

Staff Report 01

APPLICANT:

California Department of Fish and Wildlife

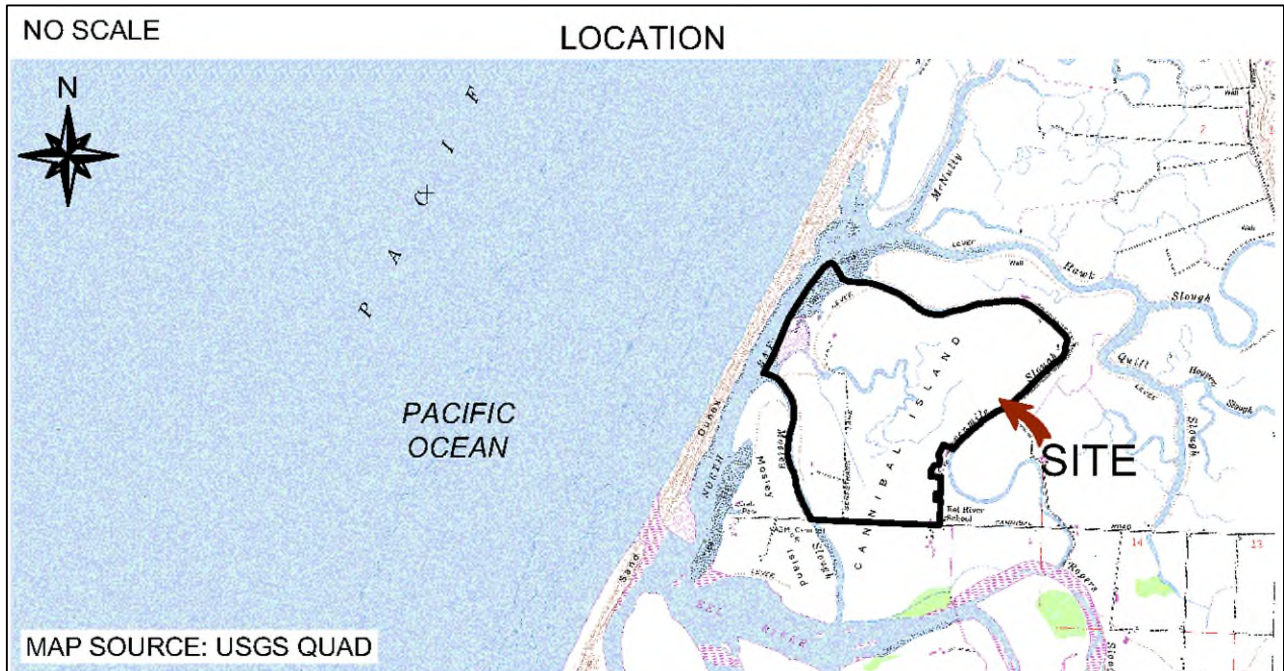
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Eel River Estuary, near Loleta, at Cannibal Island, Humboldt County (as shown in Figure 1).

