

# Staff Report 65

**APPLICANT:**

---

City of San Clemente

**PROPOSED ACTION:**

---

Issuance of a General Lease – Public Agency Use.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Pacific Ocean, City of San Clemente, Orange County (as shown in Figure 1).

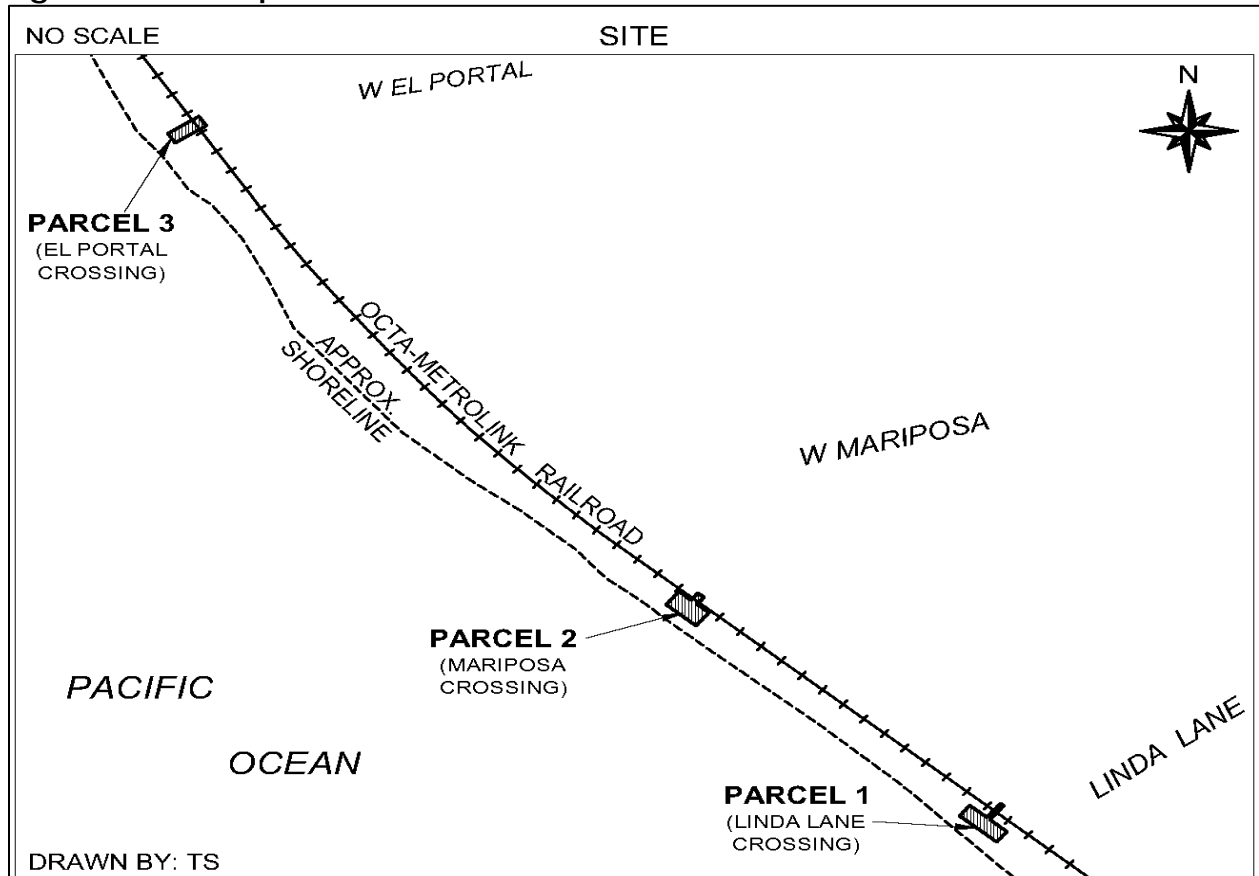
Figure 1. Location



**AUTHORIZED USE:**

Use and maintenance of public beach access facilities, including beach access ramp and box culvert at the Linda Lane railroad undercrossing, a beach access stairway, riprap with concrete footings at the El Portal railroad crossing, and a beach access stairway, riprap, and precast box culvert with concrete retaining walls at the Mariposa railroad undercrossing (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:**

15 years, beginning February 2, 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 interest.

**SPECIFIC LEASE PROVISIONS:**

- Lessee to maintain, in good standing, a license agreement with the Orange County Transportation Authority, a public entity, for the use and operation of the property lying landward and adjacent to the lease premises.
- Lessee shall provide containers to receive trash and refuse, and Lessee shall dispose of contents of containers.
- Lessee shall provide Lessor's staff with a copy of the regular maintenance schedule for the underpasses.
- Lessee shall provide appropriate signage that encourages the public to use the improved beach access and will include warnings regarding crossing the railroad corridor at unimproved locations and address other safety considerations as required.
- Lessee may satisfy the requirements of Section 1 "Liability Insurance" and Section 3, Paragraph 9 "Insurance" by providing Lessor with evidence of its self-insurance program being applicable to its activities and improvements authorized by the Lease.

