

# Staff Report 21

**APPLICANT:**

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Yurok Tribe

**PROPOSED ACTION:**

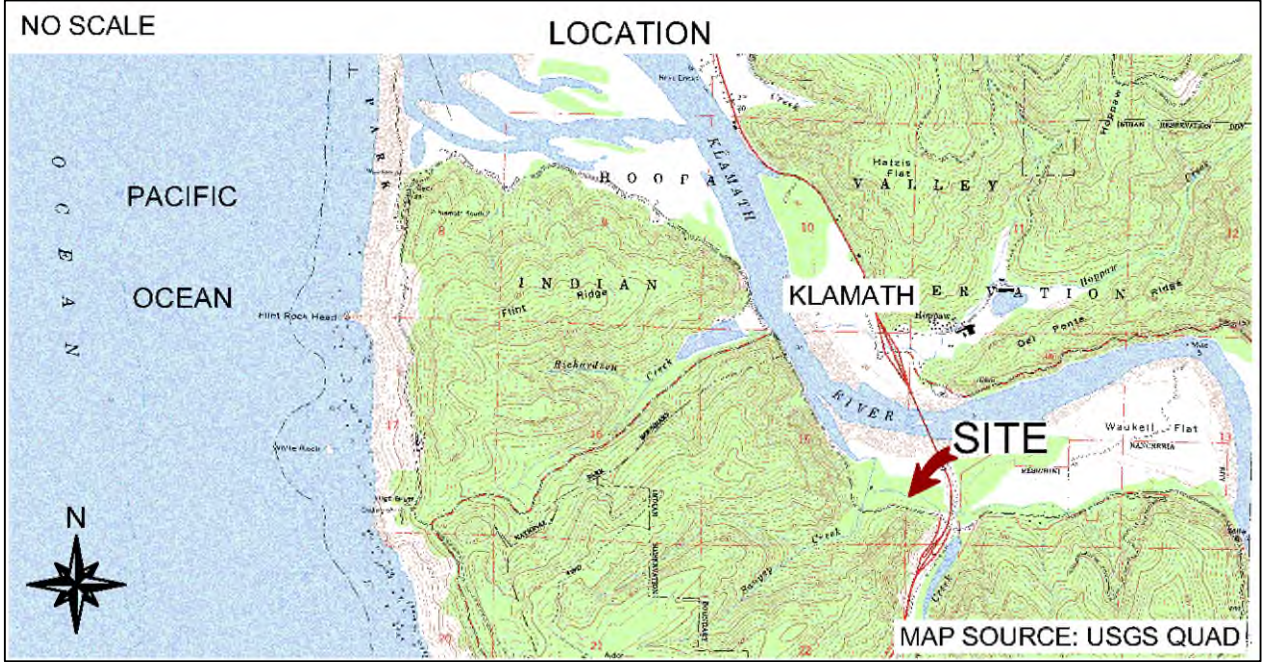
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Issuance of a General Lease - Other.

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

Sovereign land in the Lower Waukell Creek, tributary to the Klamath River estuary, adjacent to Assessor's Parcel Numbers 140-130-13 and 140-130-028, near Crescent City, Del Norte County (as shown in Figure 1).

