

Staff Report 06

LESSEE/SUBLESSOR:

Humboldt Bay Harbor, Recreation and Conservation District

SUBLEESSEE:

Nordic Aquafarms California, LLC

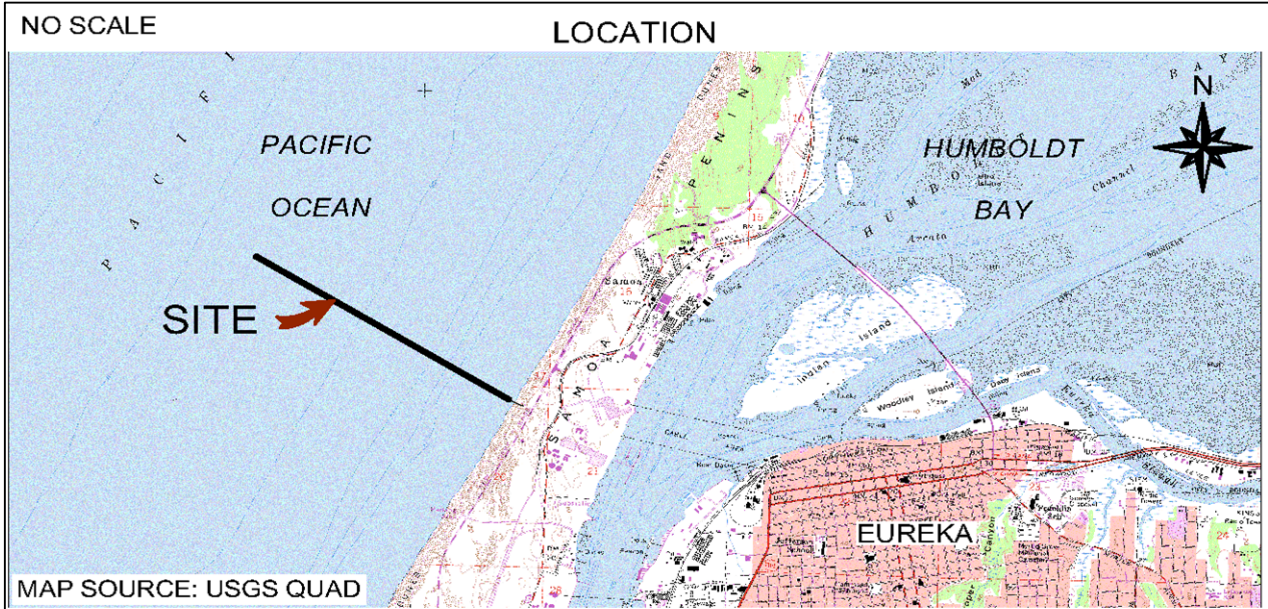
PROPOSED ACTION:

Endorsement of Sublease.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near Samoa, adjacent to Assessor's Parcel Number 401-111-006, Humboldt County (as shown in Figure 1).

