

Staff Report 72

PARTIES:

California State Lands Commission (Commission)

Coastal Band of the Chumash Nation (Coastal Band)

PROPOSED ACTION:

Consider authorizing a Memorandum of Intent with the Coastal Band to memorialize the intent and commitment to partner on a framework and agreement to co-manage/co-steward Rincon Island and the Rincon Onshore Facility.

AREA, LAND TYPE, AND LOCATION:

Rincon Island is located approximately 3,000 feet offshore of Punta Gorda in Ventura County, approximately 7 miles northwest of the city of Ventura, California (Figure 1, below). It is situated in approximately 55 feet of water immediately offshore of the community of Mussel Shoals and approximately 0.5 mile south of the community of La Conchita. The Rincon Island Causeway (causeway), or access pier, connects the Island to the coast. Rincon Island and the causeway are located on sovereign submerged lands and tidelands and are associated with former State Oil and Gas Lease PRC 1466.

The Onshore Facility consists of a 6.01-acre parcel of sovereign filled tidelands located 1.3 miles to the east and downcoast of Rincon Island at 5750 W. Pacific Coast Highway (PCH), Ventura, and is associated with former State Oil and Gas Leases PRC 145, PRC 410, and PRC 1466. Rincon Island and the Onshore Facility were previously connected by a pipeline system, until they were disconnected as part of the well plugging and abandonment process.

Figure 1. Site Location Map



BACKGROUND:

Rincon Island and the Onshore Facility were constructed in 1959 and used for oil and gas production. The Commission historically issued leases to oil production companies for this purpose. In December 2017, as part of the wind down of its Chapter 7 Liquidation in Bankruptcy, the Trustee for Rincon Island Limited Partnership, the most recent lessee of these lands, quitclaimed its lease interests (including State Oil and Gas Lease Nos. PRC 145, PRC 410, and PRC 1466) to the Commission.

Thereafter, the Commission pursued the decommissioning of the oil and gas related facilities. Phase 1 of this process included the plugging and abandonment of all 75

oil and gas wells and removal of service equipment at Rincon Island, the Onshore Facility, and the adjacent privately owned Coast Ranch parcel. Phase 1 activities were completed in June 2021, and the facilities are currently in “caretaker” status, meaning they do not require a full-time operator for safety or pollution prevention.

The first part of the Rincon Phase 2 Decommissioning Project was the development of the [Rincon Phase 2 Decommissioning Feasibility Study](#) (Feasibility Study), which was completed in July 2022. The Feasibility Study provided information from technical studies and public input to inform staff’s recommendations to the Commission for a proposed Project to be evaluated in compliance with the California Environmental Quality Act (CEQA) ([Item 47, August 23, 2022](#)). At the August 23, 2022 Commission meeting, staff received guidance from the Commission to formalize, either through a letter of intent or a letter of partnership, a potential co-management agreement with the Coastal Band for Rincon Island and the Onshore Facility. Commissioners expressed their support for a reuse option for the Project sites by partnering with the Coastal Band to explore mutual benefits including supporting the State’s 30x30 conservation goals and shared stewardship of the land.

On March 15, 2024, the Commission released the Draft Environmental Impact Report (DEIR) on the Rincon Phase 2 Decommissioning Project for a 60-day public review period. The Commission will be considering the certification of the Final EIR for the Rincon Phase 2 Decommissioning Project ([Item 71](#)) as part of its August 29th agenda.

PROPOSED MEMORANDUM OF INTENT:

The purpose of this Memorandum of Intent is to establish and formalize the intent of the Commission and the Coastal Band to collaboratively explore developing a co-management framework and agreement to facilitate the stewardship, use, and management of Rincon Island and the Onshore Facility by the Coastal Band following implementation of the decommissioning project approved in accordance with the certified Final EIR for the Rincon Phase 2 Decommissioning Project, and consistent with [Executive Order N-15-19](#) and [N-82-20](#).

The Commission and the Coastal Band recognize and acknowledge that developing a comprehensive co-management agreement takes time and resources. Importantly, it will require thoughtful consideration of the types of activities and uses envisioned and planned for, funding options and opportunities

and requirements, operation and maintenance responsibilities, and liability protection.