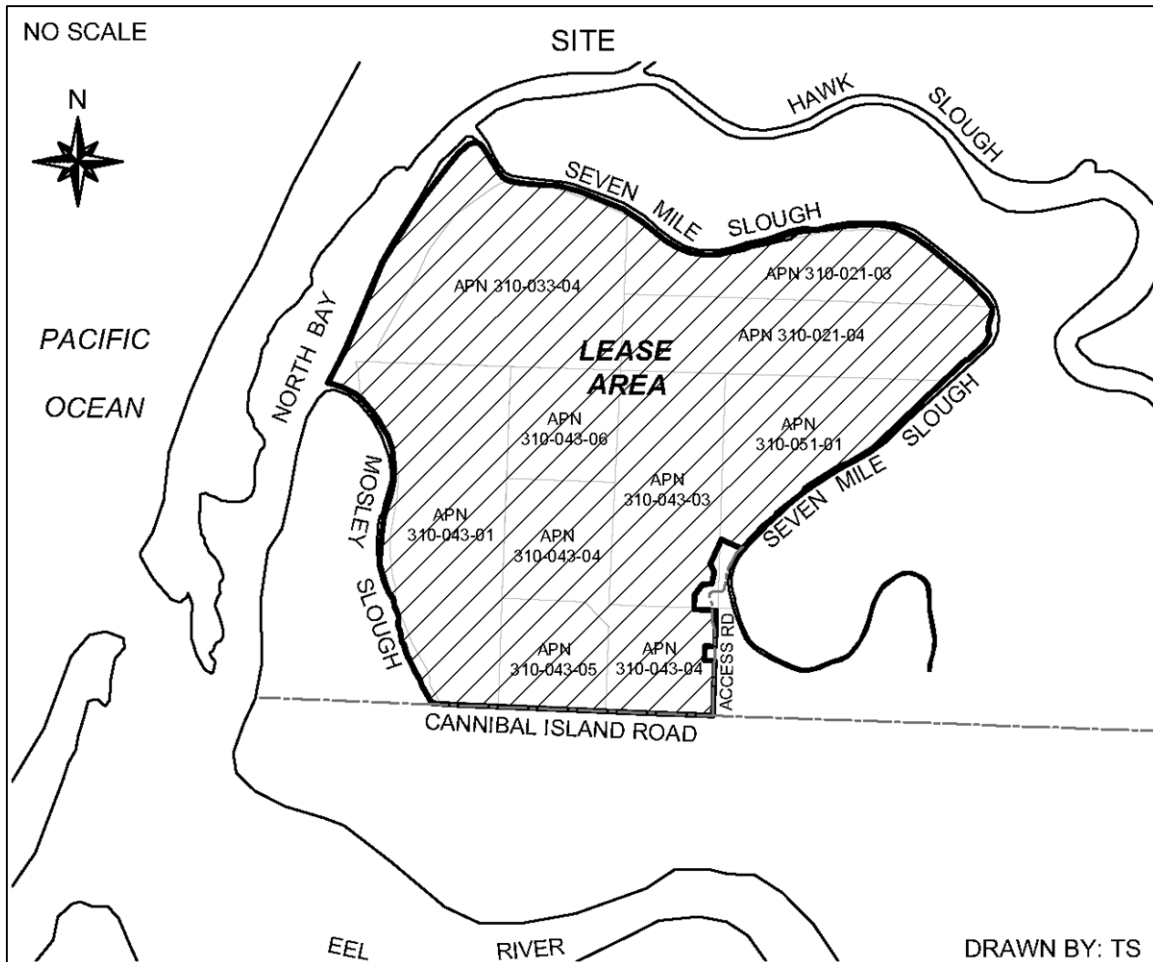
Figure 1. Location



AUTHORIZED USE:

Restoration of estuarine marsh and channel habitats within the Eel River estuary (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 April 2, 2025.

CONSIDERATION:

The public use and benefit, with the State reserving the right to set monetary rent if the Commission finds such an action to be in the State's best interests; dredged materials may not be sold.

SPECIFIC LEASE PROVISIONS:

- Lessee shall not add or allow other parties to add any improvements on the Lease Premises without the prior express written consent of Lessor.
- No refueling or maintenance of vehicles, equipment, or watercraft shall take place within the Lease Premises.
- Lessee acknowledges that grading materials from the Lease Premises are the property of the State of California and shall not be sold, and that the Lessee is not authorized to grade or remove material for purposes of commercial resale, environmental mitigation credits, or other private benefit without Lessor's prior written consent.

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 Applicant is applying for a General Lease – Public Agency Use for a restoration project to restore estuarine marsh habitats at Cannibal Island within the tidally influenced Eel River estuary. The project area consists of approximately 795 acres. The northwestern portion of the project area spans 462 acres maintained by the Applicant. The remaining 332 acres are privately owned. Approximately 220 acres of private property are held in a wetland conservation easement by the Natural Resources Conservation Service Wetlands Reserve Easement Program.

The proposed project will remove existing water control infrastructure to help restore the estuary's natural fish habitat. The project involves demolishing and removing an existing abandoned residential structure, lowering dikes, and removing culverts and flood gates. The Applicant will then restore tidal channels and marsh ridges, elevate the Cannibal Island access road, place sediment, and treat and remove cordgrass, thereby restoring 500 acres of former tidal marsh habitat.

