

Staff Report 76

APPLICANT:

Santa Catalina Island Conservancy

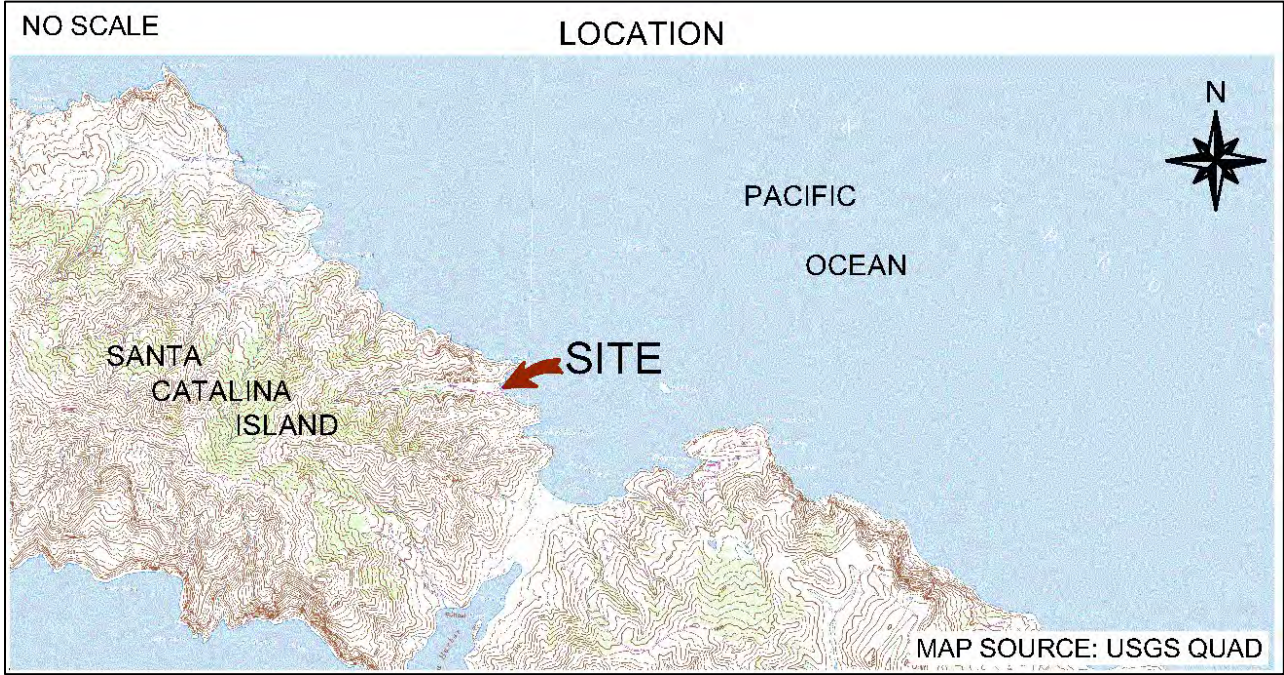
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean at Cherry Cove, Santa Catalina Island, adjacent to 1 Cherry Valley Road, Avalon, Los Angeles County (as shown in Figure 1).