Figure 1. Location

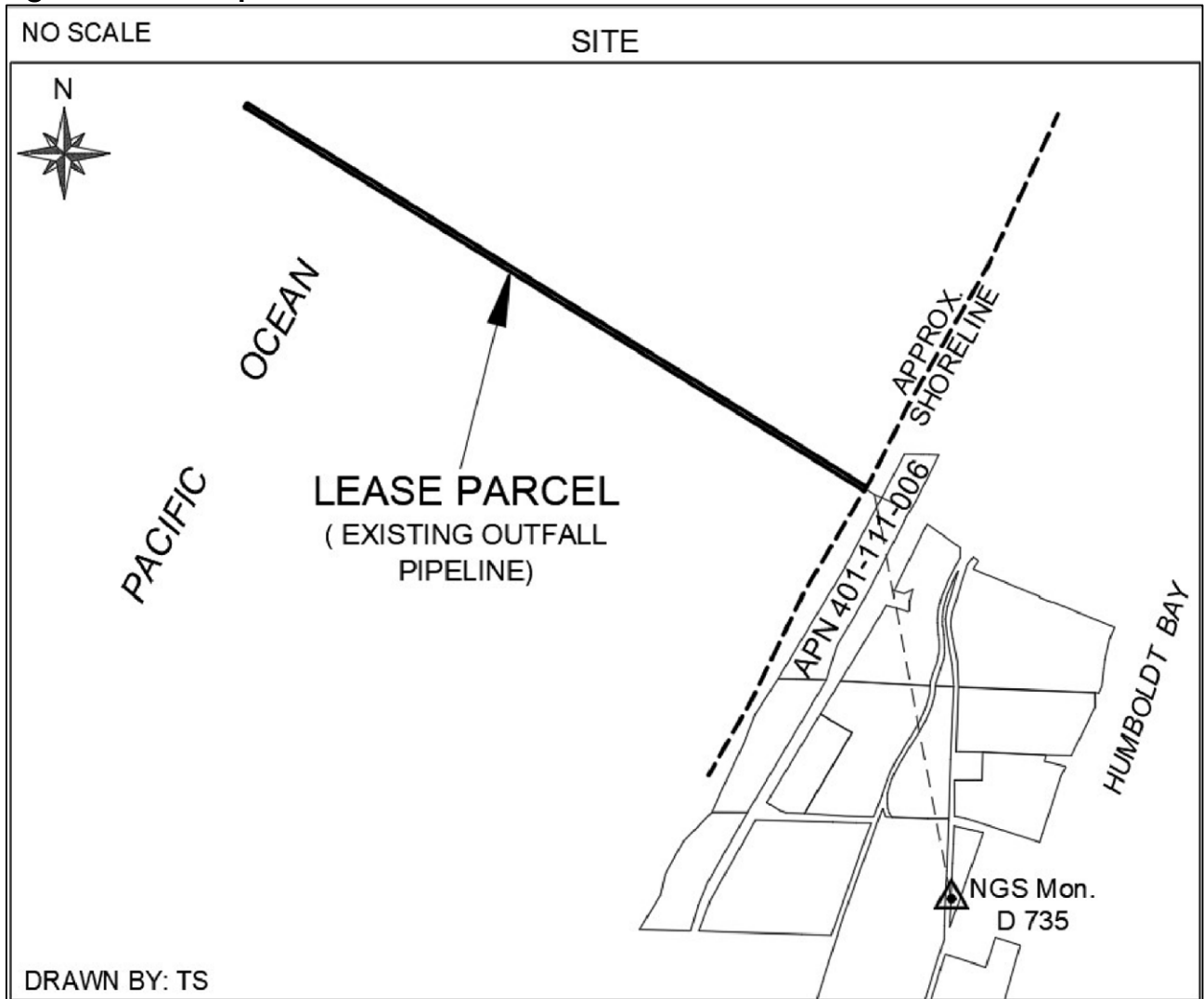


AUTHORIZED USE:

Lease: Use and operation of a 36-inch internal diameter effluent outfall pipeline (as shown in Figure 2).

Sublease: Use of the outfall pipeline for discharge of additional treated effluent

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:

Lease: 25 years, beginning August 14, 2013, and ending August 13, 2038, unless sooner terminated as provided under the lease.

Sublease Endorsement: Effective, beginning August 15, 2024, and ending August 13, 2038, unless sooner terminated as provided under the lease.

CONSIDERATION:

\$450 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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:

On June 29, 2015, the Commission authorized a 25-year General Lease – Right-of-Way Use to the Lessee, for the use and maintenance of a 36-inch internal diameter effluent outfall pipeline and endorsement of a sublease to DG Fairhaven Power LLC (DGF) ([Item 35, June 29, 2015](#)). On December 17, 2020, the Commission endorsed a sublease to the Peninsula Community Services District (PCSD) ([Item 9, December 17, 2020](#)). The lease expires on August 13, 2038.

The current lease authorizes the use of an existing 36-inch internal diameter outfall pipeline, which has a maximum capacity of 40 million gallons per day (gpd). Historically, the outfall pipeline was used to discharge as much as 15 million gpd of wastewater from a pulp mill when it was fully operational. DGF is permitted to discharge up to 350,000 gpd into the outfall pipeline. However, average discharges from DGF are approximately 170,000 to 200,000 gpd.

The PCSD is permitted to discharge a maximum volume of 75,000 gpd of additional treated effluent to the existing outfall pipeline. The Lessee currently discharges approximately 425,000 gpd. The PCSD informed the Lessee that the wastewater treatment plant is operational and began to discharge through the outfall pipeline in compliance with their Sublease Agreement, Coastal Development Permit, and National Pollutant Discharge Elimination System (NPDES) permits.

On February 11, 2019, the Lessee entered into a Sublease Agreement with Nordic Aquafarms California, LLC, to use 6 million gpd of the existing effluent outfall pipeline capacity. Subsequent amendments authorized discharge over 12 million

gpd. The Lessee has submitted an application to endorse a sublease to Nordic Aquafarms California, LLC, to discharge additional effluent from a proposed upland indoor aquaculture facility. The upland facility consists of improvements including but not limited to the hatchery, grow-out modules, fish processing and administration buildings, intake and wastewater treatment facilities. These upland facilities do not fall within the jurisdiction of the Commission.

The lease provides that the Commission will evaluate a sublease endorsement request under commercial reasonableness standards including the proposed sublessees: (1) financial strength and reliability, (2) business experience and expertise; (3) personal and business reputation; (4) managerial and operational skills; their proposed use; and (5) other relevant factors. The sublessee has been established for several years and operates two other similar facilities, one in Denmark and one in Norway. In addition, the sublessee is proposing a similar project for Maine. Overall, if this sublease is approved, the three users of the pipeline may discharge up to approximately 12.5 million gpd. Consequently, discharge from the outfall pipeline would still fall well below the outfall pipeline's capacity, even with the proposed additional discharge from the sublessee.

