termination of the permit, the lessee has no right to a new permit or to renewal of any previous permit.
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.
3. The County has prepared and certified a Master Environmental Impact Report (MEIR) and Supplemental MEIR for the Samoa Town Master Plan, which contains a variant on the ultimate disposal of treated wastewater from the Samoa Town Master Plan area, i.e., utilization of the ocean outfall line on the Harbor District's Redwood Marine Terminal II property (SCH# 2003052054). Under this analysis, the Supplemental MEIR found that environmental impacts from the additional discharge would be less than significant.
4. The proposed sublease would allow the sublessee to use existing pipeline facilities for discharge well below pipeline capacity. Because the sublease does not require alteration of the existing facilities or alteration of the existing lease provisions, staff recommends that the Commission find that this activity—approving the sublease endorsement—is exempt from the requirements of 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 sublease 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, or for the foreseeable term of the sublease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize, by endorsement, a sublease between the Lessee and Sublessee, for use of the 36-inch-diameter effluent outfall pipeline for the purpose of discharging additional treated effluent, beginning December 17, 2020, and ending August 13, 2038.

EXHIBIT A

PRC 3186

LAND DESCRIPTION

A 50 feet wide strip of tide and submerged land situated in the bed of the Pacific Ocean, County of Humboldt, State of California, lying adjacent to Lot 1 of fractional Section 20, Fractional Township 5 North, Range 1 West, Humboldt Meridian as shown on Official U.S. Government plat approved October 22, 1890, and lying 25 feet on each side of the following described centerline:

BEGINNING at the intersection of the centerline of the existing outfall pipeline with the ordinary high water mark of the Pacific Ocean, said point bears North 10° 43' 21" West approximately 4496.37 feet from NGS Monument D 735 (PID LV0355); thence along said centerline North 58° 15' 31" West approximately 8082.50 feet to terminus of said centerline.

The sidelines of said strip to be lengthened or shortened as to begin on the ordinary high water mark of said Pacific Ocean and to terminate at a line perpendicular to the terminus of said centerline.

BASIS OF BEARINGS for this description is the California Coordinate System of 1983, Zone 1.

