

Staff Report 53

APPLICANT:

South Orange County Wastewater Authority

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near Laguna Beach, Orange County

AUTHORIZED USE:

Use and maintenance of an existing 48-inch-diameter wastewater outfall pipeline and ballast rock.

TERM:

30 years, beginning October 1, 2024.

CONSIDERATION:

Public health and safety; 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:

- Lessee shall perform external inspections of the outfall pipeline and provide reports of such inspections to Commission staff for review periodically throughout the lease term and as warranted by any emergency repairs.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On July 22, 1976, the Commission authorized a 49-year Public Agency Permit to the Aliso Water Management Agency for the installation and maintenance of an ocean outfall line ([Item 1, July 22, 1976](#)). That permit will expire on September 30, 2024. The Applicant is now applying for a General Lease – Public Agency Use for the use and maintenance of the existing 48-inch-diameter ocean outfall pipeline and ballast rock. The Applicant is a joint powers authority responsible for wastewater treatment and effluent discharges in a 200-square mile service area within South Orange County.

The outfall is located between the cities of Dana Point and Laguna Beach and extends 1.5 miles offshore of Aliso Beach at a maximum depth of 195 feet. The diffuser section is 1,100 feet long with 200, 2-inch-diameter diffuser ports along both sides of the pipeline. The outfall discharges brine, treated groundwater, and secondary treated wastewater from several regional water district facilities, including the Applicant's, Irvine Ranch Water District, El Toro Water District, and South Coast Water District.

On March 9, 2022, the San Diego Regional Water Quality Control Board adopted [Order No. R9-2022-005](#) and National Pollutant Discharge Elimination System (NPDES) Permit No. CA0107611. This order provides waste discharge requirements for the South Orange County Wastewater Authority for discharge to the Pacific Ocean through the Aliso Creek Ocean Outfall (ACOO). It became effective on May 1, 2022 and expires on April 30, 2027.

Staff reviewed the November 2022 Ocean Outfall External Inspection and Condition Survey Report for the ACOO. A detailed underwater inspection was conducted with a remote operated vehicle (ROV) on November 18, 2022. No significant undermining or significant damage to the outfall were observed. The outfall appears to be generally in good condition and functioning properly. The lease includes a provision requiring the Applicant to implement the maintenance recommendations described in the report within three years of the lease issuance date, including restoring sections of the pipeline where ballast rock is absent and cleaning diffuser ports of marine growth and other obstructions.

The outfall pipeline and ballast rock will not substantially interfere with the Public Trust needs and values at this location because they are located on the seafloor. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease also has a limited 30-year term and does not grant the lessee 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, increased flooding and erosion, and changes in sand deposition affect open coastal areas in California. The 48-inch-diameter wastewater outfall pipeline and ballast rock are located in a tidally influenced site in the Pacific Ocean, offshore of Aliso Beach Park.

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,” “low risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Los Angeles 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 Los Angeles

Year	Projection (feet)
2030	0.5
2040	0.7
2050	1.0
2100	3.2

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 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 and coastal landscapes will be exposed to increased wave force and run-up, potentially resulting in greater erosion than previously experienced.

The current structures are submerged and should not be vulnerable to climate change impacts if properly inspected and maintained. Conformance with lease provisions for periodic surveys, inspections, and maintenance of the pipelines, outfall diffuser, and ballast rock as needed or required by law should avoid or minimize future climate change-related impacts.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea level rise.

CONCLUSION:

For the reasons stated above, staff believes the issuance of this lease will not substantially interfere with the public rights to navigation, fishing, and commerce, or substantially interfere with the Public Trust needs 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 trustee of the State's Public Trust lands as authorized by law. The lessee has no right to a new lease or a renewal of any previous lease.
2. The Applicant has also applied for a new General Lease – Public Agency Use, for the San Juan Creek Ocean Outfall (Lease 5253). That lease will be considered as a separate item on the December 9, 2022, Commission agenda.
3. 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.
4. 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, California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS OBTAINED:

San Diego Regional Water Quality Control Board

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 impair the public rights to navigation and fishing or 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 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 October 1, 2024, for a term of 30 years, for the use and maintenance of an existing 48-inch-diameter ocean outfall pipeline and ballast rock, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: public health and safety, 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 5139

LAND DESCRIPTION

A strip of tide and submerged land 20 feet in width, lying in the bed of the Pacific Ocean, adjacent to fractional Section 6, Township 8 South, Range 8 West, S.B.M., County of Orange, State of California, the centerline described as follows:

COMMENCING at the southerly terminus of a 2000 foot radius curve, being the centerline of the State Highway, described in deed recorded in Book 546, Page 82, Official Records of Orange County, said curve having a central angle of 21°32'30" and an arc distance of 751.95 feet; thence N 21°02'43" W 617.55 feet to the centerline of an existing 48" sewer outfall and the TRUE POINT OF BEGINNING of said centerline; thence along the centerline of said sewer outfall S 19°45'00" W 479.26 feet; thence S 51°48'54" W 5,544 feet the end of the herein described centerline.

The Sidelines of said strip shall be prolonged or shortened so as to commence at the Ordinary High Water Mark of the Pacific Ocean, and terminate at a point perpendicular to the end of said strip.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1927, Zone 6.

