

**CALENDAR ITEM
C64**

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S 2

04/26/13
W 26660
B. Terry

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

California Department of Parks and Recreation
12301 N. Highway 1, Box 1
Mendocino, CA 95460

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, adjacent to the Inglenook Fen-Ten Mile Dunes Natural Preserve, in MacKerricher State Park, near the city of Fort Bragg, Mendocino County.

AUTHORIZED USE:

Temporary ingress and egress to facilitate the MacKerricher State Park Dune Rehabilitation Project.

LEASE TERM:

18 months, beginning April 26, 2013.

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 interest.

OTHER PERTINENT INFORMATION:

1. The Applicant owns the upland adjoining the Lease Premises.
2. California Department of Parks and Recreation (Parks) is proposing to restore natural ecosystem processes crucial to recovery of coastal dune habitat, known as the MacKerricher State Park Dune Rehabilitation Project (Project). The Project is located completely within the boundaries of the 1,285-acre Inglenook Fen-Ten Mile Dunes Natural Preserve along the Pacific Ocean in Mackerricher State Park. The Project area is west of Highway 1 and stretches from the northern boundary at the Ten Mile River to the southern boundary at Ward Avenue.

CALENDAR ITEM NO. **C64** (CONT'D)

3. As part of the Project, artificial structures that impede naturally dynamic sand and water movement will be eliminated from the preserve by removing a 2.7-mile segment of road and two culverts. Approximately 250 acres of nesting habitat for the federally listed western snowy plover and 60 acres of native dune vegetation, including portions that can support habitat for the federally listed Howell's spineflower and Menzies' wallflower, would be opened up as a result of the removal of the road and European beachgrass in the area.
4. To facilitate road removal, the Project is divided into three portions. Access to the first and second portions requires equipment and vehicles (one tracked excavator and two tracked haul trucks) to travel across approximately 3,000 feet of State sovereign land located in the Pacific Ocean at or below the mean high tide line (beach travel zone). Parks has applied for a General Lease – Public Agency Use for temporary ingress and egress within the beach travel zone.
5. A temporary access ramp will be set up off of State land and vehicles will follow a pre-established, directed route to and from the beach travel zone, and then precede parallel to the shoreline until adjacent to the project area. The three work vehicles will convoy to the project area at the beginning of the work day and be escorted back off site at the end of each day. No travel will occur in the beach travel zone without an accompanying biological monitor. There will be no transfer of excavated materials or vehicle fueling or maintenance within the beach travel zone. The entire rehabilitation project is anticipated to take approximately two months with the encroachment onto the Lease Premises for a period of four to seven days during the project.
6. A Mitigated Negative Declaration, State Clearinghouse No. 2012052022, was prepared by the California Department of Park and Recreation and adopted on December 19, 2012, for this project. The California State Lands Commission staff has reviewed such document.

A Mitigation Monitoring Program was adopted by the California Department of Park and Recreation. The Mitigation Monitoring Program did not include mitigation measures associated with sovereign land; therefore, the California State Lands Commission is not required to adopt the Mitigation Monitoring Program. However, specific requirements and conditions are required as part of the project and include activities on sovereign land. A table of project specific requirements and conditions

CALENDAR ITEM NO. **C64** (CONT'D)

associated with activities on sovereign land is included in Exhibit C and made a part of the lease.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the California Environmental Quality Act (CEQA) review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Department of Fish and Wildlife

FURTHER APPROVALS REQUIRED:

U. S. Army Corps of Engineers
North Coast Regional Water Quality Control Board
Mendocino County

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Project Requirements and Conditions

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2012052022, and a Mitigation Monitoring Program were prepared by the California Department of Park and Recreation and adopted on December 19, 2012, for this Project and that the Commission has reviewed and considered the information contained therein.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Public Agency Use to California Department of Parks and Recreation beginning April 26, 2013, for a term of 18 months, for ingress and egress across

CALENDAR ITEM NO. **C64** (CONT'D)

sovereign land to facilitate the MacKerricher State Park Dune Rehabilitation Project as described in Exhibit A (for reference purposes only) and shown on Exhibit B attached and by this reference made a part hereof; consideration to be 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 interest.

