

Staff Report 73

APPLICANT:

Guided Discoveries, Inc.

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean at Toyon Bay, Santa Catalina Island, adjacent to 1 Toyon Bay Road, Avalon, Los Angeles County.

AUTHORIZED USE:

Use and maintenance of an existing pier, gangway, floating dock, seasonal swim area, seasonal SCUBA area, nine mooring buoys, and two safety cans.

TERM:

10 years, beginning January 1, 2023.

CONSIDERATION:

\$13,711 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$3,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5;
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 General Lease - Recreational Use to Guided Discoveries, Inc. for the use and maintenance of an existing pier, gangway, floating dock, seasonal swim area, seasonal SCUBA area, nine mooring buoys, and two safety cans in the Pacific Ocean at Toyon Bay, Santa Catalina Island, adjacent to 1 Toyon Bay Road, Avalon, Los Angeles County ([Item C70, February 22, 2013](#)).

On February 7, 2017, the Commission authorized an amendment of this lease to replace the existing Exhibit B, which identified a 10-foot impact area around the floating dock, with a new Exhibit B, which identified a 9-foot impact area around the floating dock. Concurrently, staff performed a rent review on this lease as directed by lease terms and conditions ([Item C49, November 29, 2017](#)). This resulted in the modification of annual rent from \$9,945 to \$11,227. This Lease expired on December 31, 2022.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing pier, gangway, floating dock, seasonal swim area, seasonal SCUBA area, nine mooring buoys, and two safety cans (i.e., marker buoys) located on either end of the mooring field. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on January 1, 2023.

The subject facilities are privately owned and maintained and have existed at this location for many years. The pier, gangway, floating dock, and nine mooring buoys are used for the docking and mooring of recreational boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The seasonal swim area, seasonal SCUBA area, and two safety cans facilitate recreational swimming, SCUBA diving, and educational activities related to Lessee's summer camp programs. These water-dependent uses are generally consistent with the common law Public Trust doctrine.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the leased premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The proposed lease 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. The lease also requires the

payment of annual rent to compensate the people of the State for the use of public land.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the improvements subject to the proposed lease, located on Santa Catalina Island.

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 Los Angeles 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 Los Angeles

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

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 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.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains a floating platform, gangway, and buoys that will rise and fall with tides and waves, increasing their resiliency to some sea level rise impacts. However, the pier is a fixed structure that

may need additional reinforcement to withstand higher levels of flood exposure and more frequent storm events.

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:

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with 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 an 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 may be required to remove the existing pier, gangway, floating dock, seasonal swim area, seasonal SCUBA area, nine mooring buoys, and two safety cans and restore the premises to their original condition. The lessee has no right to a new lease or 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. The upland property adjacent to the Lease Premises is owned by the Santa Catalina Island Conservancy and is leased to Guided Discoveries, Inc. The upland lease term was originally for five years, beginning January 1, 2011. Pursuant to optional extensions to this lease term as included in the lease, Guided Discoveries, Inc. was granted the option to extend the lease for five additional years, three times, extending the expiry of the lease to December 31, 2026.
4. Three of the nine mooring buoys authorized by this lease are only used seasonally, from June 1st through August 31st of each year.

5. The swim and SCUBA areas authorized by this lease are only installed and used seasonally and are to be installed no earlier than May 15th and removed no later than September 15th of each year.
6. 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 proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interest of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2023, for a term of 10 years, for the use and maintenance of an existing pier, gangway, floating dock, seasonal swim area, seasonal SCUBA area, nine mooring buoys, and two safety cans, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference

made a part hereof; annual rent in the amount of \$13,711, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

LEASE 6457

LAND DESCRIPTION

Fourteen (14) parcels of tide and submerged land situate in the bed of Toyon Bay, on the easterly side of Catalina Island, Los Angeles County, State of California, more particularly described as follows:

