

Staff Report 18

APPLICANT:

Klamath River Renewal Corporation

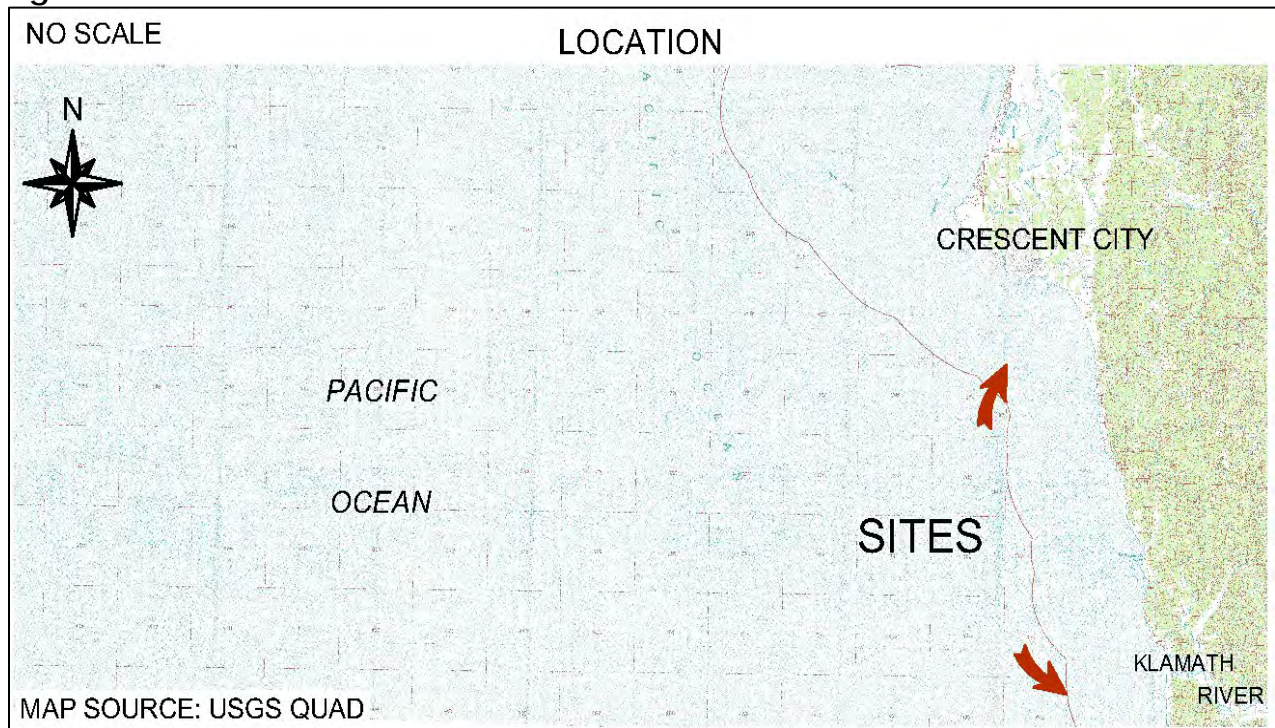
PROPOSED ACTION:

Issuance of a General Lease – Other.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, between Crescent City Harbor and the mouth of the Klamath River, Del Norte County (as shown in Figure 1).

