

# Staff Report 45

## LESSEE:

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DCOR, LLC

## PROPOSED ACTION:

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Amendments to four leases to correct Lease Areas, Revise Annual Rents, and Waive Accrued Penalty and Interest.

## AREA, LAND TYPE, AND LOCATION:

### *Lease 3116:*

Approximately 16.55 acres of tide and submerged sovereign land in San Pedro Bay, Pacific Ocean, near Huntington Beach, Orange County (as shown in Figure 1).

### *Lease 3997:*

Approximately 29 acres of tide and submerged sovereign land in the Pacific Ocean, near Summerland, Santa Barbara County (as shown in Figure 2).

### *Lease 5967:*

Approximately 22.79 acres of tide and submerged sovereign land in the Pacific Ocean, near Oxnard, Ventura County (as shown in Figure 3).

### *Lease 6417:*

Approximately 12 acres of tide and submerged sovereign land in San Pedro Bay, Pacific Ocean, near Huntington Beach, Orange County (as shown in Figure 4).

Figure 1. Lease 3116 Location

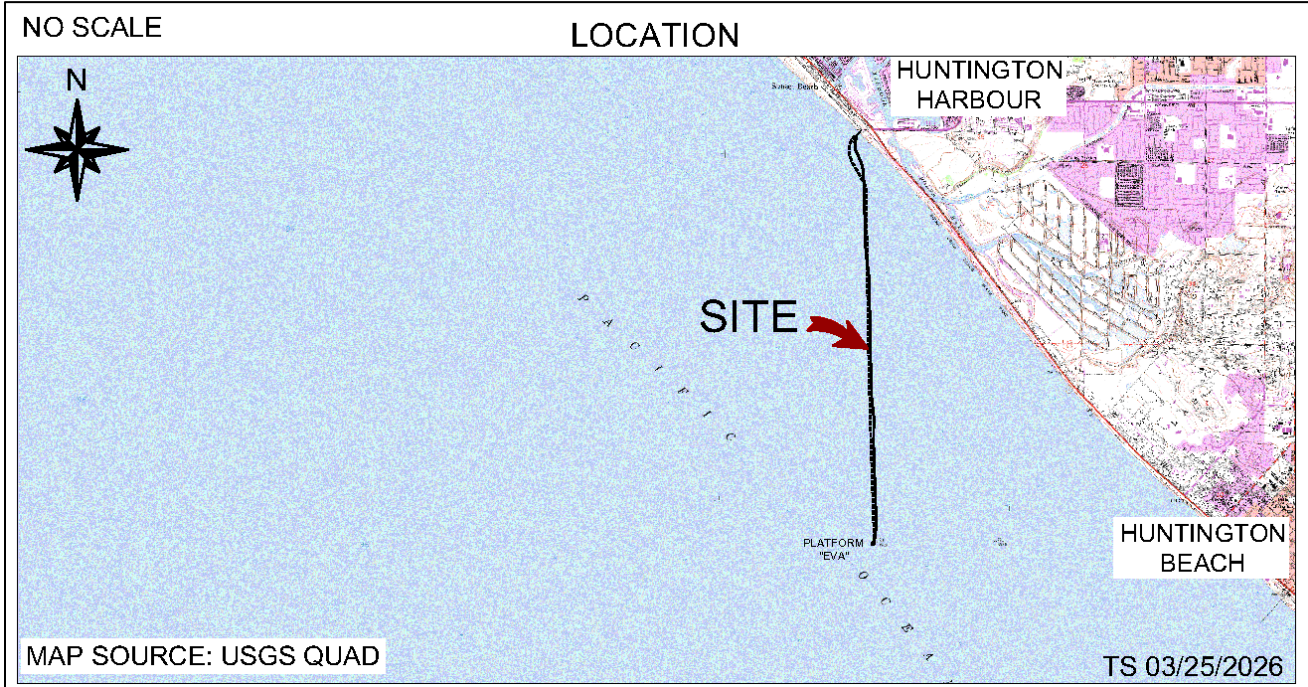


Figure 2. Lease 3997 Location

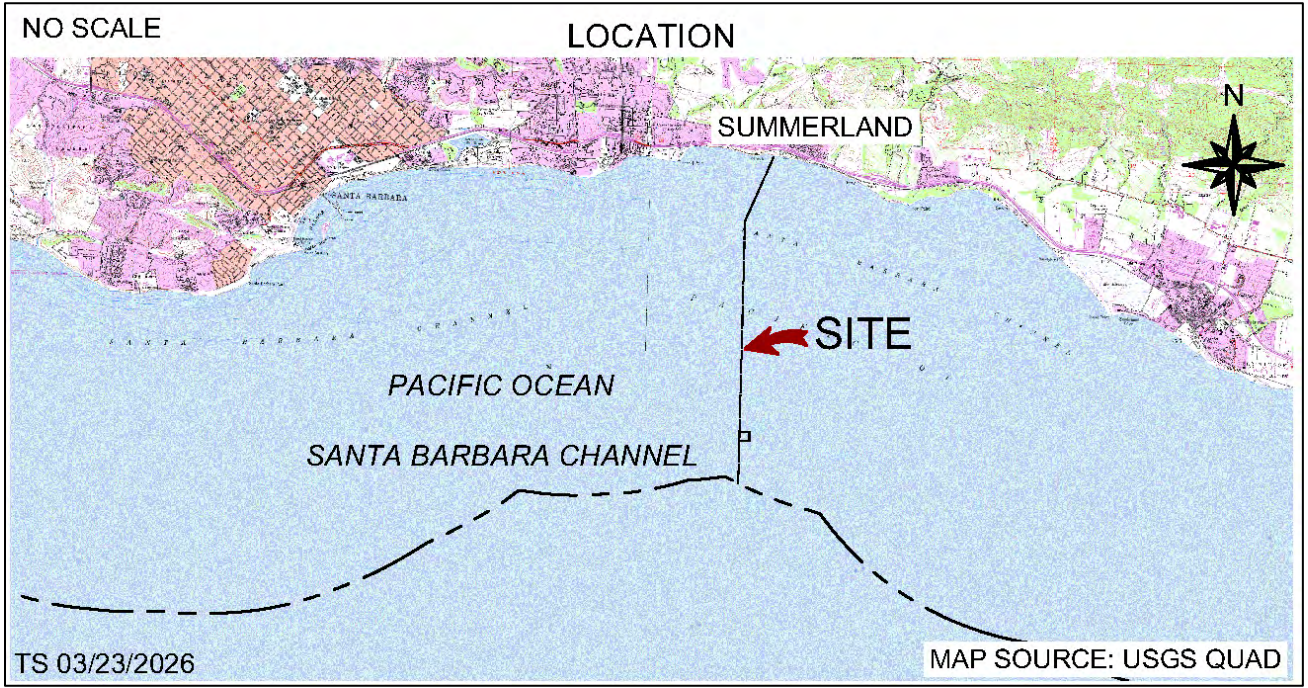


Figure 3. Lease 5967 Location

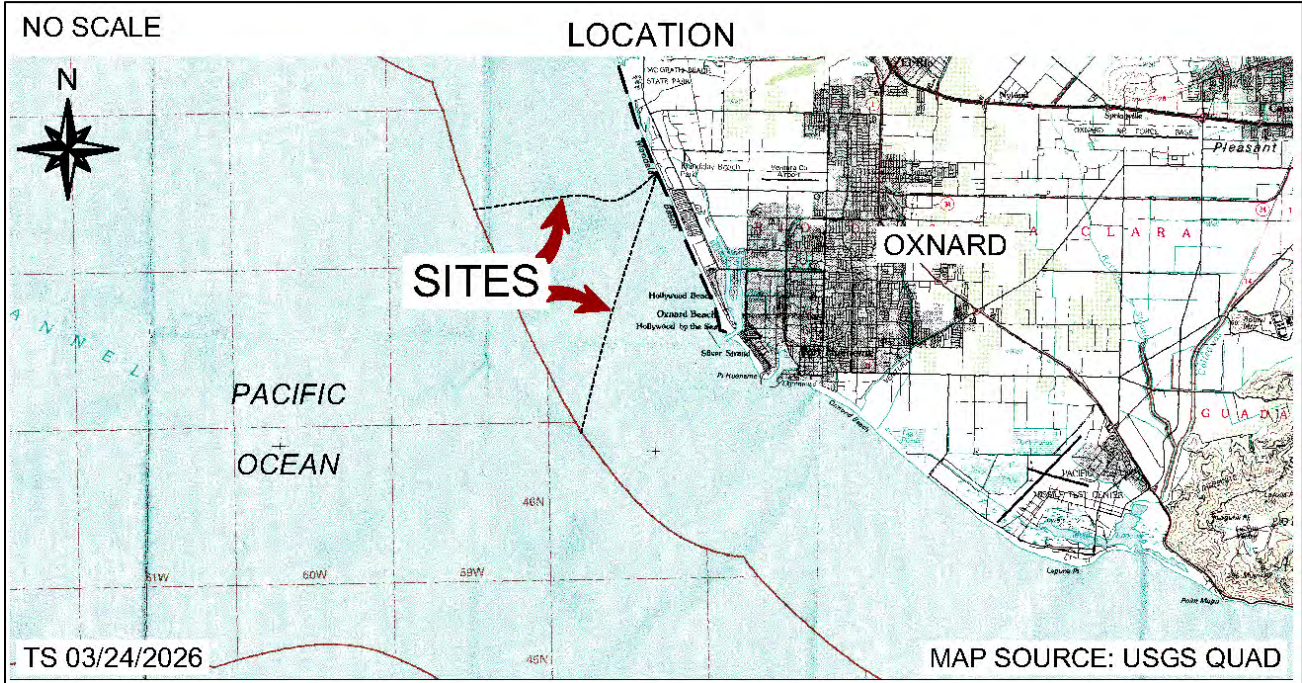
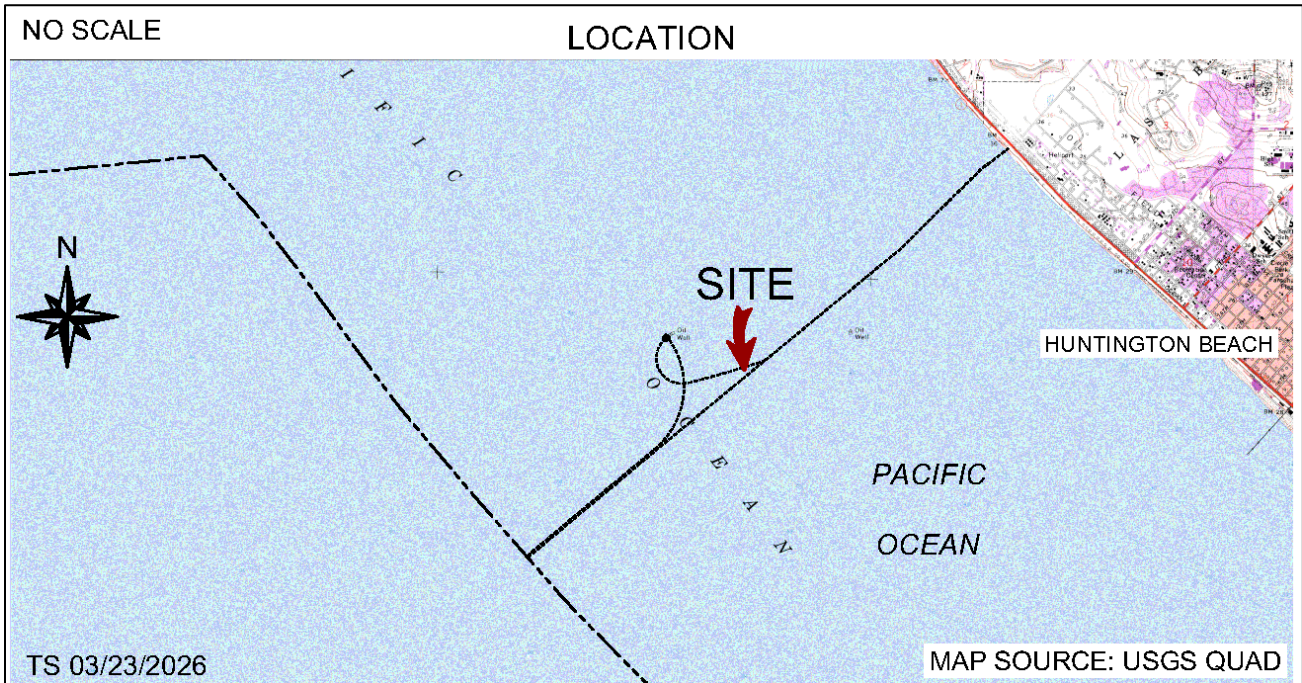


