

Staff Report 28

APPLICANT:

Tony Joe Conrad and Mary Fernando Conrad, Trustees of the Tony and Mary Conrad Revocable Trust dated July 27, 2000

PROPOSED ACTION:

Issuance of a General Lease – Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

320 square feet, more or less, of sovereign tide and submerged land located in the Pacific Ocean, adjacent to 49 Terrace Avenue, Bolinas, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing concrete seawall.

TERM:

10 years, beginning April 26, 2022.

CONSIDERATION:

\$264 per year, with an annual Consumer Price Index adjustment; and \$489 to compensate for the unauthorized occupation of state sovereign land for the period from June 16, 2020 through April 25, 2022.

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 August 26, 1980, the Commission authorized a 25-year General Permit – Protective Structure Use to George H. and Ann M. Hogle for shoreline stabilization ([Item C7, August 26, 1980](#)). The lease expired on June 30, 2005.

On June 16, 2020, interest in the upland parcel and lease improvements were deeded to the Applicant. The Applicant is now applying for a General Lease – Protective Structure Use, for the use and maintenance of an existing concrete seawall. Staff recommends issuance of a new lease beginning April 26, 2022. Staff further recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$489 for the period of occupation from June 16, 2020, through April 25, 2022.

The proposed lease is for 320 square feet, more or less, and would authorize the existing concrete seawall located at the base of the bluff. The seawall protects the upland property and the adjacent upland property on top of the bluff.

Potential adverse effects related to this protective structure in Bolinas can include increased beach erosion, interference with natural sand supply, and loss of public beach as a result of encroachment by this protective structure on the beach environment. 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 located on State sovereign land does 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 49 Terrace Avenue, Bolinas.

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 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.

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 and riverine 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 that is approximately 72-feet long, 21-feet wide, and 7-feet tall and located at the toe of the coastal bluff. The seawall within the lease area will be vulnerable to the impacts from sea level rise and more frequent and intense storms that are the result of climate change. The seawall 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 seawall 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 effectually 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.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

Seawalls can have impacts on Public Trust needs and values within the beach area. However, considering the measures under the existing lease and the limited term of the proposed lease, staff believes the issuance of 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 proposed 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 a 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 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 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. 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 approval of 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 \$489 for the unauthorized occupation of State land from June 16, 2020, through April 25, 2022.
2. Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning April 26, 2022, for a term of 10 years, for the continued use and maintenance of an existing concrete seawall, 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 \$264, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5881

LAND DESCRIPTION

A parcel of tide and submerged lands situate in the bed of the Bolinas Bay, Pacific Ocean, lying adjacent to that parcel as described in that Grant Deed recorded June 16, 2020, in Document No. 2020-0025028 Official Records of Marin County, State of California, and more particularly described as follows:

COMMENCING at a point on the southerly line of Terrace Avenue as described in said Grant Deed; thence along the following three courses:

- 1) South 69° 40' 00" East 20.00 feet;
- 2) South 88° 33' 00" East 84.26 feet;
- 3) South 43° 45' 00" East 142.50 feet to the POINT OF BEGINNING;

thence along the following six courses:

- 1) South 43° 45' 00" East 10.00 feet;
- 2) South 26° 10' 00" East 20.00 feet;
- 3) South 63° 50' 00" West 80.00 feet;
- 4) North 26° 10' 00" West 20.00 feet;
- 5) North 62° 15' 00" West 11.79 feet;
- 6) North 63° 50' 00" East 83.92 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

Revised on 04/14/2021 by the California State Lands Commission Boundary Unit.

Original description prepared by CSLC Technical Services Unit on May 28, 1980 as found in PRC 5881 file, Calendar Item 7.



NO SCALE

SITE

APN
193-142-07

APPROX.
RETAINING WALL

APPROX.
SHORELINE

LEASE
AREA

PACIFIC

OCEAN

49 TERRACE AVENUE, BOLINAS

NO SCALE

LOCATION



SITE

MAP SOURCE: USGS QUAD

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 5881

CONRAD REVOCABLE TRUST

APN 193-142-07

GENERAL LEASE -
PROTECTIVE
STRUCTURE USE
MARIN COUNTY



SITE

TS 04/14/2021