

Staff Report 09

APPLICANT:

National Marine Sanctuary Foundation

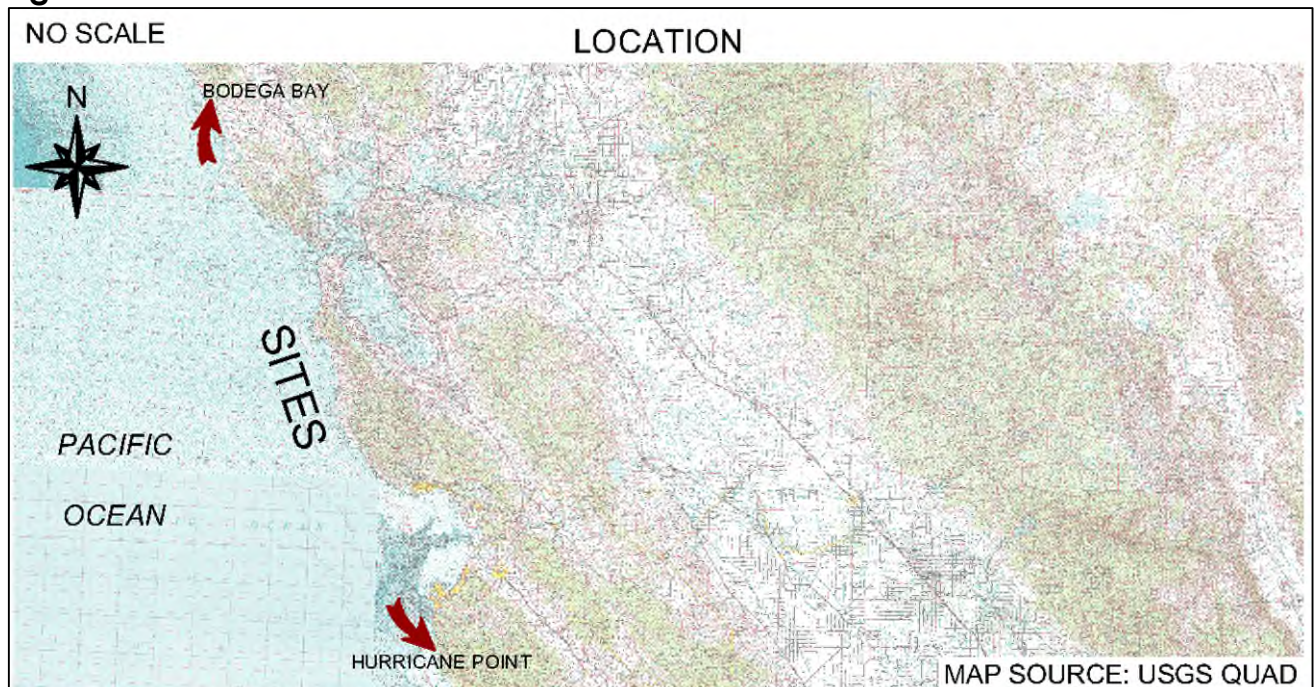
PROPOSED ACTION:

Issuance of a General Lease – Other.

AREA, LAND TYPE, AND LOCATION:

Sovereign tide and submerged land in the Pacific Ocean at various locations within the Greater Farallones National Marine Sanctuary and Monterey Bay National Marine Sanctuary, Sonoma, San Mateo, Santa Cruz, and Monterey Counties (as shown in Figure 1).

