

# Staff Report 58

**APPLICANT:**

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Leucadia Wastewater District

**PROPOSED ACTION:**

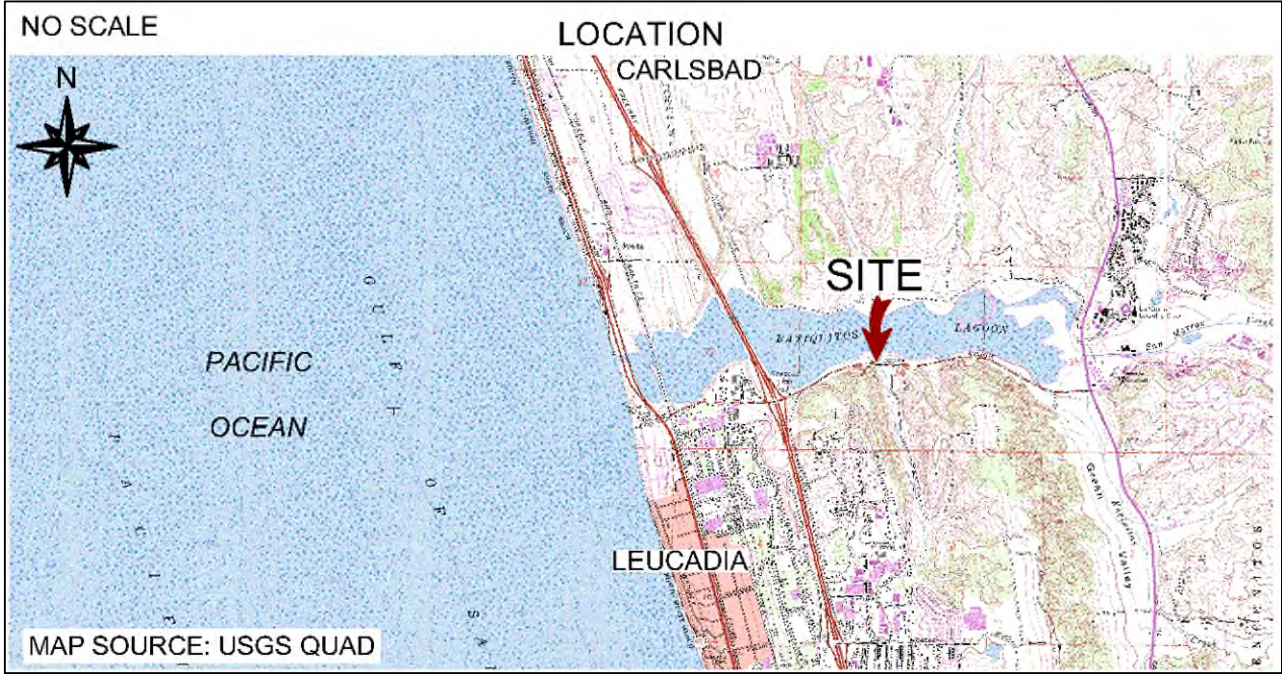
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Issuance of a General Lease – Public Agency Use.

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

Sovereign land located adjacent to Batiquitos Lagoon, Carlsbad, San Diego County (as shown in Figure 1).

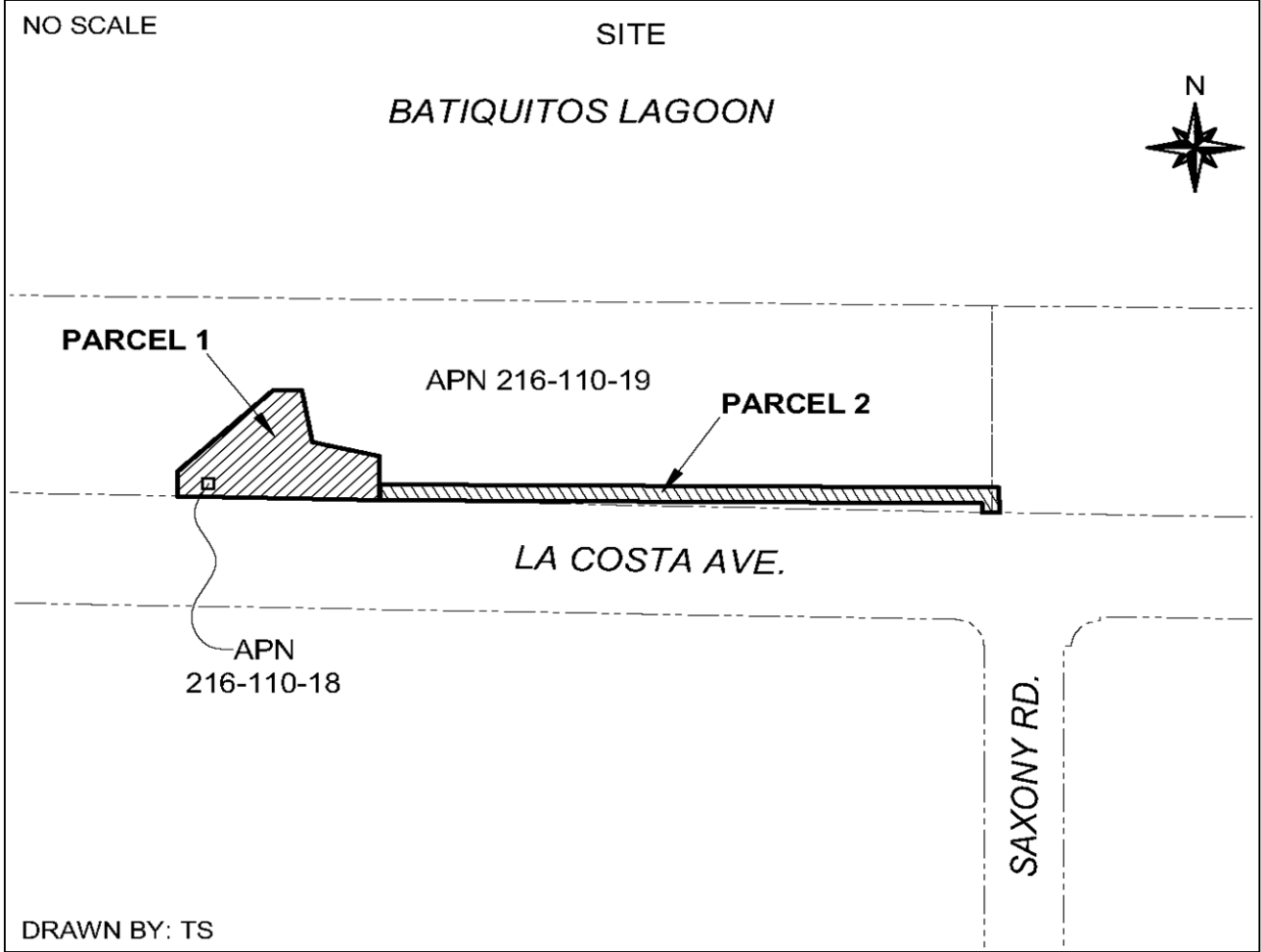
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing access road and truck turnaround; and an existing wastewater pump station ground motor control center, underground valve vault, and a portion of an emergency ground bypass connection (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:**

