

Staff Report 63

APPLICANT:

Santa Cruz Port District

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use and Dredging

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Santa Cruz Harbor, in Monterey Bay, near Santa Cruz, Santa Cruz County.

AUTHORIZED USE:

Use and maintenance of two existing jetties, a channel entrance, and a buried dredge disposal pipeline; and maintenance dredging of up to 2,560,000 cubic yards of material over a 10-year period.

TERM:

10 years, beginning February 22, 2023.

CONSIDERATION:

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; dredged material may not be sold.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.
- Lessee acknowledges that material dredged from the Lease Premises is the property of the State of California and shall not be sold, and that Lessee is not authorized to dredge for purposes of commercial resale, environmental mitigation credits, or other private benefit without Lessor's prior written consent.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 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 February 22, 2013, the Commission authorized a 10-year General Lease – Public Agency Use, to the Applicant for the continued use and maintenance of two jetties, a channel entrance, and a buried dredge disposal pipeline; and maintenance dredging of a maximum of 3,110,000 cubic yards of material over the term of the lease from Santa Cruz Harbor in Monterey Bay. Dredged materials were to be disposed of at one of the following sites: the disposal site nearshore immediately east of the east jetty, off-shore Moss Landing, Monterey Bay Disposal Site (SF-14), U.S. Army Corps of Engineers approved wetlands restoration sites, or at an approved upland site ([Item 62, February 22, 2013](#)). That lease expired on February 21, 2023.

The Applicant is now applying for a General Lease – Public Agency Use and Dredging for the use and maintenance of the existing facilities and for maintenance dredging of up to 2,560,000 cubic yards of material over a 10-year period from the Santa Cruz Harbor (Harbor).

Annual maintenance dredging occurs between October 1 to April 30 and is necessary to maintain safe navigable depths for the operation of the Harbor. The Applicant maintains two hydraulic suction dredges (16-inch-diameter and 8-inch-diameter pipeline) which are used to dredge the Harbor entrance. The material from the inner harbor would be dredged using either a clamshell (excavator) or hydraulic dredge. Dredging will be conducted during business hours with signs indicating where the public can pass; the public can also radio the dredge to advise of their passing.

The dredged material is lab tested for over 100 different elements and compounds by an independent engineering team and the results are forwarded to the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration Monterey Bay National Marine Sanctuary (Sanctuary), the Central Coast Regional Water Quality Control Board (RWQCB), and the California Coastal Commission (CCC) each year to evaluate the sediments to be dredged for disposal or reuse suitability.

Dredged material will be disposed of at one of the following sites: the disposal site nearshore immediately east of the east jetty; off-shore Moss Landing, Monterey Bay Disposal Site (SF-14); U.S. Army Corps of Engineers approved wetlands restoration sites; at an approved upland site; or directly on Harbor Beach and Twin Lakes State Beach if the material is free from organic matter (i.e., kelp); or if severe storms threaten 7th Avenue or East Cliff Drive to protect these areas. The majority of the material will be disposed of at the nearshore immediately east of the east jetty.

The Harbor is a federal and state designated harbor of safe refuge and is also used for commercial, recreational, non-profit organization, and rescue access to the Monterey Bay, a national marine sanctuary. The Harbor patrol boat assists the Coast Guard in year-round emergency ocean rescue and law enforcement services. The proposed use of the lease premises will facilitate safe navigation from the Harbor into the Monterey Bay. Navigation is a recognized Public Trust use.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon.

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 northern Monterey Bay, in the town of Santa Cruz, Santa Cruz County, in a tidally influenced site vulnerable to flooding at current sea levels that will be at high risk of flood exposure based on the projected scenarios of sea level rise in this area.

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 Bay 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 Monterey Bay

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9

Year	Projection (feet)
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.

Sea level rise will raise the total water levels of the Monterey Bay and likely to cause frequent inundation of the lease area if no measures are taken to control the flooding and elevate the shoreline. In addition, as stated in [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of storms and rain events, causing more flooding in low-lying areas. In rivers, creeks, and tidally influenced waterways, higher water levels from sea level rise and flooding may cause damage such as bank erosion to the lease area as well as impact the navigation channel entrance, fairways, and slips. Storm debris and water-borne contaminants may constitute additional hazards to the lease area and structures. Higher rates of erosion and sedimentation from flooding, storm flow, and runoff will likely increase scour and further decrease bank stability and structural integrity of the harbor structures.