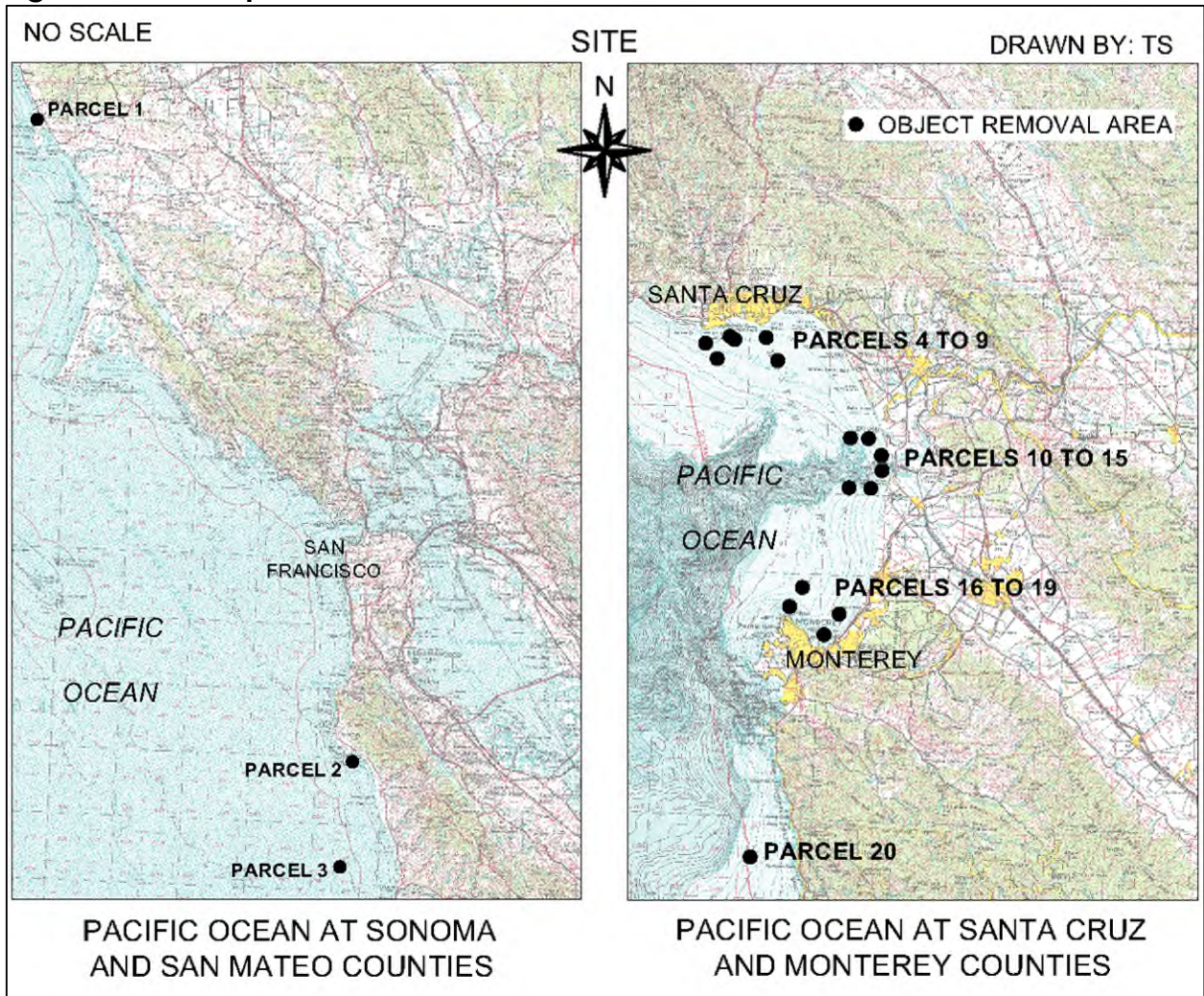
Figure 1. Location



AUTHORIZED USE:

Removal of abandoned and derelict marine debris (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:

5 years; beginning October 17, 2024.

CONSIDERATION:

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 interests.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall provide Lessor with pre-removal surveys describing the location, removal method to be used, and the timing of the debris removal activities prior to removal.
- Lessee shall notify the San Mateo County Harbor District prior to commencement of removal activities within the lands granted to the district.
- Lessee agrees to be bound by and fully carry out, implement, and comply with all best management practices (BMPs) set forth by the National Oceanic and Atmospheric Administration's (NOAA) Marine Debris Program.
- Removal of the Verna A II will occur outside of the western snowy plover nesting season. California Department of Fish and Wildlife (CDFW) staff will set-up a perimeter restricting access around the vessel during removal, and California State Parks staff will be present during all removal operations.
- Within 60 days of completing the project, Lessee will provide Lessor with a written narrative describing the timing of removal activities completed and the results of the activities.

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:

The National Marine Sanctuary Foundation (Foundation) is the official nonprofit partner of the federal National Marine Sanctuary system. The Foundation earned a grant from the NOAA Marine Debris Program to remove several high-priority large debris targets from five National Marine Sanctuaries: Monterey Bay and Greater Farallones (California), Flower Garden Banks (Texas), Olympic Coast (Washington), and the ancestral waters of the Makah Tribe and Quileute Tribe (Washington).

The Foundation is now applying for a General Lease – Other to remove abandoned and derelict marine debris at 20 sites that pose public health and safety risks, pose potential threats to sensitive natural resources, and impede navigation.

The NOAA Marine Debris Program is compiling a list of BMPs that will be implemented by the Foundation, contractor, and subcontractors during the removal activities. The removal of three abandoned and derelict vessels, one personal aircraft, and 16 anchor chains and buoys from the Greater Farallones National Marine Sanctuary and Monterey Bay National Marine Sanctuary will be conducted in two phases. Each phase will be approximately six months long. Phase 1 will include removal of the S/V Galiano, buoy debris, and Verna A II, which are smaller debris that can be removed with fewer concerns for favorable weather conditions. The remaining debris will be removed during favorable ocean and weather conditions during Phase 2. The total time needed for each removal varies; however, the pre-removal surveys, staging by the salvage company, removal activities, and disposal/recycling of each removal is expected to take less than three weeks. The Applicant will provide staff with pre-removal surveys prior to any removals, indicating the location of debris that may have shifted with the influence of natural or unnatural forces such as tides, currents, or earthquakes; the method of removal that will be employed; and the estimated timing of the removal activities. Staff recommends a 5-year lease term to accommodate for variables outside of the Applicant's control such as permitting delays and adverse weather conditions. Details of each removal are discussed below.