The outfall pipeline was inspected in August 2020. The inspection indicated the pipeline was jetted and there was good flow. The sublessee's NPDES permit was adopted by the North Coast Regional Water Quality Control Board on October 5, 2023, and became effective on December 1, 2023.

The outfall pipeline has a multiport diffuser with 144 individual ports. Currently, 16 ports are open and flowing. Upon completion of the aquaculture facility on the upland, a total of 64 of the 144 ports would need to be opened. The ports would be opened by divers using hand tools. The annual maintenance and inspection of the ports includes water jetting equipment to clear sand away from the ports and any material inside the diffuser.

Recently, a segment of the pipeline crossing the beach became exposed due to erosion from winter storms. As a result, emergency storm damage repair work was completed in May 2024. The work included trenching and placing bags of rock to bury the pipeline. The bags of rock serve as weights along the length of the exposed pipeline to secure and reduce movement. The repaired pipeline is less likely to be exposed and now has a more constant slope to drain into the Pacific Ocean. The Lessee received an emergency coastal development permit for this work from the California Coastal Commission. Thereafter, staff issued a letter of non-objection to allow for any related emergency repair work to be completed in the

Commission's jurisdiction. The letter required the submittal of an application to amend the lease and add the bags of rock.

The existing lease requires Lessee to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from Lessee's activities within the lease premises. The endorsement of the sublease does not alienate the State's fee simple interest or permanently impair public rights. The sublease is limited to the remaining term of the lease and does not grant the Lessee exclusive rights to the lease premises, which allows the Commission flexibility to determine if the Public Trust needs of the area change over time.

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 offshore of the Samoa Peninsula in Humboldt County. The ocean outfall pipeline will likely be impacted by sea level rise and more frequent and intense storms, particularly in the shorezone, which is property granted to Humboldt County. Within the lease area, the pipeline is submerged and less likely to experience those impacts.

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 North Spit 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 North Spit

Year	Projection (feet)
2030	1.0
2040	1.6
2050	2.3
2100	7.6

Source: [Table 4, 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 areas. Climate change and sea level rise will further influence coastal areas by changing erosion and sedimentation rates as beaches and coastal landscapes are exposed to increased wave force.

The existing submerged outfall is approximately 8,200-feet long and terminates in an 852-foot multiport diffuser aligned perpendicular to the shoreline. The diffuser is approximately 82 feet below the water surface; therefore, it is unlikely that these projected conditions would increase the chances of damage to the outfall within the lease premises during the term of the lease. However, these conditions could impact the maintenance activities required to operate the multiport diffuser, which will require more frequent maintenance than it has in the past due to the increase in ports that will be opened to diffuse the higher volume of effluents discharged. These climate change impacts should be considered when the operator develops the maintenance program and schedule because the ocean conditions are likely to be more variable and hazardous during the winter storm season than they have been in the past.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the lease, the Lessee 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 the endorsement of a sublease 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 proposed sublease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the sublease is a discretionary action by the Commission, with criteria set forth in the lease. 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 Sublessee has no right to a new sublease or other entitlement.

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. An Environmental Impact Report (EIR), State Clearinghouse No. 2021040532, was prepared for this project by Humboldt County (County) and certified on September 28, 2022. As part of its project approval, the County made a Statement of Facts and Findings and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed these documents and concluded that, as confirmed in the County’s EIR analysis, the Project has no impacts that are occurring on or otherwise affecting lands under the Commission’s jurisdiction. While the Project includes a new additional use for the existing outfall, the additional Nordic Aquafarms effluent is expected to be no different than other types of effluent discharging from this outfall since it would be treated with ultraviolet light. The Commission authorized a lease for effluent discharge in 2020 ([Item 9, December 17, 2020](#)). The current amount of wastewater that is discharged by the lessee and its existing sublessees along with proposed additional treated effluent by the proposed Sublessee is well below the pipeline’s capacity of 40 million gpd. In addition, Project activities, including divers using hand tools to open additional ports, inspections, and maintenance, would be part of routine maintenance of the outfall. Therefore, no mitigation monitoring program or California Environmental Quality Act findings are necessary.

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2021040532, was prepared for this project by Humboldt County and certified on September 28, 2022, that the Commission has reviewed and considered the information contained therein, and that the Project has no adverse environmental impacts that are occurring on or otherwise affecting lands under the Commission's jurisdiction for which mitigation or CEQA findings of fact would be required.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

For all the above reasons, staff believes that the endorsement of a sublease will not substantially impair Public Trust resources and is in the best interests of the State.

AUTHORIZATION:

Authorize the Executive Officer or designee to execute an endorsement of a sublease between the Lessee and Sublessee, for use of the 36-inch internal diameter effluent outfall pipeline for the purpose of discharging additional treated effluent, effective beginning August 15, 2024, and ending August 13, 2038.