PARCEL 1 – PIER, GANGWAY & FLOAT

COMMENCING at a point having CCS27, Zone 6 coordinates of Northing(Y)=446111.48 feet, Easting (X)=1357923.38 feet and from which a NGS monument "Channel 1933" bears North 54° 13'44" West, 45970.03 feet, said monument having CCS27, Zone 6 coordinates of Northing (Y)=472983.28 feet, Easting (X)=1320625.26 feet; thence North 40° 29'08" West 6.13 feet to the POINT OF BEGINNING; thence along the following sixteen (16) courses:

- 1) North 49°26'41" East, 229.73 feet;
- 2) North 40°33'19" West, 2.56 feet;
- 3) North 49°26'41" East, 37.86 feet;
- 4) South 40°49'32" East, 5.63 feet;
- 5) North 49°56'24" East, 38.77 feet;
- 6) North 40°43'14" West, 9.21 feet;
- 7) North 49°26'41" East, 61.39 feet;
- 8) South 40°33'19" East, 24.56 feet;
- 9) South 49°26'41" West, 61.39 feet;
- 10) North 40°03'36" West, 9.21 feet;
- 11) South 49°56'24" West, 38.88 feet;
- 12) South 40°49'32" East, 5.63 feet;
- 13) South 49°26'41" West, 37.86 feet;
- 14) North 40°33'19" West, 2.56 feet;
- 15) South 49°26'41" West, 229.73 feet;
- 16) North 40°33'19" West, 6.15 feet to the POINT OF BEGINNING.

PARCEL 2 – SWIM AREA

BEGINNING at a point having CCS27, Zone 6 coordinates of Northing(Y)=446023.89, Easting(X)=1358206.25 feet and from which a NGS monument "Channel 1933" bears North 54° 20'44" West, 46250.83 feet, said monument having CCS27, Zone 6 coordinates of Northing (Y)=472983.28 feet, Easting (X)=1320625.26 feet; thence along the following four (4) courses:

- 1) South 50°33'33" East, 123.03 feet;
- 2) South 47°34'57" West, 110.33 feet;
- 3) North 47°29'35" West, 127.50 feet;
- 4) North 50°26'30" East, 104.31 feet to the POINT OF BEGINNING.

PARCEL 3 – SCUBA AREA

Bounded on the northwest by the southeast side of a pier, gangway and float; bounded on the northeast by the southeasterly prolongation of the northeasterly end of a float; bounded on the southeast by a line parallel to and approximately 100 feet southeasterly of the southeast side of the pier, gangway and float; bounded on the southwest by a line northeasterly of and approximately 150 feet waterward from the ordinary high water mark.

PARCELS 4 thru 12 – Mooring Buoys 1 thru 9

Nine (9) circular parcels of land, being 50 feet in diameter, underlying existing buoys and having the following coordinates:

- 1) Northing (Y)=446817.66 feet, Easting (X)=1358018.59 feet;
- 2) Northing (Y)=446748.32 feet, Easting (X)=1358115.41 feet;
- 3) Northing (Y)=446603.86 feet, Easting (X)=1358189.34 feet;
- 4) Northing (Y)=446434.51 feet, Easting (X)=1358445.01 feet;
- 5) Northing (Y)=446255.29 feet, Easting (X)=1358392.95 feet;
- 6) Northing (Y)=446136.63 feet, Easting (X)=1358493.15 feet;
- 7) Northing (Y)=446066.63 feet, Easting (X)=1358583.80 feet;
- 8) Northing (Y)=446572.36 feet, Easting (X)=1358042.86 feet;
- 9) Northing (Y)=446514.72 feet, Easting (X)=1358095.13 feet.

PARCELS 13 & 14 – Safety Cans

Two (2) circular parcels of land, being 50 feet in diameter, underlying existing buoys and having the following coordinates:

- 1) Northing (Y)=446881.56 feet, Easting (X)=1357893.33 feet;
- 2) Northing (Y)=445786.99 feet, Easting (X)=1358865.93 feet.