The excavated sediment will be used to construct a setback levee, 6,000 linear feet in length, and to elevate the Cannibal Island roads. The levee is equipped with

culverts to separate tidal wetlands and agricultural lands. The project is scheduled to start in June 2025 and end in October 2027.

The Applicant determined the project may provide additional public benefits, which include improvements to public access and recreation, public safety, and public education. One staging area and one access route will be left in place after project implementation to be utilized for ongoing management, maintenance, and monitoring. The access route and staging area may also be used for public access and recreation purposes, including a public hiking trail, wildlife viewing area, parking, and interpretive educational signage. The repurposed staging areas/routes will also maintain the restoration benefits of the project by directing public foot traffic away from the most sensitive habitat.

To contain the restoration project within the project area, a set-back-levee will be constructed, and a portion of an existing county road will be raised, essentially acting as an extension of the set-back-levee. The levee is necessary to contain the tidal influence that the project will reintroduce to the project area. It will also provide improved flood protection for agricultural lands adjacent to the project area. Raising the county road will also provide improved public safety and emergency transportation access.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding may impact the restoration project subject to the proposed lease, located in the Eel River estuary.

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 Crescent City 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 Crescent City

Year	Projection (feet)
2030	0.5
2040	0.9
2050	1.5
2100	5.9

Source: Table 1, [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.

The dimensions of the proposed Project are 500 acres of former tidal marsh habitat. The restoration project activities are designed and intended to enhance and reconnect full tidal exchange of the former tidal marsh habitat through the removal of degraded water control structures, excavation of historic slough channels, and enhancement of natural marsh topography. Increased tidal exchange and connectivity will promote recovery and maintenance of tidal marsh habitats. The project considers future climate change projections for sea level rise in its design. Collectively, the tidal marsh restorations are intended to improve and increase the region's adaptability and resiliency to climate change impacts by improving hydrologic function and habitat function in the Eel River estuary.

Regular maintenance, as referenced in the lease, may reduce the likelihood of any 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 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. If the Commission denies the application, the Applicant will not be authorized to perform restoration activities as defined in project documents. The lessee has no right to a new lease or to renewal of any previous lease.
2. Because the Eel River estuary is tidally influenced, any lands below the ordinary high-water mark may be sovereign lands subject to the Public Trust Doctrine. This lease does not purport to establish the precise boundary between sovereign and private lands. Rather, the Commission requires a lease to encompass any portion of the project area that lies within or may overlap sovereign lands, thereby ensuring Public Trust resources are adequately protected. The State expressly reserves all sovereign rights, title, and interests in such lands below the ordinary high-water mark.
3. 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.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project is exempt because it meets the qualifying criteria set forth in Section 21080.56 (Statutory Exemption for Restoration Projects), subdivisions (a) through (d), inclusive. This determination is supported by (1) the California Department of Fish and Wildlife's (CDFW) February 7, 2024, initial determination, as the lead agency identified in Section 21080.56, subdivisions (e) and (g), that the Project meets the qualifying criteria set forth in Section 21080.56, subdivisions (a) through (d), inclusive; and (2) pursuant to Section 21080.56, subdivision (e), the CDFW Director's April 29, 2024, concurrence with

that lead agency determination, which is available at <https://wildlife.ca.gov/Conservation/Cutting-Green-Tape/SERP/Concurrences/cannibal-island-restoration-project>.

There have been no changes to the project or to the circumstances under which the project will occur since it was evaluated by CDFW, and no new information that would prevent the project from continuing to qualify under the Statutory Exemption for Restoration Projects.

Authority: Public Resources Code section 21080.56.

APPROVALS REQUIRED:

- California Department of Fish and Wildlife
- California Coastal Commission
- U. S. Fish and Wildlife Service
- U. S. Army Corps of Engineers
- National Oceanic and Atmospheric Administration

APPROVAL OBTAINED:

- North Coast Regional Water Quality Control Board

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to Public Resources Code section 21080.56, Statutory Exemption for Restoration Projects.

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:

1. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 2, 2025, for a term of 20 years, to authorize the restoration of estuarine marsh and channel habitats within the Eel River estuary; 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; grading material shall be used for the benefit of the project and may not be sold, nor used for commercial resale, environmental mitigation credits, or other private benefit without the Commission’s prior written consent.
2. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the improvements following construction.