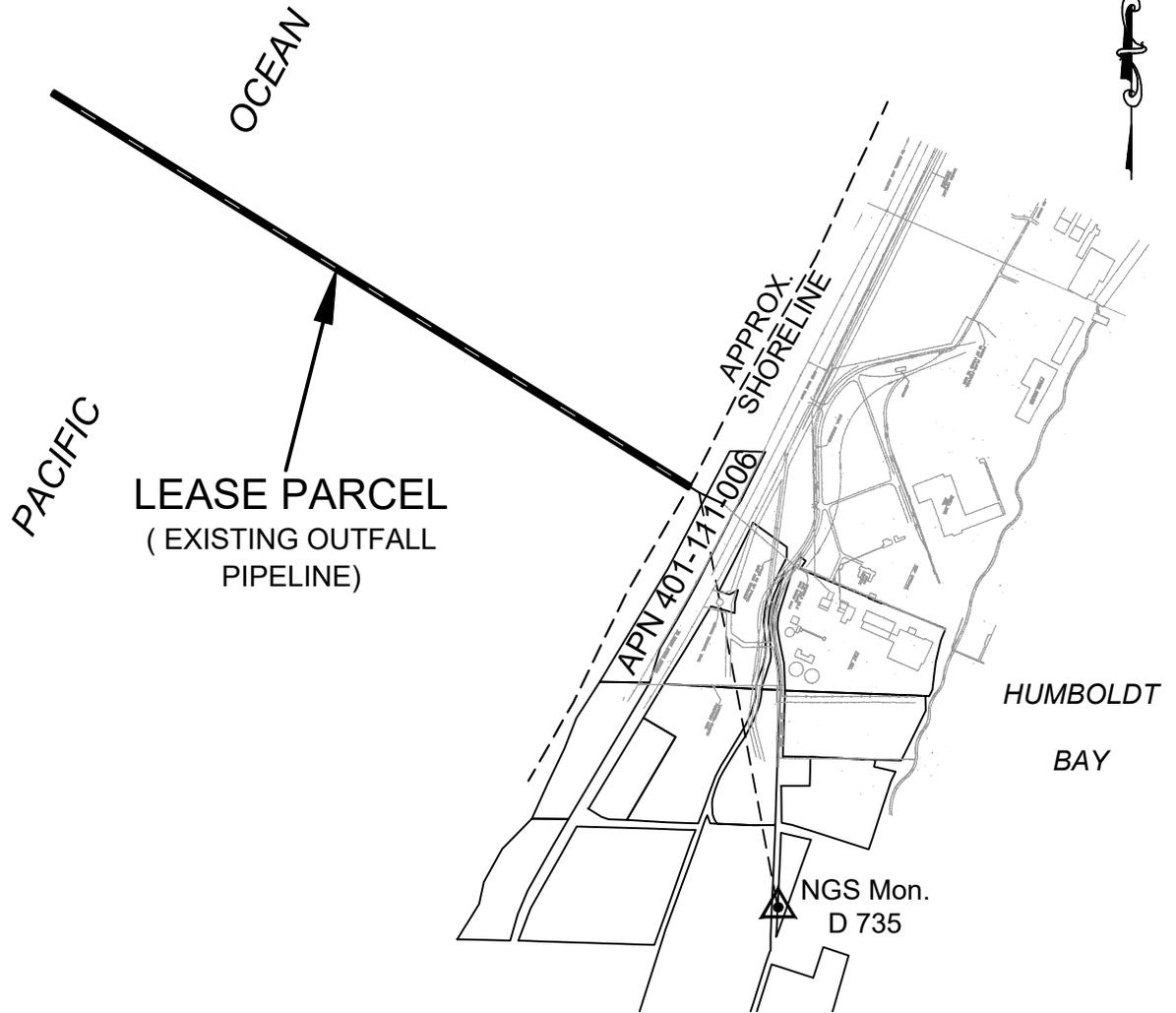
END OF DESCRIPTION

Prepared 08/04/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

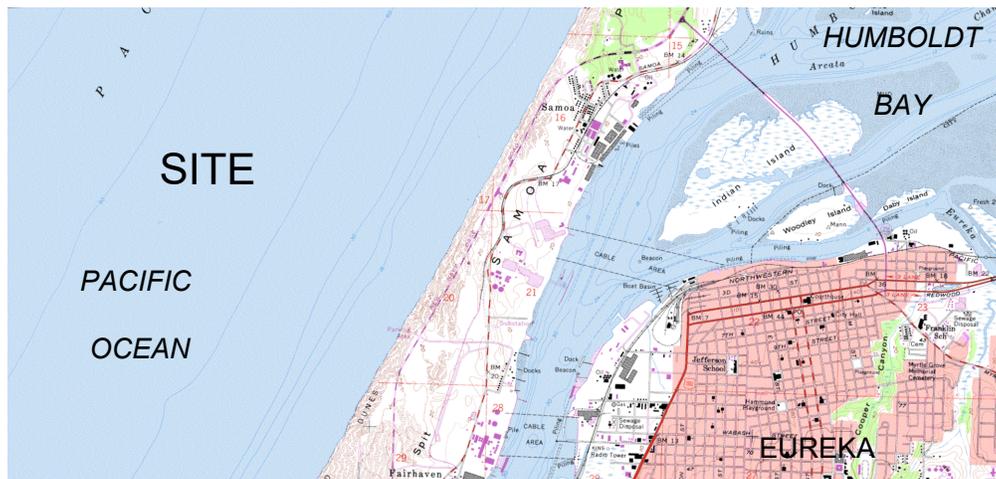
SITE



1 TCP DRIVE, NEAR SAMOA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3186
 HUMBOLDT BAY HARBOR,
 RECREATION &
 CONSERVATION DISTRICT
 APN 401-111-006
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 HUMBOLDT COUNTY



TS 08/04/2020

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.