**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 April 5, 2004, the Commission authorized a 19-year General Lease – Public Agency Use to the City of San Clemente (City) for the construction and maintenance of a public beach access facility which included an access ramp and box culvert at the North Linda Lane railroad undercrossing adjacent to the beach near the San Clemente Municipal Pier ([Item 39, February 5, 2004](#)). On April 17, 2006, the Commission authorized a lease amendment to include the construction and maintenance of a beach access stairway, riprap, and concrete footings adjacent to the El Portal railroad surface crossing; and a beach access stairway, riprap, and precast box culvert and concrete retaining walls at the Mariposa Point railroad undercrossing ([Item 55, April 17, 2006](#)). The lease expired on

February 1, 2023. The Applicant is now applying for a new General Lease – Public Agency Use for the use of the public beach access facilities.

The City maintains a 2.3-mile-long public trail known as the Beach Trail, that connects North Beach to Calafia Beach with multiple stops along the way and runs along a railroad corridor operated by the Orange County Transportation Authority (OCTA). The City has a license agreement with the OCTA to use and operate facilities on the property lying landward and adjacent to the lease premises. Prior to the public beach access facilities construction, pedestrian traffic would trespass over the railroad tracks to access the beach. The existing beach access utilizes previously installed culverts under the railroad corridor as under-crossings.

The lease premises consists of three public beach access points at the end of three roads in San Clemente: Linda Lane, El Portal, and Mariposa. Both the Linda Lane and Mariposa access points use existing culverts for undercrossing the railroad; the El Portal access uses a traditional, at-grade railroad crossing for public access with a stairway landing on the beach. The two undercrossing locations are Americans with Disabilities Act (ADA)-accessible and include ramps down to the beach. However, ramp access may only be periodic, as storm runoff and high tides affect the public's beach accessibility. The City includes signs at these locations to warn the public that the facilities may not be accessible during high tides, large surf, or storms. Signs direct the public to other access points in the vicinity.

Along with the three public beach access points, the lease area also includes portions of riprap initially installed by OCTA during the railroad corridor construction. Hard armoring structures, like the existing riprap, can have potential drawbacks, including high maintenance and repair costs, declining effectiveness over time, accelerated beach erosion, blockage of beach access, and significant visual and environmental impacts as described in the [Commission's Shoreline Adaptation and the Public Trust Report](#).

Improvements at the three locations subject to this lease create public access that would otherwise be blocked by the revetment and railway. The City is requesting authorization to use and maintain only the portions of the revetment at which the access points are located. The complete revetment is not being evaluated as part of this application.

The proposed lease is limited to a 15-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust consistent uses. The limited term will provide the Commission with greater flexibility in evaluating any future impacts that might occur, or if the Public Trust needs and

values at this location have changed over time. Upon Lease termination, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition. The proposed lease requires the lessee to keep and maintain the rock revetment 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.

**CLIMATE CHANGE:**

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. Rising sea levels can lead to increased flooding and larger tidal events and can affect erosion and sedimentation rates. The public access points provide access to the Pacific Ocean in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise.

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.

In addition, 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, fire, drought, extreme heat, 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.

All of the facilities under lease would be impacted by the predicted 0.7 feet increase in sea levels by 2030 ([Our Coast Our Future](#)). The El Portal and Mariposa crossings are especially vulnerable to sea level rise and the associated coastal hazards due to the narrow beach seaward of the structures. By 2030, the El Portal and Mariposa crossings could become persistently inundated, highly exposed to damage from wave impacts, and unusable for the public to access the beach at most tide levels. In addition, the hard armoring along the beach may both accelerate and exacerbate beach loss as well as expose and erode the public access structures, which affect the public's ability to access and recreate along the beach. The Applicant should coordinate with OCTA to devise strategies to address the beach loss driven by the armoring and to protect public access.

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 in an area that may be subject to the effects of climate change, including sea level rise.

**CONCLUSION:**

For the reasons stated above, staff believes the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the term of the 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. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the premises to their original condition. The lessee has no right to a new lease or a 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. OCTA owns and maintains the approximately 100-foot-wide railroad corridor, which includes a majority of the riprap on the railroad lines through the City of San Clemente. OCTA has submitted a lease application for Commission authorization for portions of the riprap that encroach onto sovereign land in the Pacific Ocean. OCTA's lease application will be considered at a publicly noticed Commission meeting at a later date.
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 and California Code of Regulations, title 14, section 15300 and title 2, section 2905.

## **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 proposed lease; and is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning February 2, 2023, for a term of 15 years, for use and maintenance of public beach access facilities, including beach access ramp and box culvert at the Linda Lane railroad undercrossing; a beach access stairway, riprap with concrete footings at the El Portal railroad crossing; and a beach access stairway, riprap, and precast box culvert with concrete retaining walls at the Mariposa

railroad undercrossing; consideration being 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.