Figure 4. Lease 6417 Location



AUTHORIZED USE:

*Lease 3116:*

Use and maintenance of an existing 4-inch water line, 3.5-inch power cable, 8-inch oil pipeline, non-operational 8-inch natural gas line, and abandoned-in-place 8-inch oil pipeline from State Platform Eva to shore (as shown in Figure 5).

*Lease 3997:*

Use and maintenance of an existing 3.25-inch armored power cable serving Platform A (as shown in Figure 6).

*Lease 5967:*

Use and maintenance of two existing bundled pipeline systems, which include crude oil, natural gas, water, and electrical lines that extend offshore and serve existing federal oil and gas leases developed from Platforms Gina and Gilda within the Outer Continental Shelf (as shown in Figure 7).

*Lease 6417:*

Use and maintenance of one 3.3-inch power cable serving Platform Edith, one 3.5-inch power cable serving Platform Eva, an existing 24-inch-diameter pipeline conduit used for routing the aforementioned power cables from shore through the surf zone, and a 6-inch natural gas line from Platform Edith to Platform Eva (as shown in Figure 8).

Figure 5. Lease 3116 Site Map

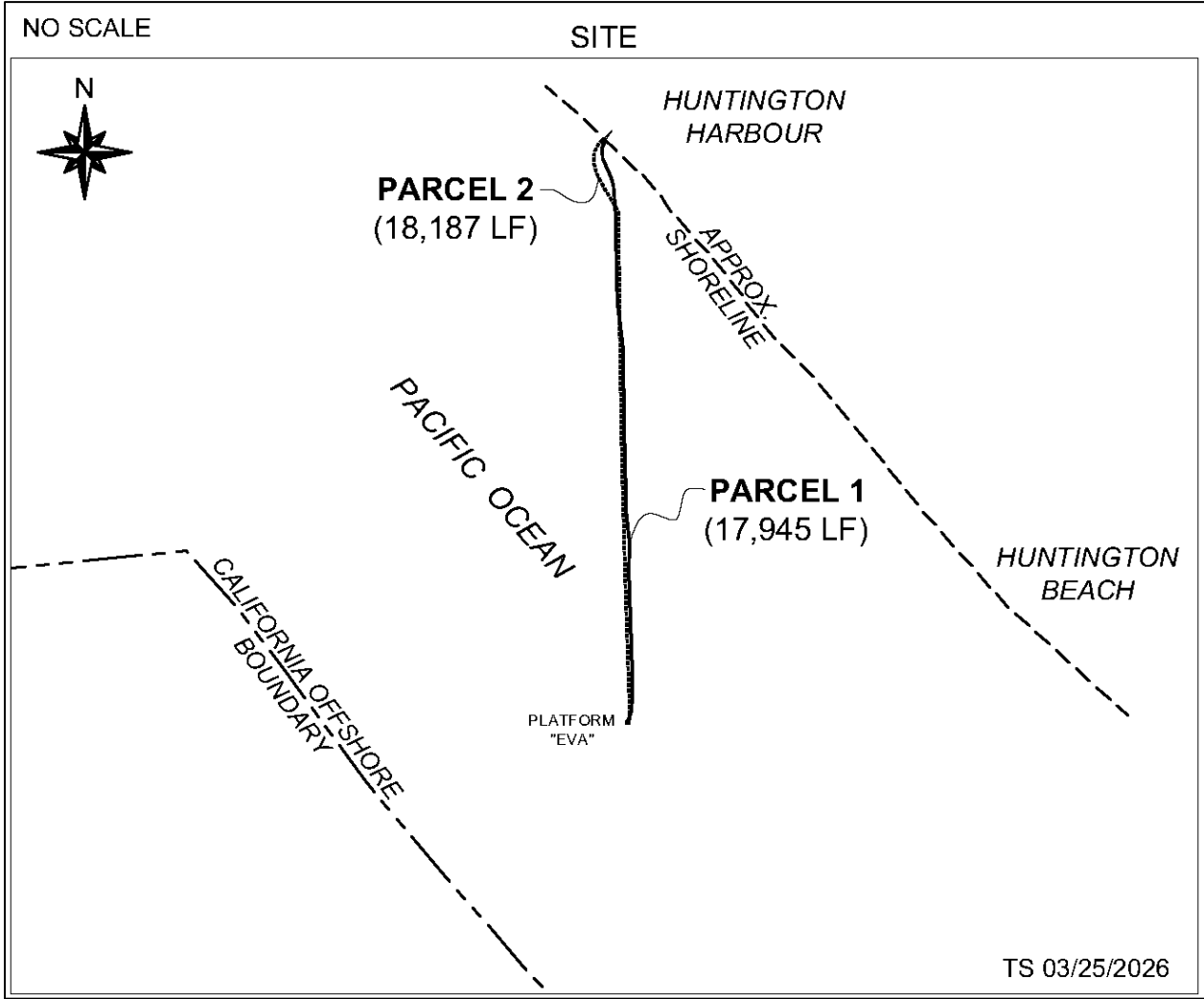


Figure 6. Lease 3997 Site Map

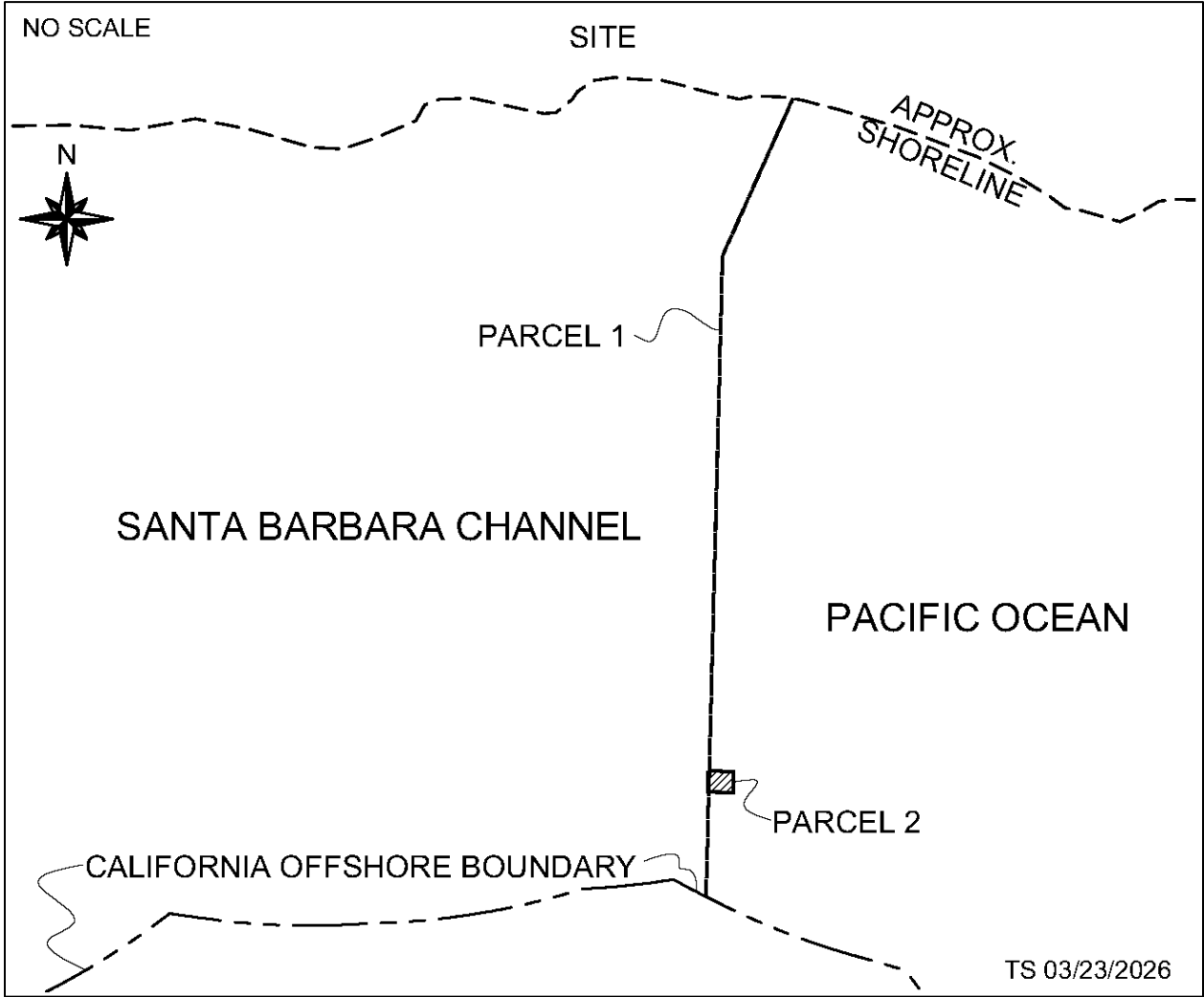


Figure 7. Lease 5967 Site Map

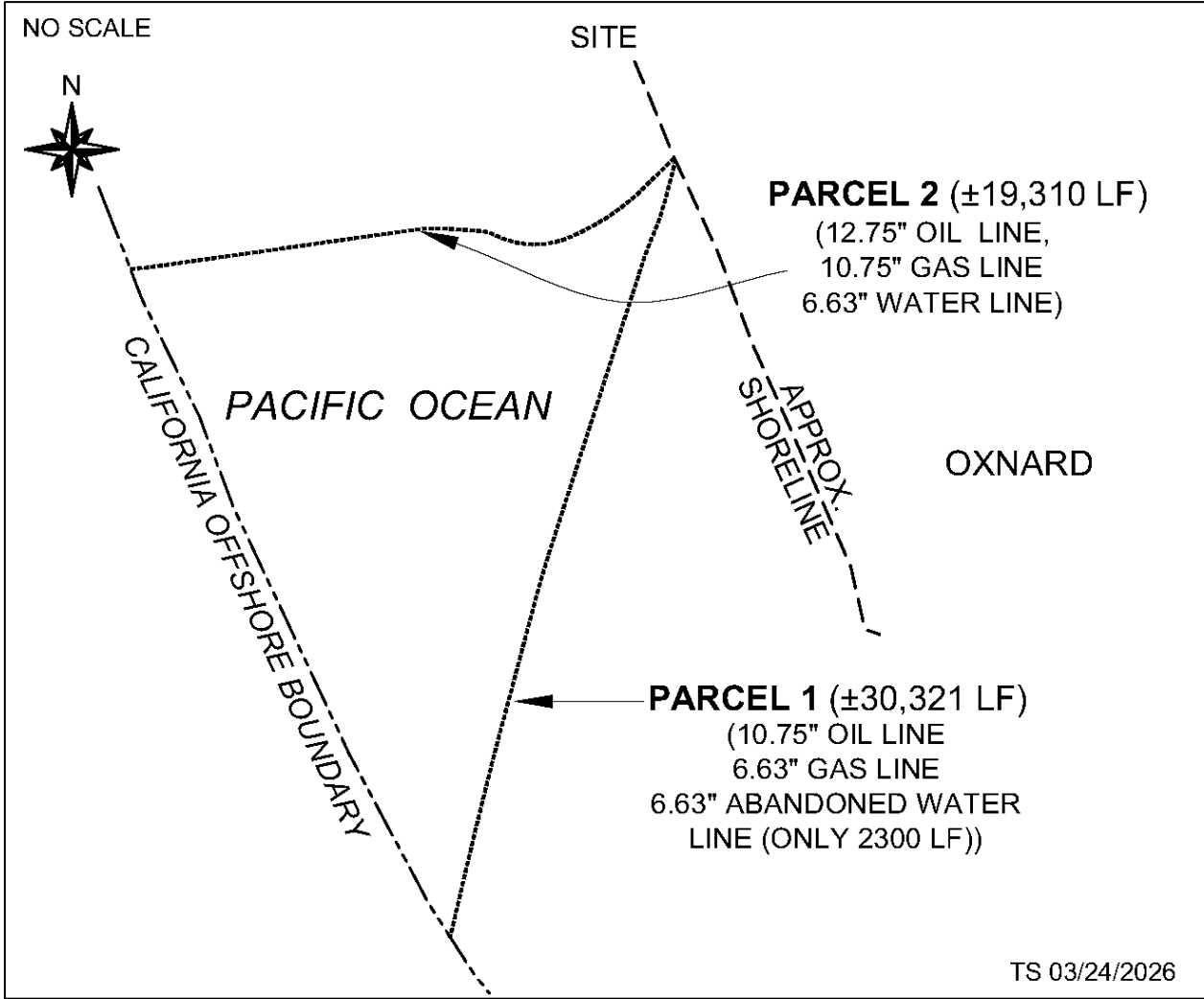
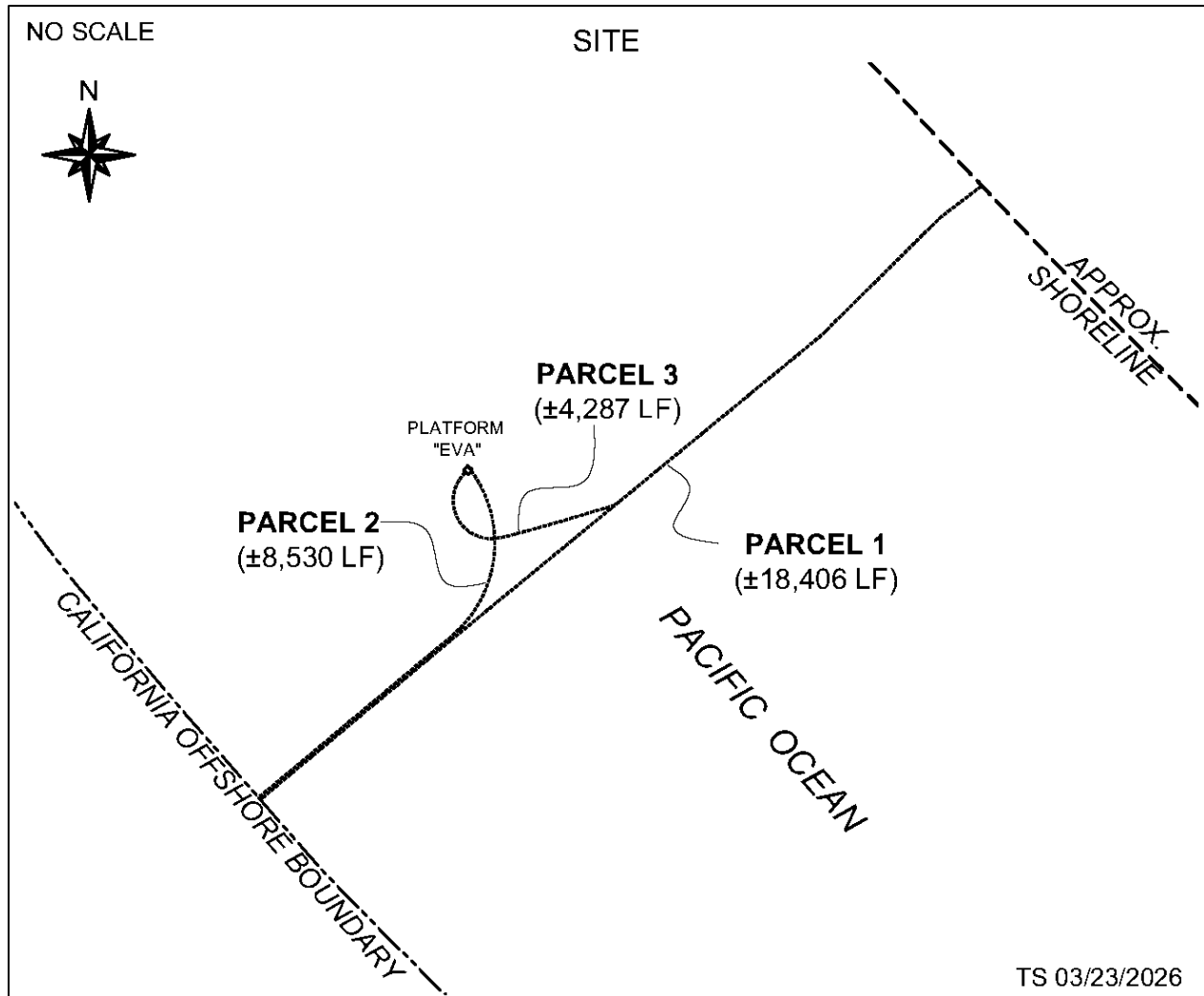