EXHIBIT A

W 26660

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the bed of Pacific Ocean, lying adjacent to Lot 4 of fractional Section 8 and Lots 1 & 2 of fractional Section 17, Township 19 North, Range 17 West, MDM, as shown on the Official Township Plat, approved May 14th, 1869, County of Mendocino, State of California, and more particularly described as follows:

All those lands adjacent to those parcels as described in that Grant Deed recorded March 6th, 1972 in Book 880 Page 539 in Official Records of said County and bounded on the north by the north line of said Lot 4; bounded on the east by the ordinary high water mark of said ocean; bounded on the south by a line parallel to and 200 feet southerly of the south line of said Lot 1; bounded on west by a line lying 200 feet parallel with and waterward of the ordinary high water mark of said ocean.

END OF DESCRIPTION

PREPARED 3/20/13 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



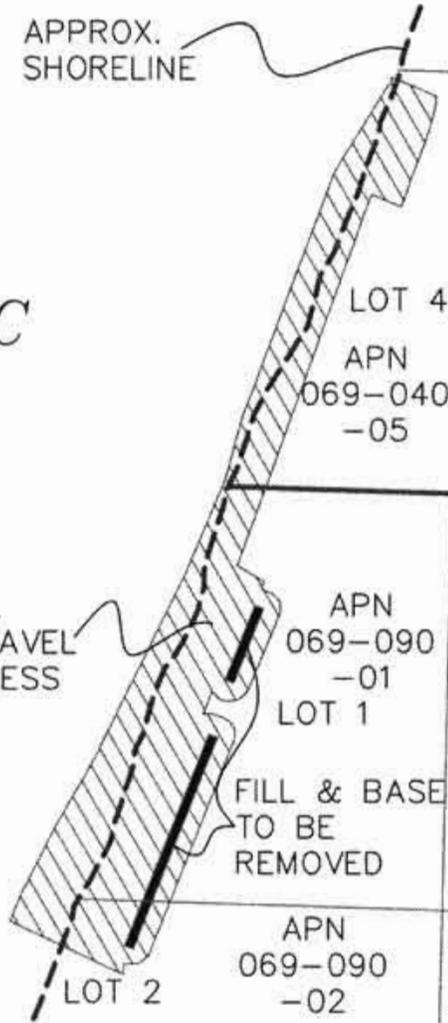
NO SCALE

SITE

PACIFIC OCEAN

APPROX. SHORELINE

POTENTIAL BEACH TRAVEL ZONE ACCESS



SECTION 8

SECTION 17

Mackerricher State Park, Inglenook - T19N, R17W MDM

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26660
 DEPT. OF PARKS & REC
 APN 069-040-05,
 069-090-01, 069-090-02
 GENERAL LEASE -
 PUBLIC AGENCY USE
 MENDOCINO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MJF 3/20/13

Exhibit C: Project Requirements and Conditions

BIO-6a. Standard Project Requirements: Fish	<p>a) Streams and riparian zones will not be used as equipment staging or refueling areas. Equipment will be stored, serviced, and fueled away from streams and riparian areas. Heavy equipment will be cleaned (e.g. power washed, steamed) off-site prior to being used below the ordinary high water mark.</p>	Riparian and intertidal areas	Compliance monitoring	Department of Parks and Recreation	During Project Implementation
BIO-7a. Standard Project Requirements: Birds	<p>a) Additional project requirements will be incorporated with permit condition in compliance with the California Endangered Species Act (CESA), California Fish and Game Code §3503, 3503.5, and 3511, as well as the United States Endangered Species Act of 1973 and Migratory Bird Treaty Act of 1918 unless exceptions are authorized through permitting and/or technical assistance from the DFW, USFWS, or other appropriate authority.</p> <p>b) Prior to project activities, a CSP-approved biological monitor will survey project areas and surrounding suitable habitats for nesting birds. If breeding is discovered, avoidance measures as detailed below will be implemented to minimize disturbance.</p> <p>c) All crews working on the project shall be required to follow all State Park regulations. Regulations pertaining to protection of shorebirds, including those prohibiting dogs in the Natural Preserve, shall be strictly enforced. All trash that could potentially encourage ravens shall be removed from the site at the end of each work day.</p> <p>d) Any aerial photography conducted in conjunction with the project shall be at an altitude that will not flush shorebirds.</p>	Project and Beach Travel Area	Compliance monitoring	Department of Parks and Recreation	During Project Implementation
BIO-7b. Specific Project Requirements: Birds. Nesting Raptors and Migratory Birds	<p>a) If possible, noise-generating project activities will not occur during the raptor and migratory bird breeding season (February 1-September 15).</p> <p>b) If project-related activities must be scheduled during the breeding season, then focused surveys for nesting migratory bird and raptor species will be conducted by a</p>	Project Area	Compliance Monitoring	Department of Parks and Recreation	Project Planning and During Project Implementation