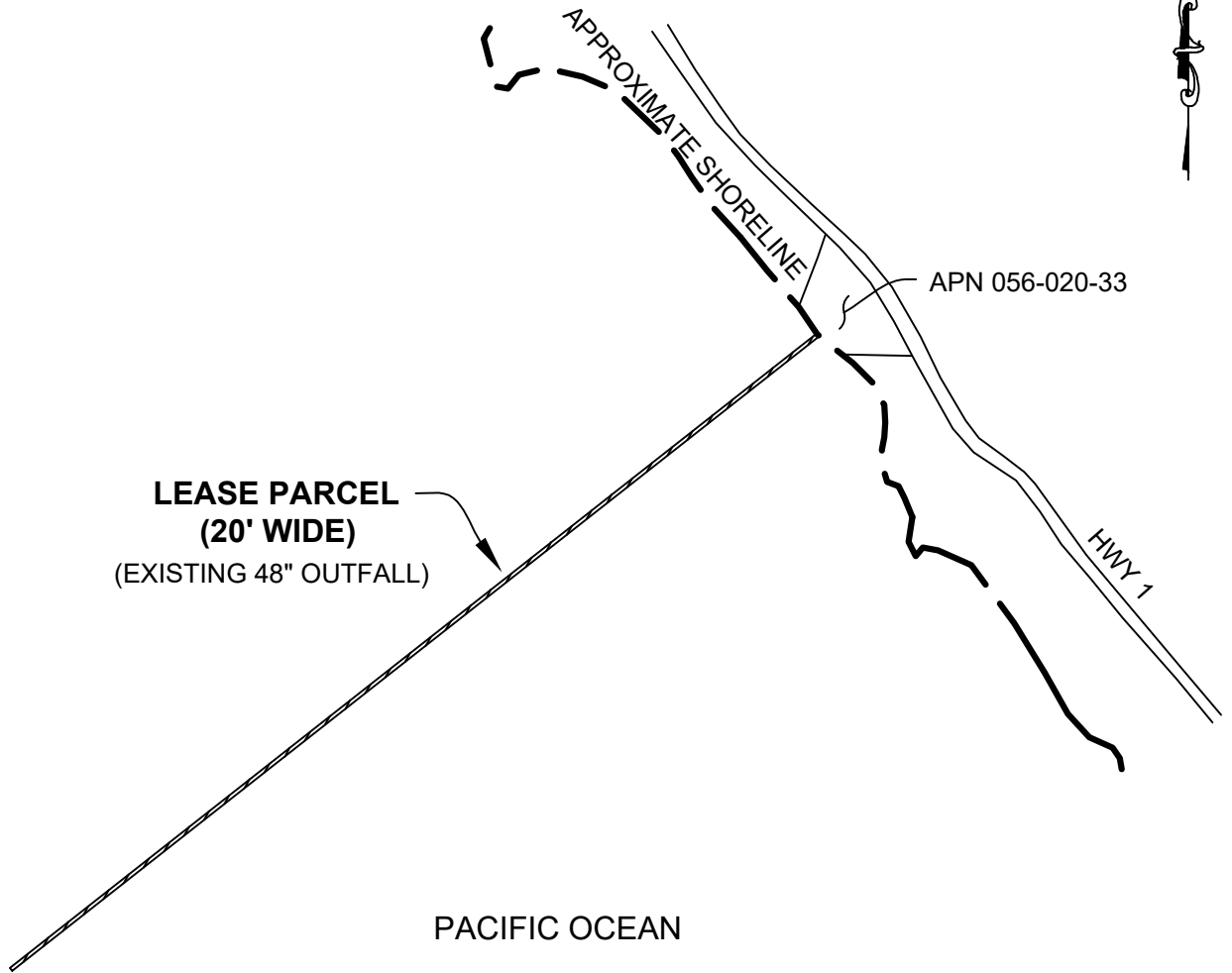
END OF DESCRIPTION

Prepared 10/27/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



ALISO BEACH, NEAR SOUTH LAGUNA

NO SCALE

LOCATION

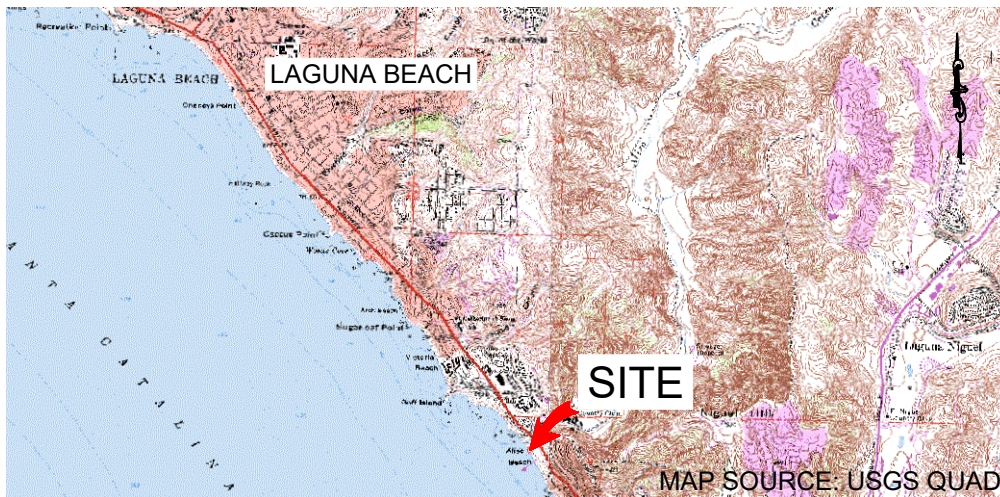


EXHIBIT B

LEASE 5139
 SOUTH ORANGE COUNTY
 WASTEWATER AUTHORITY
 APN 056-020-33
 GENERAL LEASE -
 PUBLIC AGENCY USE
 ORANGE 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.

DJF 10/27/2022