MONTEREY BAY NATIONAL MARINE SANCTUARY

1. **S/V Galiano:** a 27-foot sailing vessel that sank in 2021 near Terrace Point off Santa Cruz. Technical divers will remove the vessel by placing floatation devices around the sunken vessel to bring it up to the surface and tow it to Santa Cruz Harbor for disposal.
2. **M/V Going Coastal:** a 92-foot yacht that sank in 400 feet of water off the Big Sur coastline. The vessel will be lifted to the surface using a steel lifting frame connected to the vessel by slings. A deck-mounted 100-ton winch will raise the vessel. Two remotely operated vehicles (ROVs) will guide the lifting frame into position over the vessel's upper deck and secure the lifting slings under the vessel. Salvage bags will provide supplemental buoyancy. As the vessel clears the water, large dewatering pumps will evacuate water from the interior spaces until the vessel can float without assistance. Once afloat, the vessel will be secured and towed back to the designated port for final assessment and disposal.
3. **Bonanza:** a 25-foot-long personal aircraft with a 33-foot wingspan located in 150 feet of water in Half Moon Bay. The aircraft will be brought to the surface by

technical divers or ROVs and floatation devices will be placed around it. A derrick crane will then lift the aircraft onto a barge for transport and disposal.

4. **16 Office of National Marine Sanctuaries owned anchor chains and buoys:** the buoys demarcated historical zones for motorized personal watercraft. Technical divers will remove the debris from nearshore areas. A ROV outfitted with a grappling hook will remove debris from deeper sites.

Two buoy debris sites are located within lands granted to the San Mateo County Harbor District (Latitude 37.493333, Longitude -122.485) and the County of Santa Cruz (Latitude 36.916667, Longitude -121.95). The Foundation will notify the San Mateo County Harbor District prior to commencement of removal activities within the lands granted to the District and will partner with the Santa Cruz Harbor District and Marine Applied Research & Exploration (MARE), who will assist in ROV surveys to pinpoint buoy debris.

GREATER FARALLONES NATIONAL MARINE SANCTUARY

1. **Verna A II:** a 54-foot-long fishing vessel that ran aground in 2016 on Salmon Creek Beach in the overlapping jurisdiction of Salmon Creek State Park and the Sanctuary. Since the vessel is located on a sandy beach intertidal zone, removal operations will occur during low tide outside of the western snowy plover nesting season (March 1 through September 15). Staff from CDFW will set-up a perimeter restricting access around the vessel during removal. A backhoe and either a bobcat or a crane will be used to uncover and lift the vessel to the nearby Salmon Creek parking lot for transportation to a disposal facility. Beach visitor access may temporarily be impacted during the removal; however, the removal of the vessel will improve beach access, as it is currently a hazard to beachgoers. The removal will also improve the scenic views of the area. California State Parks staff will be present during all removal operations.

Permanent removal of the debris will increase the marine and coastal ecosystems natural resiliency and will improve habitat for the wildlife in these areas, which includes 36 marine mammal species, 525 species of fish, and 180 species of seabirds and shorebirds. Promotion of scenic and wildlife views, beach access, swimming, fishing, and boating are consistent with the common law Public Trust Doctrine.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 5-year term, does not grant the Lessee exclusive rights to the lease premises, and 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.

CONCLUSION:

For all the reasons above, staff believes the issuance of the lease will not substantially impair the public rights to navigation, fishing, and commerce, or substantially interfere with the Public Trust needs and values at this location, at this time; is consistent with the common law Public Trust Doctrine; 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. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs," "Leading Climate Activism," and "Committing to Collaborative Leadership" 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 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3), and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

APPROVAL OBTAINED:

- U.S. Fish and Wildlife Service

APPROVALS REQUIRED:

- U.S. Army Corps of Engineers
- California Department of Parks and Recreation
- State Historic Preservation Office
- California State Water Resources Control Board
- California Coastal Commission
- Monterey Bay National Marine Sanctuary
- Greater Farallones National Marine Sanctuary

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 through the combination of the following exemptions: Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3) and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not significantly impair the public rights to navigation, fishing, and commerce; or substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Other to the Applicant beginning October 17, 2024, for a term of 5 years, for the removal of abandoned and derelict marine debris at 20 sites as described, 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

2. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of pre-removal surveys detailing the location of the debris to be removed and the removal methods planned to be used prior to removal.