20 years, beginning August 15, 2024.

**CONSIDERATION:**

The public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such an action to be in the State’s best interests.

**SPECIFIC LEASE PROVISIONS:**

- No refueling or maintenance of vehicles, equipment, or watercraft shall take place within the Lease Premises.
- Liability insurance in an amount no less than \$1,000,000 per occurrence.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**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 December 16, 1998, the Commission authorized issuance of a General Lease – Public Agency Use to the Leucadia County Water District for a paved truck turnaround and a wastewater pump station ground motor control center, underground valve vault, and a portion of an emergency bypass connection adjacent to Batiquitos Lagoon, Carlsbad, San Diego County ([Item 83, December 16, 1998](#)).

On September 19, 2000, the Commission authorized acceptance of a Quitclaim Deed from San Diego Gas and Electric Company for a utility easement across lands included in this lease ([Item 47, September 19, 2000](#)). On the same date, the Commission also authorized an amendment of this lease to include the construction and use of a 12-foot wide, approximately 433-foot long access road that had inadvertently been omitted from the previous lease authorization ([Item 48, September 19, 2000](#)). This lease expired on September 30, 2023.

Now, the Applicant is applying for a General Lease – Public Agency Use for use of the existing paved truck turnaround and access road; and the wastewater pump station ground motor control center, underground valve vault, and a portion of an emergency bypass connection. Staff recommends issuance of a General Lease – Public Agency Use to the Applicant, effective August 15, 2024.

The wastewater pump station improvements on the lease premises facilitate transportation of wastewater within the regional wastewater treatment system and are a vital part of the wastewater infrastructure in the region. As such these improvements are critically important in ensuring that polluted waters are properly treated before being reintroduced into the environment and are an essential

aspect of environmental protection activities in the region. The pump station's ground motor control center contains all of the station's electrical controls and alarms. These are used to ensure that the pump station is operating properly even during emergency situations. The underground valve vault houses mechanical systems including piping, isolation valves, and check valves which control the flow of wastewater through the pump station. The emergency bypass connection ensures that the pump station can remain operational even if the permanent onsite generator is unavailable. This bypass connection allows temporary power to be provided via a portable generator and facilitates the pump station's continued operation during emergencies.

The truck turnaround and access road on the lease premises allow the Applicant's staff to access the pump station improvements for regular maintenance and emergency operations, ensuring that this vital infrastructure remains operational.

The Applicant has occupied State land since the previous lease expired. However, both the previous lease and the proposed lease do not require monetary rent because the subject improvements provide a significant public benefit as critical components of the regional wastewater treatment infrastructure, and this public benefit is sufficient compensation for the State. Therefore, staff does not recommend that the proposed lease require monetary compensation for the Applicant's occupation of State land following expiration of the prior lease. Nevertheless, the proposed lease will require that the Applicant indemnify the State for the entire period of unauthorized occupation prior to August 15, 2024, to ensure that the State is protected from potential liability.

The proposed Lease does not alienate the State's sovereign interest or permanently impair public rights. The lease is limited to a 20-year term, does not grant the lessee exclusive rights to the lease premises, and will have no significant impact on Public Trust-consistent uses or resources in the area. Upon termination of the lease, the lessee may be required to remove any improvements from State land and restore the lease premises to their original condition. 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, increased wave activity, storm events, and flooding may impact any existing infrastructure subject to the proposed lease, located adjacent to Batiquitos Lagoon.

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 La Jolla 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 La Jolla**

Year	Projection (feet)
2030	0.9
2040	1.3
2050	2.0
2100	7.1

Source: Table 31, [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.

This increase in sea level combined with more frequent and stronger storm events over the term of the lease 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 fixed structures: a paved area for truck turnaround and both above ground and underground pump station improvements. These structures 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, 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.

**OTHER PERTINENT INFORMATION:**

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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 must remove the improvements and restore the property to its 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. 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 15061 and California Code of Regulations, title 2, section 2905.

**RECOMMENDED ACTION:**

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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 – Public Agency Use to the Applicant beginning August 15, 2024, for a term of 20 years, for the use of an existing access road and truck turnaround; and an existing wastewater pump station ground motor control center, underground valve vault, and a portion of an emergency bypass connection; consideration being the public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such an action to be in the State’s best interests.