As the total water levels of Monterey Bay increase with sea level rise, the buildup of sediment within the navigation channel entrance, fairways, and slips will increase within the harbor. The removal of the sediment from the Harbor would allow for the continual navigation of vessels within the waterway. Motorized and non-motorized vessels use the navigation channel entrance, fairways, and slips daily to access Monterey Bay. The lessee is responsible for protecting the lands, resources, and values of the Public Trust within the lease area and should be aware that these changes are very likely to occur and impact not only the current footprint of the lease area, but the adjacent areas within the Monterey Bay area as well over the course of the lease. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation, dislodgement within adjacent areas, and accretion of sediment within the Harbor.

CONCLUSION:

For all the reasons above, 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; is consistent with the Public Trust Doctrine; 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.

2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. The legislature has granted the Upper Harbor to the Applicant but reserved all minerals, including dredge material, to the State. ([Chapter 818, Statutes of 1968.](#)) The Applicant also desires to dredge on lands outside of the grant, to which the streamlined dredging provisions of Public Resources Code section 6707 do not apply.
4. **Existing Jetties, Channel Entrance, and Pipeline:** 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 14, section 15301.
5. **Maintenance Dredging:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers
U.S. Environmental Protection Agency
California Coastal Commission
California Regional Water Quality Control Board
California State Parks and Recreation
Monterey Bay National Marine Sanctuary
Monterey Bay Unified Air Pollution Control District

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Jetties, Channel Entrance, and Pipeline: 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 14, section 15301.

Maintenance Dredging: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use and Dredging to the Applicant beginning February 22, 2023, for a term of 10 years, for the use and maintenance of two existing jetties, a channel entrance, and a buried dredge disposal pipeline; and maintenance dredging of up 2,560,000 cubic yards of material over a 10-year period from the Santa Cruz Harbor in Monterey Bay, near Santa Cruz, Santa Cruz County as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration is 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 interest; liability insurance in an amount no less than \$1,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.

EXHIBIT A

LEASE 2836

LAND DESCRIPTION

Four parcels of tide and/or submerged land, whether filled or unfilled, situate in the bed of Monterey Bay, in the Pacific Ocean, and Woods Lagoon, Santa Cruz County, California, more particularly described as follows:

PARCEL 1 (Upper Harbor, Dredge Area)

All those lands, underlying those parcels in Santa Cruz Harbor which were granted to the Santa Cruz Port District Pursuant to Chapter 818, Statutes 1968.

PARCEL 2 (Lower Harbor, Dredge Area and Harbor Facility)

All those lands, underlying those parcels in Santa Cruz Harbor which were granted to the Santa Cruz Port District Pursuant to Chapter 1129, Statutes 1969, from the State of California as described in Grant Deed, recorded May 21, 1974 in Book 2412 at Page 273 in Official Records of said County.

TOGETHER WITH sovereign land within the Right-of-Way of the Southern Pacific Company lying adjacent to that parcel as described in Certificate of Acceptance, recorded April 11, 1962 in Book 1464 at Page 146 in Official Records of said County.

PARCEL 3 (Harbor Entrance and Jetties)

BEGINNING at a point on the ordinary high water mark of Monterey Bay, which point bears S 67° 49' 32" E, 99.98 feet from Station 64 of the "Mean High Tide Line, 1959" as show upon the plat entitled "Survey of the Mean Low Tide Line and Mean High Tide Line along the shore of Monterey Bay", Sheet 3 of 5, as prepared by the California State Lands Commission and filed as Serial No. 23189, Miscellaneous Maps, Santa Cruz County Records; thence from said point of beginning along the following four (4) courses:

1. S 06° 54' 24" E, 894.39 feet;
2. S 74° 50' 49" W, 299.81 feet;
3. N 53° 09' 11" W, 620.84 feet; and
4. N 03° 09' 11" W, 823.22 feet to said ordinary high water mark;

Thence along said line the following five (5) courses:

1. S 72° 29' 41" E, 399.86 feet;
2. S 79° 18' 54" E, 53.94 feet;
3. S 70° 30' 25" E, 119.87 feet;
4. S 76° 36' 27" E, 86.35 feet; and
5. S 67° 49' 32" E, 99.98 feet to the point of beginning.