Any agreement reached between the staffs of the Coastal Band and the Commission shall be formally considered and adopted by both the Commission, at a properly noticed, public meeting, and the Coastal Band prior to being effective. Any future use of these sites would require further analysis under CEQA and further Commission approval.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6106, 6216, and 6301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

California Native American tribes, including the Coastal Band, have inhabited and stewarded many of the lands, waterways, and resources under the Commission's jurisdiction since time immemorial. Additionally, the Coastal Band does not own any land in its historic range or culturally significant landscape, and both Rincon Island and the Onshore Facility space would provide significant opportunities for the tribal members to gather, hold ceremonies, and reconnect with their ancestral lands. The Coastal Band has shared its conceptual ideas for future reuse of Rincon Island and Onshore Facility, which include protecting the land and creating an open space for the public to learn about their culture and traditional practices. As more formal plans are developed, in coordination with the Coastal Band, for the use of the Island or Onshore space, the Commission will determine the required level of CEQA review.

This Memorandum of Intent contemplates collaboration between the Coastal Band and the Commission to develop a plan for the use of these sites, including but not limited to preserving lands in their natural state in order to protect scenic and wildlife habitat values, uses that are consistent with the Public Trust Doctrine.

This Memorandum of Intent is in the State's best interest because in recent years there has been a significant focus on repairing relationships with California Native American tribes. On September 19, 2011, Governor Edmund G. Brown, Jr. issued [Executive Order B-10-11](#) stating that every state agency and department subject to the Governor's executive control shall encourage communication and

consultation with California Native American tribes. EO B-10-11 also created the Office of the Tribal Advisor.

In August 2016, the Commission adopted a [Tribal Consultation Policy](#) to provide guidance and consistency for its interactions with Native American Tribes. The Policy emphasizes that Tribes have stewarded many of the lands, waterways, and resources that may be affected by Commission actions to support their cultures and ways of life for millennia and that Tribes and their members have unique and valuable knowledge and practices for conserving and using these resources sustainably.

On June 18, 2019, Governor Gavin Newsom issued [Executive Order N-15-19](#), addressing the administration's policy on Native American Ancestral Lands. In addition to acknowledging and apologizing on behalf of the State for the historical "violence, exploitation, dispossession and the attempted destruction of tribal communities," the Order encourages state agencies and entities to address the historical dislocation of California Native Americans from their ancestral land and sacred practices through opportunities for co-management, land returns, and improved access to ancestral lands.

In October 2020, Governor Newsom issued the [Nature-Based Solutions Executive Order N-82-20](#), advancing biodiversity conservation as an administrative priority and elevating the role of nature in the fight against climate change. As part of this Executive Order, California committed to the goal of conserving 30 percent of our lands and coastal waters by 2030 (30x30). One of 30x30's core commitments is to strengthen tribal partnerships. The Commission's [2021-2025 Strategic Plan](#) prioritizes partnering with sovereign tribal governments and communities to actively facilitate transactions resulting in co-management of traditional lands.

CONCLUSION:

For the reasons stated above, staff believes entering into this Memorandum of Intent with the Coastal Band is consistent with the Public Trust Doctrine and in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Authorization to enter into a Memorandum of Intent is not a project as defined by CEQA because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

2. The proposed action is consistent with the “Meeting Evolving Public Trust Needs,” “Prioritizing Social, Economic, and Environmental Justice”, “Partnering with Sovereign Tribal Governments and Communities” and “Committing to Collaborative Leadership” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan.

EXHIBIT:

A. Memorandum of Intent

RECOMMENDED ACTION:

It is recommended that the Commission:

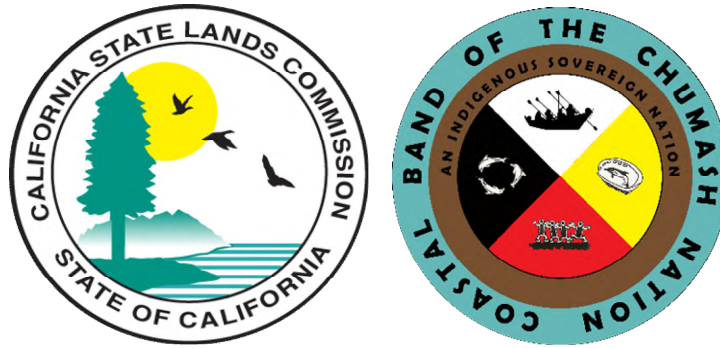
PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed action is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

Authorize, and delegate authority to the Executive Officer or designee, to enter into a Memorandum of Intent with the Coastal Band of the Chumash Nation substantially in the form as shown in Exhibit A.