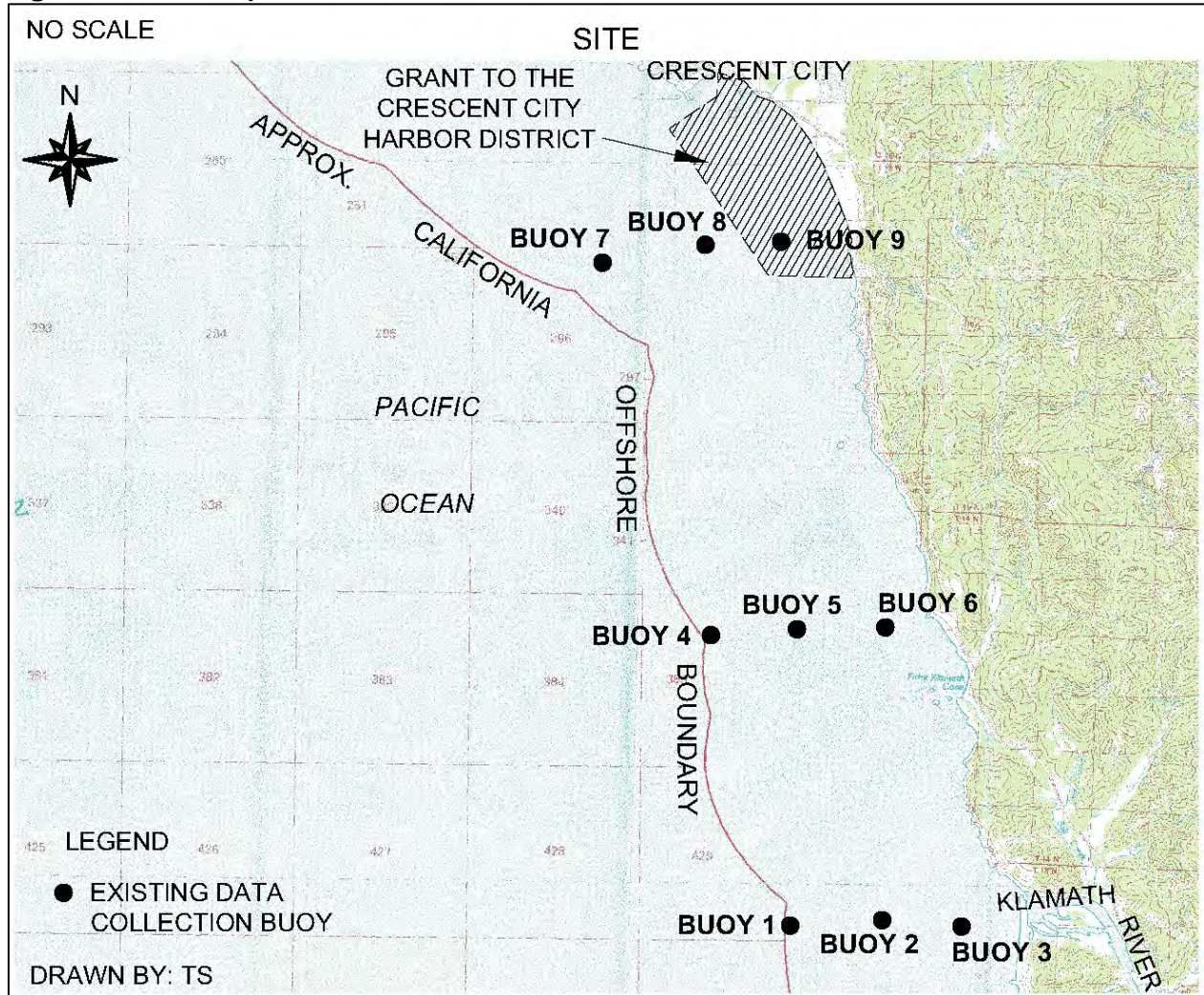
Figure 1. Location



AUTHORIZED USE:

Use of eight existing data collection buoys (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

3 years; beginning February 26, 2024.

CONSIDERATION:

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.

SPECIFIC LEASE PROVISIONS:

- Surety bond or other security in the amount of \$10,000.
- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee acknowledges that the Lease Premises and adjacent upland are located in an area that may be subject to effects of climate change. To prepare for the potential effects, including but not limited to flood damage, erosion damage, and damage from waves and storm-created debris.
- Authorized activities shall be carried out in accordance with all applicable safety regulations, permits, and conditions of all other regulatory agencies.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE’S BEST INTERESTS:

The Applicant, Klamath River Renewal Corporation, is a private, independent nonprofit 501(c)(3) organization formed by signatories of the amended Klamath Hydroelectric Settlement Agreement (Agreement). The Applicant is part of a cooperative effort to re-establish the natural vitality of the Klamath River so that it can support all communities in the Klamath Basin watershed. Signatories of the amended agreement, including the State of California and Oregon, local governments, Tribal nations, dam owner PacifiCorp, irrigators, and several conservation and fishing groups, appointed the Applicant to take ownership and oversee removal of four hydroelectric dams on the Klamath River, known as the Klamath River Renewal Project (Project). The work is funded by PacifiCorp customer surcharges and California Proposition 1 water bond funds.

The Klamath River is California’s second-largest river in terms of average discharge and provides critical habitat for anadromous fish species. The Project aims to improve environmental conditions along the Klamath River and enable key fish species to regain access to hundreds of stream miles, some of which have been closed off for more than a century. By impeding upstream passage of anadromous fish species, the dams contributed to significant declines in the populations of chinook salmon, coho salmon, and steelhead trout. Historically, these species had

played important roles in sustaining commercial, recreational, and tribal fisheries for the area and served as a food source for the endangered orca whales. Additionally, the slower, warmer waters within the reservoirs created and impounded by the dams cause algal blooms and other water quality impairments.