This description is based on the California Coordinate System 1927, Zone 3.

PARCEL 4 (Dredge Material Disposal Site)

BEGINNING at a point on the ordinary high water mark of Monterey Bay, which point bears S 67° 49' 32" E, 99.98 feet from Station 64 of the "Mean High Tide Line, 1959" as show upon the plat entitled "Survey of the Mean Low Tide Line and Mean High Tide Line along the shore of Monterey Bay", Sheet 3 of 5, as prepared by the California State Lands Commission and filed as Serial No. 23189, Miscellaneous Maps, Santa Cruz County Records; thence from said point of beginning along said ordinary high water mark following three (3) courses:

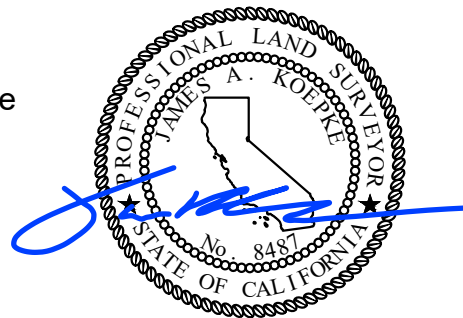
1. S 67° 49' 32" E, 384.88 feet;
2. S 64° 11' 16" E, 374.35 feet;
3. S 62° 47' 49" E, 103.48 feet;

Thence leaving said ordinary high water mark South 393.24 feet; thence N 66° 24' 36" W, 800.43 feet to the easterly line of above described Parcel 3; thence along said easterly line N 06° 54' 24" W, 431.61 to the POINT OF BEGINNING.

This description is based on the California Coordinate System 1927, Zone 3.

END OF DESCRIPTION

Revised 10/18/2022 by the California State
Lands Commission Boundary Unit



NO SCALE

SITE



PARCEL 1
UPPER HARBOR
DREDGE AREA

SANTA CRUZ
HARBOR

PARCEL 2
LOWER HARBOR
DREDGE AREA &
HARBOR FACILITY

PARCEL 4
DREDGE MATERIAL
DISPOSAL SITE

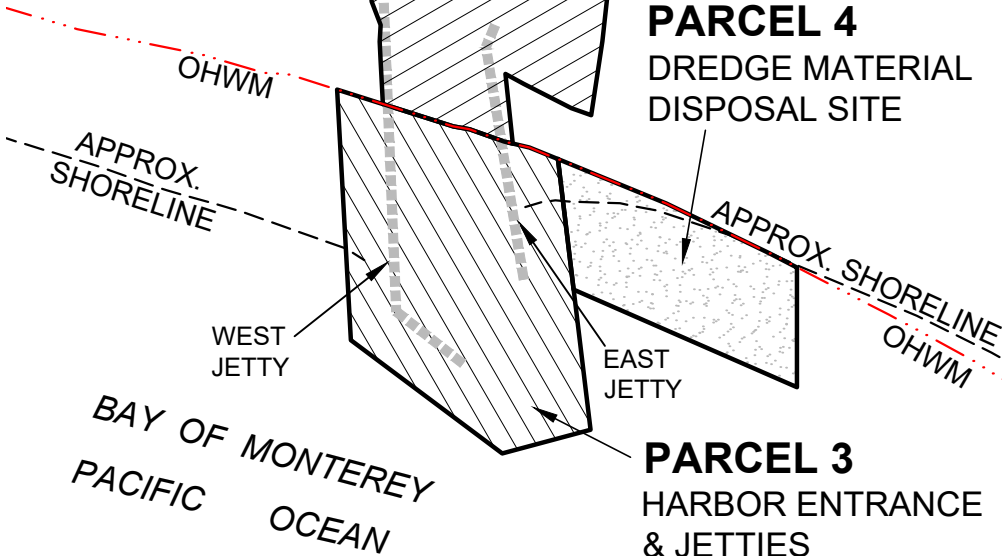


Exhibit B

LEASE 2836
SANTA CRUZ PORT
DISTRICT
GENERAL LEASE-
PUBLIC AGENCY USE
& DREDGING
SANTA CRUZ COUNTY



TS 10/18/2022