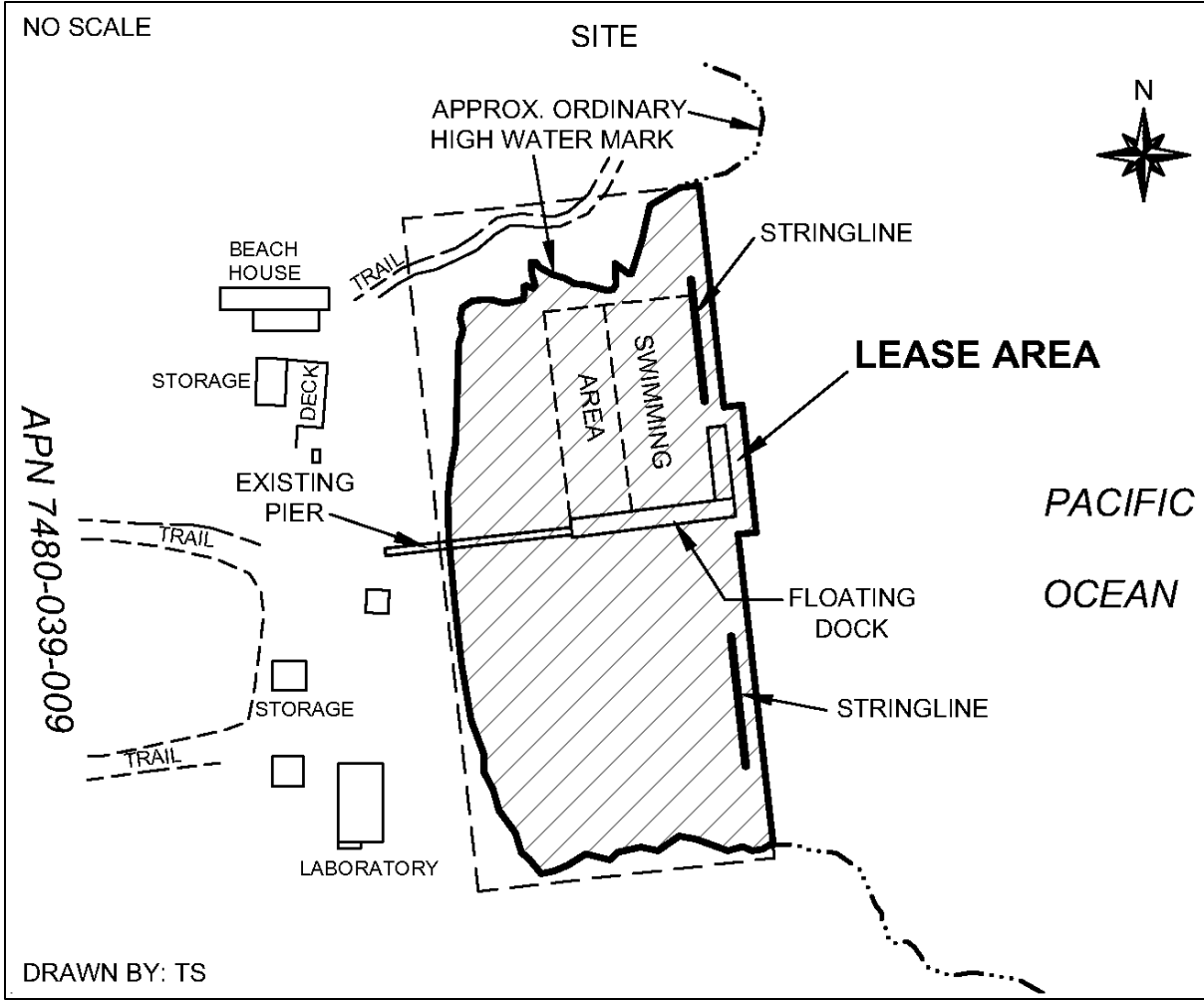
Figure 1. Location



AUTHORIZED USE:

Use of an existing pier, access ramp, floating dock, swim area, and stringlines (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:

10 years, beginning January 1, 2024.

CONSIDERATION:

\$22,226 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.
- No portion of the Lease Premises shall be used as a location for a residence, or for the purpose of mooring or maintaining a vessel or structure which is used as a residence, for more than 72 hours continuously.
- Assignment, subleasing, or rental of the Lease Premises or Improvements thereon without Lessor's prior approval is prohibited and shall constitute a Default of this lease.
- Lessee shall preserve any existing fairway and landing access within the Lease Premises.
- No refueling or maintenance of watercraft, vehicles, or equipment shall take place within the Lease Premises.
- Lessee shall provide containers on or immediately adjacent to the leased premises to receive trash and refuse generated aboard vessels using Lessee's docking facilities.
- Lessee shall not provide for sale, or allow other parties to provide, any prepared food in polystyrene foam containers or packaging.
- Neither Lessee, nor other parties, shall keep any polystyrene foam containers or packaging used for the preparation of food on the lease premises.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; 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 the San Gabriel Valley Boy Scouts of America for the use of an existing pier, access ramp, floating dock, and swim area in the Pacific Ocean at Cherry Cove, Santa Catalina Island, Los Angeles County ([Item 69, February 22, 2013](#)).

On February 27, 2018, following a merger of the San Gabriel Valley Boy Scouts of America and the Los Angeles Area Boy Scouts of America, the Commission authorized an Assignment of Lease and Revision of Rent to transfer this lease to the newly formed entity known collectively as the Greater Los Angeles Area Council Boy Scouts of America (BSA), and to modify the annual rent from \$16,313 to \$18,432 ([Item 67, February 27, 2018](#)). This lease expired on December 31, 2022.

The upland property adjacent to the lease premises is owned by the Applicant. For many years BSA and their predecessors have leased the upland property from the Applicant for the purposes of facilitating camp programs. However, BSA terminated their lease for the upland as of December 31, 2023, and will no longer be utilizing the upland property nor the improvements on the lease premises. The Applicant has assumed ownership of the improvements on the upland and within the lease premises and has applied for a General Lease – Recreational Use for the use of the existing pier, access ramp, floating dock, swim area, and stringlines. The stringlines are used for the mooring of small boats. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on January 1, 2024.

The subject facilities are located directly waterward of the upland property, occupy a relatively small area, and facilitate recreational boating and swimming. Recreational boating and swimming are water-dependent activities that are 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).

Though the previous lease expired on December 31, 2022, BSA continued to pay rent through December 31, 2023. During this period the lease remained in hold-over, and all terms and conditions of the lease remained in force. As the new lease will take effect on January 1, 2024, the State has been fully compensated for the period following expiration of the previous lease, and no additional compensation is required.

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 lease 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 and restore the lease premises to their original condition.

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 occupation of the public land involved.

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 facilities are located in the Pacific Ocean in tidally influenced sites located off of Cherry Cove in Los Angeles 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 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 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 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.

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 access ramp floats 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, staff believes approval of this lease will not substantially interfere with Public Trust needs at this location, at this time, nor 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 lease premises to their original condition. The lessee has no right to a new lease or to 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. This Lease does not include any mooring site designated in State Lands Commission Lease No. 3639 to the Santa Catalina Island Company and the Santa Catalina Island Conservancy.
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 California Code of Regulations, 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 interfere with Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2024, for a term of 10 years, for the use of an existing pier, access ramp, floating dock, swim area, and stringlines; annual rent in the amount of \$22,226, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.