Exhibit C: Project Requirements and Conditions

	<p>CSP-approved biologist before project activities occur in these months to identify active nests.</p> <p>d) Surveys for active migratory bird nests will be conducted within a 100-foot (30.5m) radius of the project area 10 days prior to the beginning of project work at each work site. If active nests are located, then no project activities will occur within a 100 foot radius of the nest location until the young have fledged and the young will no longer be impacted by project activities (as determined by a CSP-approved biologist).</p>				
<p>BIO-7d. Specific Project Requirement: Birds. Western Snowy Plover</p>	<p>a) When practicable, project activities will occur during the non-breeding season, from September 15 - March 15.</p> <p>b) Each day, prior to the start of project work, all areas within 1000 feet (300 meters) of project activities will be surveyed for the presence of snowy plovers. The first survey will be conducted the day before the start of the project. Surveys will follow the general survey methods described in the Mendocino District's Recovery Permit.</p> <p>c) If plovers are <i>not</i> seen in the survey area, the project facilitators will be given direction to proceed, with the condition that a plover surveyor be present to monitor the project while it is ongoing.</p> <p>d) If plovers are seen within 660 feet (200 meters) of the project area, activities in that area will be cancelled until the next day, and another survey will be conducted.</p> <p>e) If birds are seen on the second survey, but no nest is found, the project will proceed with a plover surveyor in attendance for monitoring.</p> <p>f) Plover surveyors will be responsible for directing project facilitators to stop or modify activities if plovers exhibit disturbance behavior that is related to the project activity.</p> <p>g) If at any time a nest is located within 330 feet (100 meters) of the project, project work in that area will be</p>	Project Area	Compliance Monitoring	Department of Parks and Recreation	During Project Implementation

Exhibit C: Project Requirements and Conditions

	<p>canceled until the end of the breeding season, or until further monitoring activities document that the nest is no longer active.</p> <p>h) Vehicle use will be minimized to the extent practicable. Vehicles will operate on the haul road instead of the beach whenever practicable. A corridor will be delineated and clearly marked by a qualified monitor to provide vehicle access from the haul road to the beach; only approved corridors will be used for this purpose. Vehicles operating on the beach will be accompanied by a qualified monitor, and remain on wetted sand whenever possible.</p> <p>i) Project work, including operation of vehicles, will occur no earlier than ½ hour after sunrise and conclude at least ½ hour before sunset.</p> <p>j) Coastal strand habitat will not be used as equipment staging or refueling areas. Equipment will be stored, serviced, and fueled away from coastal strand and dune areas. Heavy equipment will be cleaned (e.g., power washed, steamed) off-site prior to being used below the ordinary high water mark.</p> <p>k) CSP may consult with USFWS and request technical assistance for site-specific avoidance or mitigation measures. Any such changes will be amended into the Mitigated Negative Declaration, if necessary.</p>				
BIO-8. Standard Project Requirements: Marine Mammals	<p>a) Additional project requirements will be incorporated with permit condition in compliance with the California Endangered Species Act (CESA), and California Fish and Game Code §4500, and the United States Endangered Species Act of 1973.</p> <p>b) In the event a marine mammal hauls out onto the coastal strand, project activities will be minimized to the extent practicable within 820 feet (250 meters).</p> <p>c) Travel along the wet sands below the tide-line will cease within 330 feet (100 meters) of the marine mammal until it</p>	Beach Travel Area	Compliance Monitoring	Department of Parks and Recreation	During Project Implementation