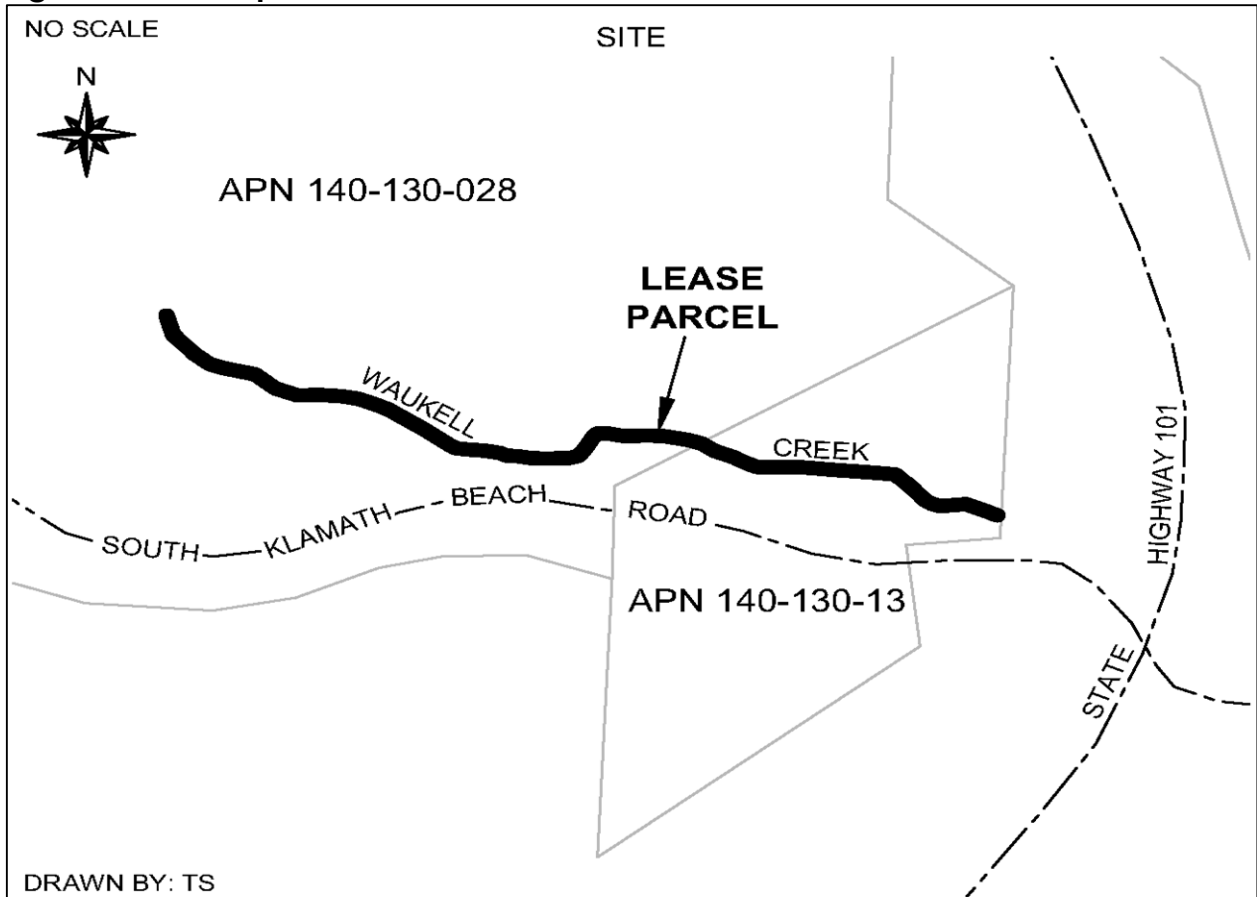
**Figure 1. Location**



**AUTHORIZED USE:**

Monitoring of an existing fish spawning habitat restoration site consisting of 10 constructed wood jams, monitoring antennas, and seasonal migration traps (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 at any time to set monetary rent if the Commission finds such an action to be in the State's best interest.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees that the provisions of Section 3, Paragraph 11 shall also extend to the entire period of Lessee's unauthorized occupation of state-owned lands, prior to April 2, 2025.

**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 June 19, 2014, the Commission authorized the issuance of a General Lease – Other to the Yurok Tribe for the construction of approximately 10 wood log jams and planting of native conifers for the purpose of restoring the natural formation of mainstream and off-channel rearing and spawning habitats for native and protected fish ([Item 49, June 19, 2014](#)).

In 2015, 10 wood log jams were constructed. Additionally, a Passive Integrated Transponder (PIT) Tag antenna system used to help track fish movement and seasonal salmonid migration traps was installed in the creek bed. The lease expired on June 19, 2024.

The Applicant is now applying for a General Lease – Other for the monitoring of the existing fish spawning habitat restoration site consisting of 10 wood jams, PIT Tag antennas, and seasonal migration traps. The primary objective of the fish spawning habitat restoration site is to facilitate the natural formation and maintenance of complex mainstream and off-channel rearing and spawning habitats for native fish, specifically salmonids such as protected Coho salmon.

The wood jams were constructed to create a series of interlocking logs and/or whole trees that provide the necessary elements for maintaining stability and function under a variety of water flows. The wood jams mobilize/sort channel-stored sediment and slow the delivery of sediment to downstream habitats. These wood jams are similar in function to naturally occurring log jam complexes, in and adjacent to the stream channel.

The PIT Tag antenna system is composed of PVC wrapped antennas in the creek bed, and is powered by a solar panel and power station located on the upland. The antenna system is used to track and tag fish as part of the Klamath Coho Ecology Study and recovery efforts for the endangered Coho Salmon.

The seasonal migration traps consist of fyke nets set facing upstream and downstream of the creek. The nets are secured with t-posts and wood frame panels that guide fish into the net. The traps are used to assess fish run timing, survival, growth, and other population metrics.

The restorative measures in the lease area are identified as high priority Coho salmon recovery measures in the State's Recovery Strategy for California Coho Salmon and the National Oceanic and Atmospheric Administration's (NOAA) Recovery Plan for the Evolutionarily Significant Unit of Southern Oregon/Northern California Coast Coho Salmon.

The Yurok Tribe provided evidence of authorization by the upland owners granting access across their property to the restoration site for monitoring of the Project.

The existing restoration project provides a significant public benefit to the region by returning the lease premises to a healthier ecological state and maintaining healthy spawning habitat for culturally significant fish such as the Coho Salmon.

The proposed lease does not alienate the State's fee simple 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 enhance Public Trust-consistent uses and 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, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities are located on the Lower Waukell Creek, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise.

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.

Sea level rise could increase the Lower Waukell Creek’s inundation levels within the lease area. In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear and tear on wood jams and PIT Tag antennas. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The log jams and PIT Tag antennas are fixed features and therefore vulnerable to sea level rise and more frequent flood events. These structures may need

maintenance, due to increased flood exposure and more frequent storm events, to ensure they do not become dislodged or degraded and to reduce risks to public safety and navigation.

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 the issuance of this lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the proposed lease; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of an 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. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the premises to their 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 14, section 15301.

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

## **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 14, section 15301.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Other to the Applicant beginning April 2, 2025, for a term of 20 years, for the monitoring of an existing fish spawning habitat restoration site consisting of 10 wood jams, monitoring antenna system, and seasonal migration traps; consideration: 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.