

Staff Report 07

APPLICANT:

Mark Cauwels and Suzanne J. Cauwels, as Trustees of the Mark and Suzanne Cauwels Family Trust Initially Created on July 30, 1992

PROPOSED ACTION:

Issuance of a General Lease - Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

1,650 square feet, more or less, of sovereign tide and submerged land located in the Pacific Ocean, adjacent to 70 Geoffroy Drive, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

Use and maintenance of an existing concrete seawall previously authorized by the Commission, and an existing plugged sea cave not previously authorized by the Commission.

TERM:

10 years, beginning August 25, 2021.

CONSIDERATION:

\$13,140 per year, with an annual Consumer Price Index adjustment; and \$7,380 to compensate for the unauthorized occupation of state sovereign land for the period prior to August 24, 2021.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that the hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On November 7, 1997, the Commission authorized a 10-year General Lease – Protective Structure Use to Richard Alan Lewis and Wendy Allen Lewis for the construction of a concrete seawall ([Item C48, November 7, 1997](#)). On August 17, 2004, the Commission authorized the assignment of the lease to Eugene Shklar and Daymel G. Shklar, Trustees of the 1993 Shklar Revocable Trust ([Item C47, August 17, 2004](#)). The lease expired on August 31, 2007. In late 2006, the lessee noticed a sea cave at the base of the bluff and plugged the sea cave with rock and concrete in early 2009 without notifying the Commission.

On June 25, 2009, interest in the upland parcel and lease improvements was deeded to the Applicant, without notice to or authorization from the Commission. The Applicant is now applying for a General Lease – Protective Structure Use, for the use and maintenance of an existing concrete seawall previously authorized by the Commission, and a plugged sea cave not previously authorized by the Commission. Staff recommends issuance of a new lease beginning August 25, 2021. Staff further recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$7,380 for the period of such occupation prior to August 24, 2021.

The proposed lease is for 1,650 square feet, more or less, and would authorize the existing concrete seawall located at the base of the bluff and a plugged sea cave. Many seawalls and plugged sea caves exist along the bluffs in the Santa Cruz area. While these seawalls protect the upland property on top of the bluff, they may also provide for the health and safety of the public by helping to stabilize the bluff, prevent bluff failure, and protect the public recreating on the beach, depending on location.

Potential adverse effects related to protective shoreside structures in Santa Cruz can include increased beach erosion, interference with natural sand supply, loss of public beach, and potential impacts on flora and fauna as a result of encroachment by these protective structures on the beach environment. Various beach nourishment programs have been conducted by city and regional governing bodies, and sand-loss mitigation fees have been implemented as a requirement for new Coastal Development Permits to mitigate these impacts by

helping to maintain a sandy beach for public access and recreation. The lease is for a limited term of 10 years, which allows the Commission flexibility if the previously described impacts occur or if the Commission determines that the Public Trust needs of the area have changed over time.

Based on the information known to Commission staff at this time, the existing seawall and plugged sea cave located on State sovereign land do not substantially interfere with Public Trust needs and values at this location at this time. The proposed lease requires the lessee to keep and maintain the protective structure in good order and repair, insure the lease premises, and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in the Pacific Ocean, adjacent to 70 Geoffroy Drive in Santa Cruz.

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 Monterey 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 Monterey

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, 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 and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

The lease area includes a seawall consisting of a tied-back shotcrete wall, a deep sea cave plug, and grouted riprap. According to a survey conducted in 2019, the seawall wall and tiebacks showed no sign of rapid corrosion or durability issues. In addition, the grouted riprap revetment is at the same slope gradients (2.5:1 to 2.9:1 H:V) as when it was originally permitted and placed.

The seawall will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change and is likely to degrade over the lease term due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion, as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the seawall from the landward side. Therefore, it may require more frequent maintenance to ensure continued function during and after storm seasons and reduce the risk it poses to public safety in the event the seawall becomes a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The seawall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the stem wall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition to the seawall exerting an artificial influence on the natural landward migration of the beach, it is also a barrier between the naturally eroding bluffs and the beach, and effectively prevents beach replenishment via natural passive erosion. In general, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back on to the beach with higher force due to their placement and composition. Beach loss is anticipated to increase over the term of the lease because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of this seawall, unless beach replenishment projects are implemented.

The seawall within the lease area may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance as required by the lease terms will help reduce the likelihood of severe structural

degradation. Further climate change impact analyses on the seawall will be assessed at the time the lease is up for renewal and would be based on projected sea-level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes the issuance of the proposed lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; 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, as the owner of the improvements on state land, may be required to remove the existing concrete seawall and plugged sea cave 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 the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find the 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 interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$7,380 for the unauthorized occupation of State land prior to August 24, 2021.
2. Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning August 25, 2021, for a term of 10 years, for the continued use and maintenance of the existing concrete seawall previously authorized by the Commission, and an existing plugged sea cave not previously authorized by the Commission, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$13,140, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8000

LAND DESCRIPTION

A parcel of tide and submerged land, whether filed or unfilled, lying in the bed of Monterey Bay, Pacific Ocean adjacent to Lot 3 of fractional Sections 20, T 11 S, R 1 W, MDM, as shown on the Official Township Plat approved February 11th, 1860, Santa Cruz County, State of California and more particularly described as follows:

Bounded on the northwest by the northwesterly line of "Parcel One" as described in that Grant Deed recorded in Document No. 2009-003071 Official Records of said county;
Bounded on the west, southwest and south by the toe of grouted rip-rap revetment as shown on that plan entitled "RIP_RAP REENGINEERING PLAN", sheet 1 of 4, dated March 10, 2006 by Haro, Kasunich and Associates, Inc. and on file with the State Lands Commission;

Bounded on the southeast by a line lying parallel with and six feet southeast from and perpendicular to the southeasterly line of said "Parcel One";

Bounded on the east, northeast and north by the Ordinary High Water Mark of Monterey Bay.

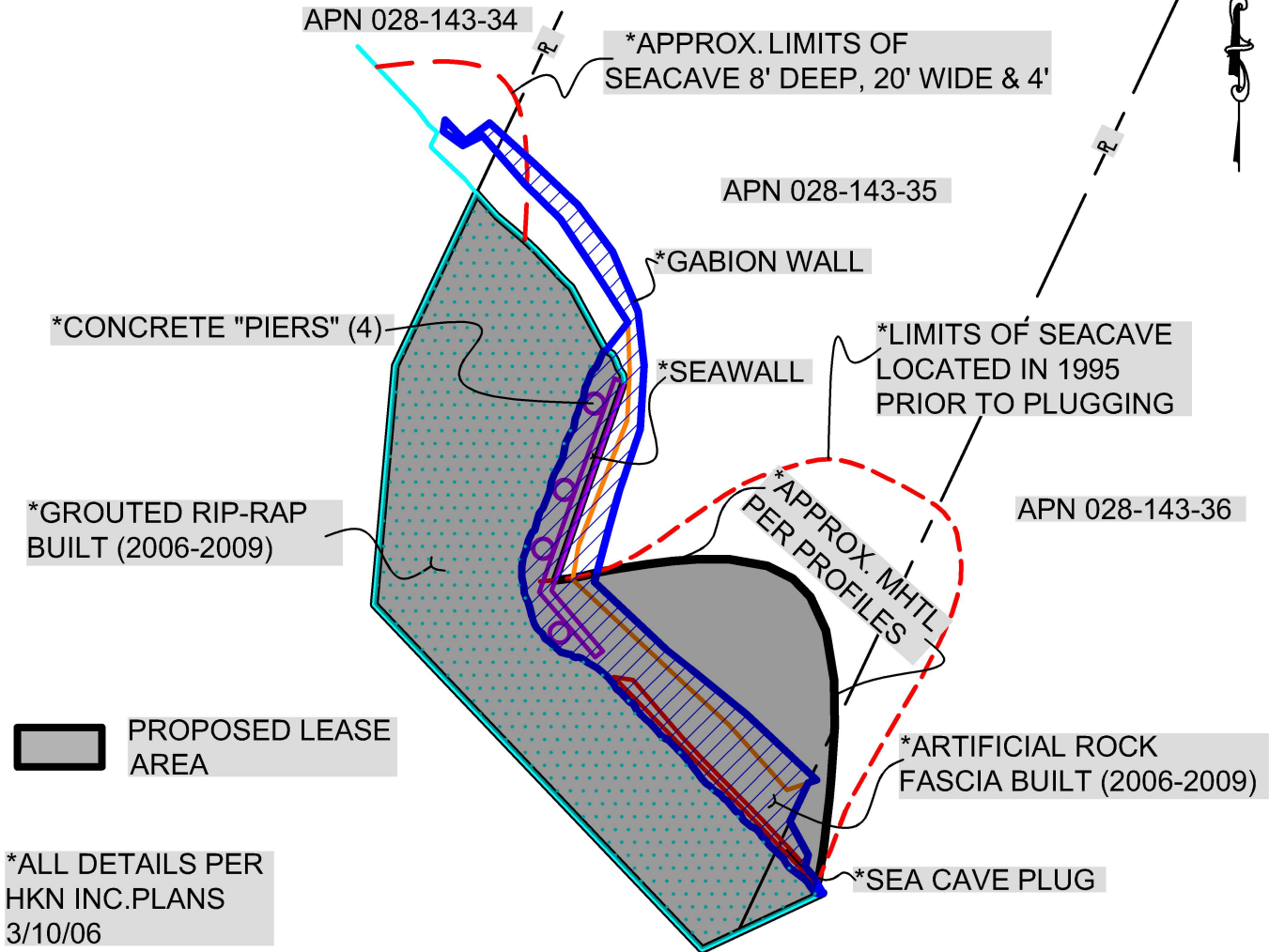
END OF DESCRIPTION

PREPARED 12/29/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE



70 GEOFFROY DRIVE, NEAR SANTA CRUZ

NO SCALE

LOCATION



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 8000
CAUWELS
APN 028-143-35
GENERAL LEASE -
PROTECTIVE STRUCTURE USE
SANTA CRUZ COUNTY



MJF 12/29/2020