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

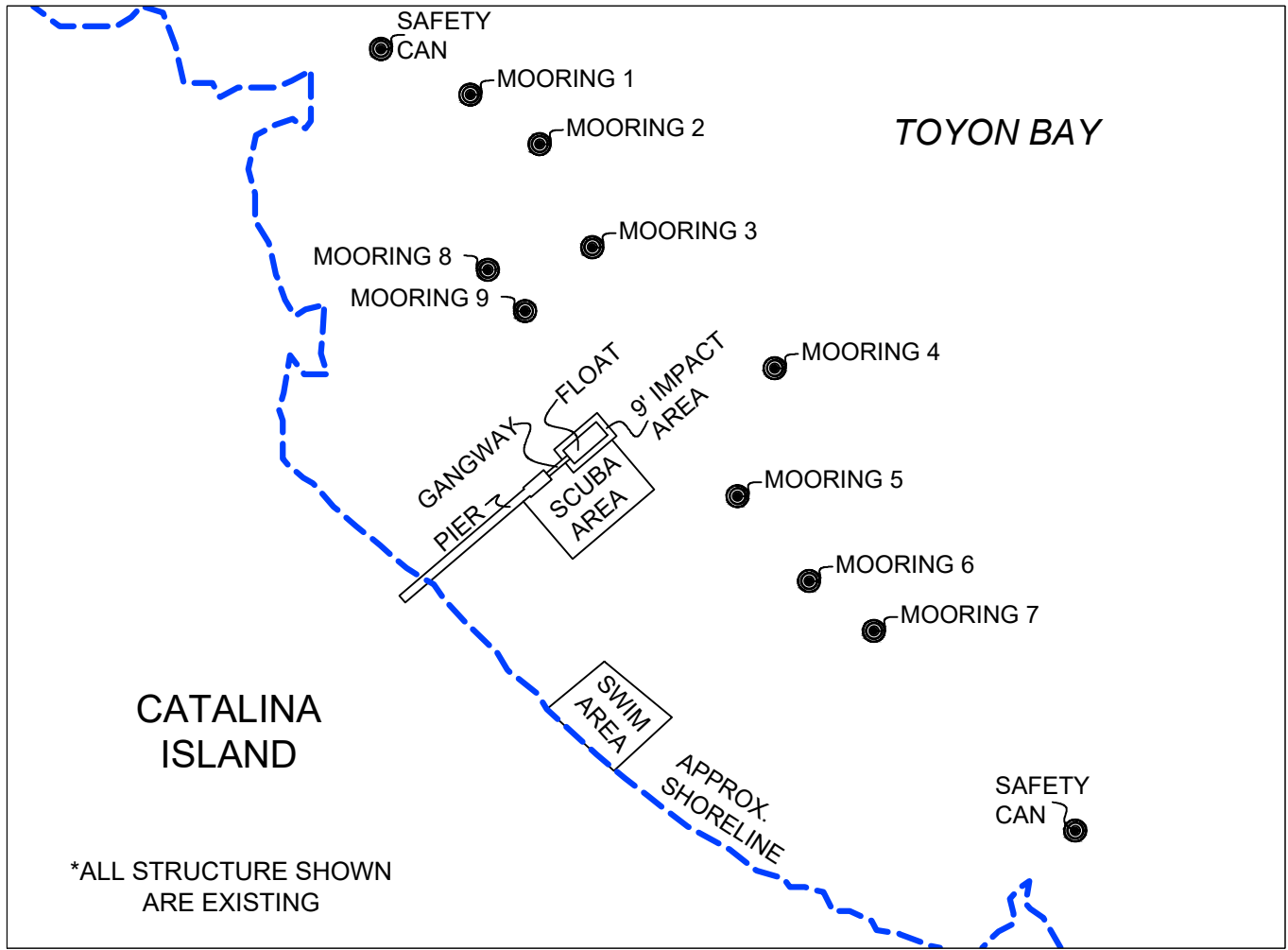
END OF DESCRIPTION

PREPARED 11/18/2022 BY THE
CALIFORNIA STATE LANDS COMMISSION
BOUNDARY UNIT



NO SCALE

SITE



TOYON BAY, SANTA CATALINA ISLAND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 6457
 GUIDED DISCOVERIES
 GENERAL LEASE -
 RECREATIONAL USE
 CATALINA ISLAND
 LOS ANGELES 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.