Initial construction to remove the dams began in the spring of 2023. The drawdown of the reservoirs began in January 2024 and will last a few months, depending on rain levels. The drawdowns will cause the release of accumulated sediment of which the majority will be removed utilizing the water power in the reservoirs. Some mechanical-assisted sediment flushing around the reservoir rims will be done as necessary to reduce the risk of slumping or failure or to create more favorable conditions for habitat and fish passage.

The Applicant is applying for a General Lease – Other for use of eight oceanographic data collection buoys on State sovereign land in the Pacific Ocean offshore Del Norte County, between Crescent City Harbor and the mouth of the Klamath River. The Commission does not require a lease for the dam removal in the Klamath River because State sovereign interest, at this location, has not been determined. The buoys monitor the speed and direction of ocean currents and provide information on any transport of sediments released during drawdown of the reservoirs and dam removal. If the Applicant determines that data collected from the buoys indicate that sediment is being transported and deposited in Crescent City Harbor, the Applicant will provide funding to cover any additional costs of dredging incurred as a result of decommissioning. Because dam removal was anticipated to begin in the summer of 2023, the Commission issued a Letter of Non-Objection on May 25, 2023, to allow installation of the buoys prior to submittal of a lease application. The Applicant anticipates that the buoys will be in place for approximately 2 years. Therefore, staff recommends issuance of a lease for 3 years to provide the Applicant time to fully complete the project.

In addition to the eight buoys within the Commission's leasing jurisdiction, the Applicant installed an additional data collection buoy on State sovereign land legislatively granted to the Crescent City Harbor District.

The buoys were moored to the seafloor using a compact steel anchor and a stainless-steel mooring line. The buoy locations are subject to potential adjustment of locations based on field conditions. The locations were selected to avoid hard substrate thereby minimizing any potential impacts to benthic organisms. The mooring line is designed to remain taught in the water column to minimize the risk of entanglement hazard to marine mammals and other marine animals. The buoys

will be inspected, cleaned, and repaired as needed every 2 months, further minimizing the entanglement hazard. Each buoy is equipped with a navigation light to meet U.S. Coast Guard specifications for vessel safety, and a Local Notice to Mariners was provided upon deployment.

The data collection from the buoys will ensure Crescent City Harbor can continue its operations as an important commercial and recreational fishing port and a U.S. Coast Guard search and rescue station. Therefore, the project provides a public use and benefit. Public Trust uses will not be impeded or impaired. Furthermore, the activities are water-dependent, and consistent with the common law Public Trust Doctrine. Waterborne activities such as boating, kayaking, and fishing occur within the project area, and the public will continue to have opportunities for these activities for the duration of the project. The project area between Crescent City Harbor and the mouth of the Klamath River is an important recreational and commercial fishing area. Recreational fishers target Dungeness crab and finfish such as rockfish, lingcod, and halibut. The highest grossing commercial fishery in Crescent City is the Dungeness crab fishery, and the area near the mouth of the Klamath River is especially productive. The Applicant chose the buoy locations in coordination with the Crescent City Commercial Fishermen's Association.

The proposed lease includes certain provisions protecting the public use of the lease area, including a limited lease term of 3 years and a non-exclusive use provision. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, nor permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires the lessee to 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 and more frequent and intense storm events, affect both open coastal areas and inland waterways in California. The proposed data collection buoys would be located in the Pacific Ocean offshore of Del Norte County.

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 Crescent City 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 Crescent City

Year	Projection (feet)
2030	0.5
2040	0.9
2050	1.5
2100	5.9

Source: Table 1, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

As stated in the [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 buoys will be deployed for approximately 2 years, during which time the change in sea level rise should be negligible. Furthermore, the moorings are designed to withstand all tide and swell conditions encountered during deployment. Therefore, the buoys are unlikely to be affected by climate change.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises 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, 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; 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. The lessee has no right to a new lease or to renewal of any previous lease.
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. 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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(5).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS OBTAINED:

California Coastal Commission

National Marine Fisheries Service (NOAA)

North Coast Regional Water Quality Control Board

APPROVALS REQUIRED:

U.S. Army Corps of Engineers

U.S. Coast Guard

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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(5).

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation, fishing, and commerce; or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the Public Trust; and is in the State’s best interests.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to the Applicant beginning February 26, 2024, for a term of 3 years, for use of eight existing data collection buoys; consideration: 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 interests; liability insurance in an amount no less than \$1,000,000 per occurrence; and a surety bond in the amount of no less than \$10,000 with the State reserving the right to increase the bond amount.