Exhibit A



August 29, 2024

Memorandum of Intent

Stewardship of Rincon Island and the Rincon Onshore Facility (Ventura County) in Partnership with the Coastal Band of the Chumash Nation

I. INTRODUCTION

This Memorandum of Intent (MOI) is between the Coastal Band of the Chumash Nation (Coastal Band) and the California State Lands Commission (Commission) (collectively referred to as "Parties"). The purpose of this Memorandum of Intent is to memorialize the Parties' commitment to partner on a framework and agreement to co-manage Rincon Island and the Rincon Onshore Facility.

The Coastal Band of the Chumash Nation is a sovereign nation of Coastal Chumash Indigenous Peoples, whose ancestors lived in what is now known as the San Luis Obispo, Santa Barbara, Ventura, Los Angeles, and Kern Counties within central and southern California. The Coastal Band established their non-profit structure in 1981 to support the organization and facilitation of tribal programs, resource protection, and cultural sustainability infrastructure.

The Chumash Peoples have lived in this area for tens of thousands of years and continue to do so. The Coastal Band is composed of over 2,000 individuals. They hold positions for their respective territories on the Native American Heritage Commission Contact List as a State Recognized tribe. The Coastal Band continues to partner with other California tribes, tribal organizations and affiliated groups, state, county and local

agencies for the restoration and protection of their sacred lands and resources. In addition to maintaining their non-profit organization in the State of California, they incorporate their own Chumash social structures and governances to support their tribal sovereignty for future generations. Established in 1938, the California State Lands Commission is an independent body composed of the Lieutenant Governor, the state Controller, and the Governor's Director of Finance. While the Commission has certain regulatory functions, it is mainly a land and resource management agency. The Commission's sovereign lands jurisdiction includes roughly 120 rivers and sloughs, 40 lakes, and tide and submerged lands along more than 1,000 miles of coastline out to three miles. Altogether, the Commission's jurisdiction encompasses roughly four million acres. The Commission stewards these lands, on behalf of the people of California, consistent with the Public Trust Doctrine and in the best interest of the state. The Public Trust Doctrine is a common law doctrine that ensures that public trust lands are protected for water-oriented public purposes, such as commerce, navigation, fishing, recreation, public access, and open space. As part of its stewardship responsibilities, the Commission enters into agreements for the use, protection, and enhancement of these lands and resources consistent with the Public Trust and in the state's best interest.

II. BACKGROUND

a. Executive Orders and Policy Directives

On September 19, 2011, Governor Edmund G. Brown, Jr. issued Executive Order B-10-11 (EO B-10-11) stating that every state agency and department subject to the Governor's executive control shall encourage communication and consultation with California Native American tribes. EO B-10-11 also created the Office of the Tribal Advisor.

In August 2016, the Commission adopted a [Tribal Consultation Policy](#) to provide guidance and consistency for its interactions with Native American Tribes. The Policy emphasizes that Tribes have stewarded many of the lands, waterways, and resources that may be affected by Commission actions to support their cultures and ways of life, for millennia and that Tribes and their members have unique and valuable knowledge and practices for conserving and using these resources sustainably.

On June 18, 2019, Governor Gavin Newsom issued Executive Order N-15-19, addressing the administration's policy on Native American Ancestral Lands. In addition to acknowledging and apologizing on behalf of the State for the historical "violence, exploitation, dispossession and the attempted destruction of tribal communities," the Order encourages state agencies and entities to address the historical dislocation of California Native Americans from their ancestral land and sacred practices through opportunities for co-management, land returns, and improved access to ancestral lands. The Administrative Policy encourages state agencies to work cooperatively with California Tribes that are interested in acquiring natural lands in excess of State needs.

In October 2020, Governor Newsom issued the Nature-Based Solutions Executive Order N-82-20, advancing biodiversity conservation as an administrative priority and elevating the role of nature in the fight against climate change. As part of this Executive Order, California committed to the goal of conserving 30 percent of our lands and coastal waters by 2030 (30x30). One of 30x30's core commitments is to strengthen tribal partnerships. One of many of the principles outlined in this commitment includes support of the return and ownership of ancestral lands to California Native American Tribes with traditional and cultural affiliation for conservation purposes.

