

Staff Report 36

LESSEE:

Oak Hills Estate, LLC

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

18.53 acres of sovereign land located in the Burton Mesa Ecological Reserve, near Lompoc, Santa Barbara County.

AUTHORIZED USE:

Installation, use, and maintenance of habitat restoration and mitigation.

TERM:

10 years, beginning December 6, 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.

SPECIFIC LEASE PROVISIONS:

Amend the lease to:

- Extend the construction must-start-by date identified in the lease by 1 year to May 1, 2022, as a result of unforeseen delays due to the shelter-in-place orders related to COVID-19.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 8600 et seq; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 6, 2019, the Commission authorized Lease 9570, a General Lease – Other, to Oak Hills Estate, LLC (Lessee), for the installation, use, and maintenance of habitat restoration and mitigation ([Item 30, December 6, 2019](#)). The lease will expire on December 5, 2029. The Lessee is now applying to amend the lease to extend the construction must-start-by date by 1 year, to May 1, 2022.

The proposed Oak Hills Estate subdivision (Oak Hills Project) will impact maritime chaparral, federally listed species habitat, rare plants, and coast live oak trees on privately owned property adjacent to the Commission-owned and California Department of Fish and Wildlife-managed Burton Mesa Ecological Reserve (Reserve). Impacts to habitat that cannot be feasibly mitigated on the development site are proposed to be mitigated on the Reserve, within a recently retired fallow agricultural field in close proximity to the development project.

The Oak Hills Project includes implementation of a Mitigation Plan required by the County of Santa Barbara as a condition of development that would enhance wildlife habitat by recreating 18.53 acres of maritime chaparral, coast live oak woodland, coast buckwheat, and riparian arroyo willow thickets. The Mitigation Plan would result in net benefits to habitat quality and improved connectivity allowing species to expand their range on the Reserve over its existing condition. The Mitigation Plan identifies measurable objectives or performance standards that the habitat restoration and mitigation program must meet to be considered effective. All restoration planting areas are subject to specific success criteria and conditions, evaluated through regular monitoring.

Scheduled work for the construction and habitat restoration has been delayed as a result of unforeseen COVID-19-related restrictions on nonessential services. As those restrictions are still in place, the Lessee has stated that it will be unable to begin construction by the current May 1, 2021 deadline shown in the Lease.

Staff believes that the proposed lease amendment to extend the construction must-start-by date to May 1, 2022 due to the shelter-in-place orders related to COVID-19 will not substantially interfere with the Public Trust needs and values at this location because extending the date when restoration work must begin will not

impact the fallow agricultural field's already degraded condition. The lease, as amended, will continue to provide for public use and benefit through environmental restoration, and is consistent with the common law Public Trust Doctrine.

CONCLUSION:

For all the reasons above, staff believes that the approval of the proposed amendment will not substantially interfere with the public's rights or substantially impair Public Trust needs and values at this location; is consistent with the common law Public Trust Doctrine; and is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the proposed amendment 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 a trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. An Environmental Impact Report (EIR), State Clearinghouse No. 2015111069, was prepared for the overall Oak Hills Project by Santa Barbara County and certified on July 17, 2018. Staff has reviewed this document and Mitigation Monitoring Program (MMP) prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

A Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091 and 15096) were adopted by the Commission on December 6, 2019 ([Item 30, December 6, 2019](#)), and remain in full effect.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2015111069, was prepared for the Oak Hills Project by the County of Santa Barbara and certified on July 17, 2018, and that the Commission has reviewed and considered the information contained therein. A Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091 and 15096) were adopted by the Commission on December 6, 2019 ([Item 30, December 6, 2019](#)), and remain in full effect.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