Exhibit C: Project Requirements and Conditions

Specific and Standard Project Requirements	Project Conditions	Location	Monitoring/Reporting Action	Agency Responsible	Timing
	<p>has returned to the ocean.</p> <p>d) Project activity will be minimized to the extent practicable until the marine mammal has departed the area.</p>				
CULT-2. Specific Project Requirements: Prior to Project Implementation	b) A CSP-qualified Archaeologist familiar with the project will review and authorize all vehicle and equipment staging and material storage sites except those staging/storage locations situated on the currently paved surface of the Haul Road or those locations outside of the park.	Equipment and vehicle staging areas	Compliance Monitoring	Department of Parks and Recreation	Prior to Project Implementation
CULT-3. Specific Project Requirements: General Avoidance	b) Vehicle access and equipment staging will not be allowed in known archaeological site locations.	Vehicle staging area/Beach travel area	Compliance Monitoring	Department of Parks and Recreation	During Project Implementation
GHG & AIR-1. Standard Project Requirement: Ozone-Related Air Emissions	<p>a) CSP and its contractor(s) will maintain all construction equipment in good mechanical condition, according to manufacturer's specifications. Construction equipment exhaust emissions will not exceed Bay Area Air Quality Management District (BAAQMD) Regulation IV – Rule 400 – Visible Emissions limitations (Cal EPA 2007b).</p> <p>b) All off-road and portable diesel-powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, will be fueled with California Air Resources Control Board (CARB)-certified motor vehicle diesel fuel.</p> <p>c) Idling time for all diesel-powered equipment will be limited to five minutes, except as necessary to maintain a continuous workflow or for safety considerations.</p> <p>d) The use of diesel construction equipment meeting the CARB's 1996 or newer certification standard for off-road, heavy duty diesel engines will be maximized to the extent feasible.</p> <p>e) Electric and/or gasoline-powered equipment, or equipment using alternative fuels, such as compressed</p>	Project Area/Vehicle Staging Area	Compliance Monitoring	Department of Parks and Recreation	During Project Implementation

Exhibit C: Project Requirements and Conditions

	natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel, will be substituted for diesel-powered equipment, when available.				
HAZ-1. Standard Project Requirements: Spill Prevention	<p>a) All equipment will be inspected for leaks immediately prior to the start of the project, and regularly inspected thereafter until equipment is removed from park premises.</p> <p>b) No maintenance or fueling activities will be allowed within 200 feet (61 m) of any body of water.</p> <p>c) Fuel transfer will be done over an impervious surface. Portable containment equipment will be used during fueling.</p> <p>d) A Spill Prevention, Control, and Countermeasure Plan (SPCC Plan) will be prepared prior to the start of the project and an appropriate spill kit maintained onsite throughout the duration of the project. The SPCC Plan will include a map delineating project staging or storage areas and areas where refueling, lubrication, and maintenance of equipment may occur. In the event of a spill or release of any chemical on or adjacent to the project site, the contractor or equipment operator will immediately notify appropriate CSP staff and implement the Mendocino District Hazardous Spill Response Procedures. Appropriate agencies will be notified in the event of significant spillage.</p> <p>e) Other than emergency repairs, all equipment cleaning and repair will occur outside of the Natural Preserve at designated authorized sites. All contaminated liquids and materials and other hazardous compounds will be disposed of at a designated authorized site.</p> <p>f) When not in use, hazardous materials will be stored in a locked storage area. Materials will be transported to the work site in spill proof containers and will be secured in the vehicle so as to prevent spillage.</p>	Vehicle Staging Area/Project Area	Compliance Monitoring	Department of Parks and Recreation	Prior to Project Implementation/ During Project Implementation