The Commission's [2021-2025 Strategic Plan](#) prioritizes partnering with sovereign tribal governments and communities to actively facilitate transactions resulting in co-management of traditional lands.

b. Rincon Island History and Decommissioning Status

Rincon Island and the Onshore Facility were constructed in 1959 and used for oil and gas production. The Commission historically issued leases to oil production companies for this purpose. In December 2017, Rincon Island Limited Partnership, the most recent lessee of these lands, quitclaimed (transferred) its lease interests (including State Oil and Gas Lease Nos. PRC 145, PRC 410, and PRC 1466) to the Commission after becoming financially insolvent.

Thereafter, the Commission pursued decommissioning of the oil and gas related facilities. Phase 1 of this process included the plugging

and abandonment of all 75 oil and gas wells and removal of service equipment at Rincon Island, the Onshore Facility, and the adjacent privately owned Coast Ranch parcel. Phase 1 activities were completed in June 2021, and the facilities are currently in “caretaker” status, meaning they do not require a full-time operator for safety or pollution prevention.

The first part of the Rincon Phase 2 Decommissioning Project was the development of the Rincon Phase 2 Decommissioning Feasibility Study (Feasibility Study) that was completed in July 2022. The Feasibility Study provided information from technical studies and public input to inform staff's recommendations to the Commission for a proposed Project to be evaluated in compliance with the California Environmental Quality Act (CEQA) ([Item 47, August 23, 2022](#)). At the August 23, 2022, Commission meeting, staff received guidance from the Commission to formalize, either through a letter of interest or a letter of partnership, a potential co-management agreement with the Coastal Band of the Chumash Nation for Rincon Island and the Onshore Facility. Commissioners expressed their support for a reuse option for the Project sites partnering with the Tribe to explore mutual benefits including supporting the State's 30x30 conservation goals and shared stewardship of the land.

On March 15, 2024, the Commission released the Draft Environmental Impact Report (DEIR) for the Rincon Phase 2 Decommissioning Project for a 60-day public review period. On August 29, 2024, the Commission certified the Final EIR for the Rincon Phase 2 Decommissioning Project.

III. PURPOSE AND COMMITMENT

The Coastal Band of the Chumash Nation have been stewards of the land and natural resources in and along the Central Coast since time immemorial. The land and natural resources hold a rich and deep history of traditional and cultural practices for Tribal members.

The Parties recognize and acknowledge that developing a comprehensive co-management agreement takes time and resources. Importantly, it will require thoughtful consideration of the types of activities and uses envisioned and planned for, funding

options and opportunities and requirements, operation and maintenance responsibilities, and liability protection.

The purpose of this Memorandum of Intent is to establish and formalize the intent of the Parties to collaboratively explore developing a co-management framework and agreement to facilitate the use and management of Rincon Island and the Onshore Facility by the Coastal Band following implementation of the decommissioning project approved in accordance with the certified Final EIR for the Rincon Phase 2 Decommissioning Project and consistent with Executive Orders N-15-19 and N-82-20.

Any agreement reached between the staffs of the Coastal Band and the Commission shall be formally considered and adopted by both the Commission, at a properly noticed, public meeting, and the Coastal Band prior to being effective. Any future use of these sites would require further analysis under CEQA.

IV. GENERAL PROVISIONS

- a. Nothing in this MOI is intended to, or shall be construed to, limit or affect in any way the authority or legal responsibilities of the Coastal Band or the Commission.
- b. Nothing in this MOI binds the Parties to perform beyond their respective authorities.
- c. Nothing in this MOI binds the Coastal Band or the Commission to assume or expend any funds in excess of available appropriations authorized by law.
- d. This MOI is intended to facilitate cooperation among the Parties. It is not a contract for acquisition of supplies or services; it does not create any legal obligation of or between any of the Parties or create any private right or cause of action by any person or entity.
- e. Nothing in this MOI may be the basis of any third party challenges or appeals. Nothing in this MOI creates any rights or causes of action in persons not parties to this agreement.

- f. This MOI shall be in effect from the date of execution until terminated by one or both of the parties. If one of the Parties terminates the MOI, that Party shall give the other Party at least 30 days advance written notice of termination. At any time that the Parties determine that the purposes set forth in this MOI have been satisfied, the MOI may be terminated.

CONTACTS

The primary points of contact for fulfilling this Memorandum of Intent are:

Coastal Band of the Chumash Nation:

California State Lands Commission: Yessica Ramirez

V. APPROVALS

Coastal Band of the Chumash Nation

Chair, Gabriel Frausto

California State Lands Commission

Chair, Malia M. Cohen