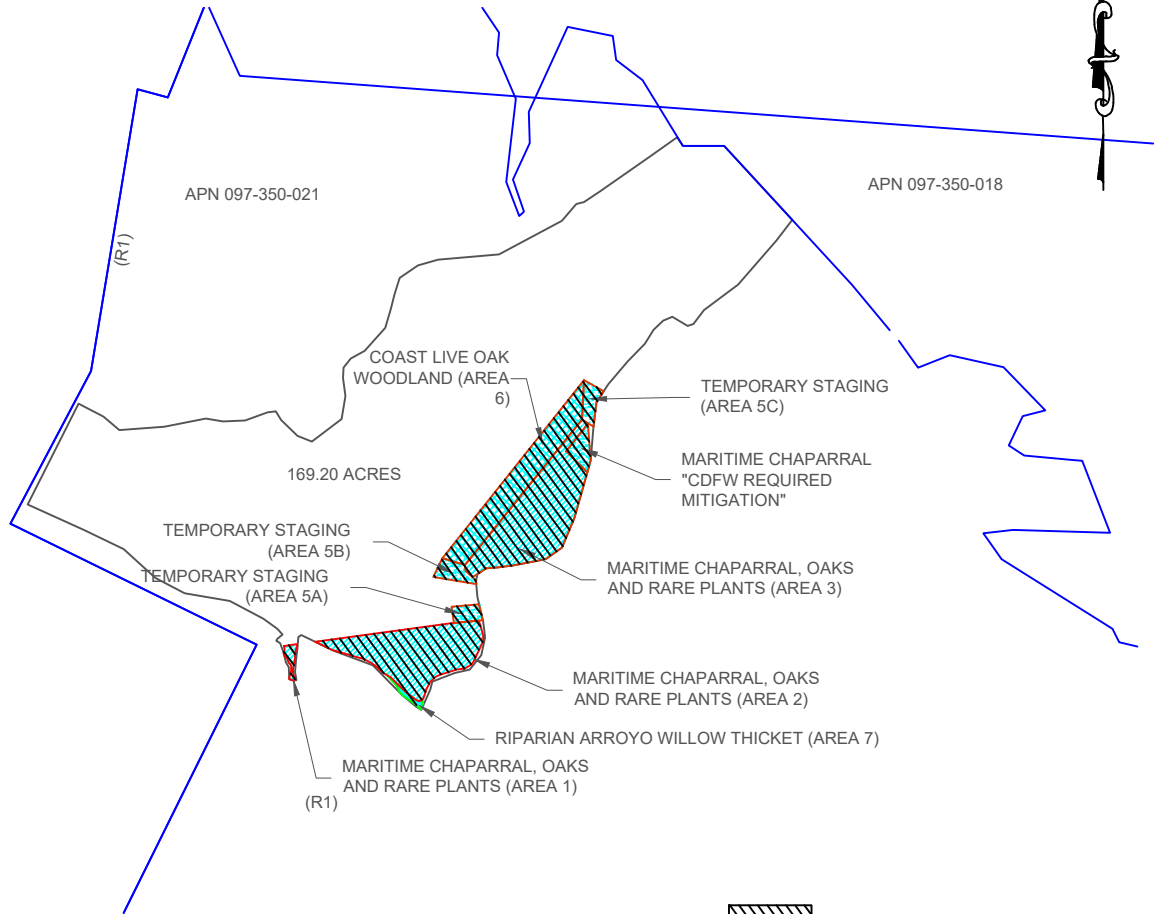
Find that the approval of the proposed amendment will not substantially interfere with the public's rights, or substantially impair Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease as amended; is consistent with the common law Public Trust Doctrine; and is in the State's best interests.

AUTHORIZATION:

Authorize amendment of Lease 9570, a General Lease – Other, effective April 27, 2021, to extend the construction must-start-by date to May 1, 2022; all other terms and conditions of the lease will remain in effect without amendment.

NO SCALE

SITE



LEGEND

P.O.C. POINT OF COMMENCEMENT
 T.P.O.B. TRUE POINT OF BEGINNING
 (R1) DENOTES RECORD DATA PER
 RS BOOK 21, PAGE 153 TO 154
 (CALC) DENOTES CALCULATED DATA

 LEASE AREAS

HABITAT RESTORATION & MITIGATION BURTON MESA

NO SCALE

LOCATION

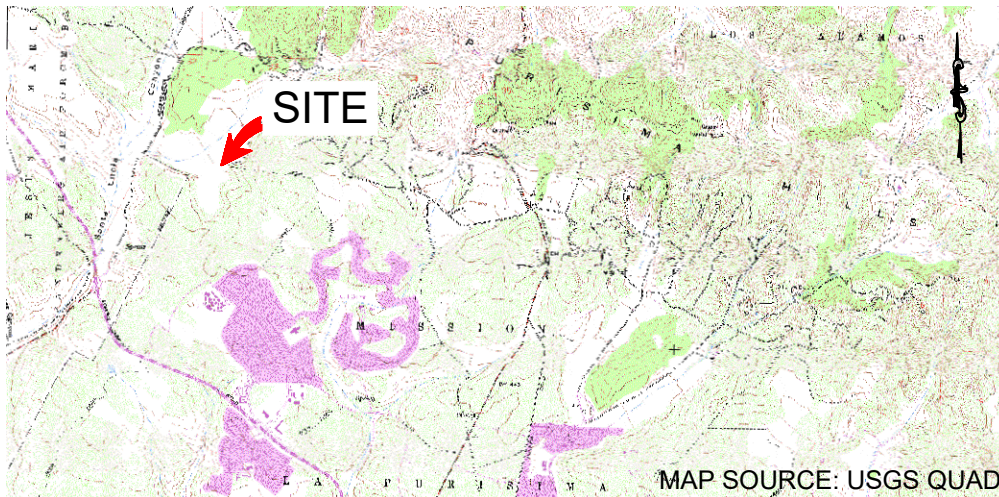


EXHIBIT A

LEASE 9570.9
 OAK HILLS ESTATE, LLC
 APN 097-350-021
 GENERAL LEASE -
 OTHER USE
 SANTA BARBARA 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.

JAK 3/21