Figure 8. Lease 6417 Site Map



NOTE: These depictions of the lease premises are based on unverified information provided by the Applicant or other parties and are not a waiver or limitation of any State interest in the subject or any other properties.

TERM:

*Lease 3116:*

46 years, beginning March 26, 1983 (as amended on March 26, 2009), and ending on March 25, 2029.

*Lease 3997:*

10 years, beginning July 17, 2017, and ending on July 16, 2027.

*Lease 5967:*

45 years, beginning April 1, 1981 (as amended on April 1, 2006), and ending on March 31, 2026.

*Lease 6417:*

45 years, December 1, 1982 (as amended on December 3, 2007), and ending on November 30, 2027.

CONSIDERATION:

*Lease 3116:*

Annual rent in the amount of \$160,574.

*Lease 3997:*

Annual rent in the amount of \$15,929, with an annual Consumer Price Index adjustment; and the State reserving the right to adjust the rent periodically as prescribed in the lease.

*Lease 5967:*

Annual rent in the amount of \$102,525.

*Lease 6417:*

Annual rent in the amount of \$75,044.

CORRECTIONS AND AMENDMENTS

*Lease 3116:*

1. Revise the lease area to reflect the correct area of occupation and a 1-ft buffer around the existing pipelines.
2. Delete the existing Section 3, Description of Lease Premises, in the lease and replace it with a revised Exhibit A, Land Description, reflecting the change in the right-of-way area.
3. Amend Section 1, Land Use or Purpose, to reflect the existing improvements and remove prior authorizations for improvements that were never constructed.
4. Revise rent to ~~\$249,916~~\$219,926 per year, with an annual Consumer Price Index adjustment, effective March 26, 2019.

*Lease 3997:*

1. Revise rent for the authorized power conduit so it is assessed in a manner that is **consistent with the Commission's current practices**.
2. Correct a clerical error in the Land Description.
3. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with a revised Exhibit A, Land Description, and Exhibit B, Site and Location Map, to reflect the corrected clerical error in the existing Land Description.
4. Revise rent to \$3,207 per year, with an annual Consumer Price Index adjustment, effective July 17, 2019.

*Lease 5967:*

1. Revise the lease area to reflect the correct area of occupation and a 1-ft buffer around the existing pipelines.
2. Amend Section 1, Land Use or Purpose, to correctly reflect the existing improvements.
3. Delete the existing Section 3, Description of Lease Premises, in the lease and replace it with a revised Exhibit A, Land Description, reflecting the change in the right-of-way area.
4. Revise rent to \$62,640 per year, with an annual Consumer Price Index adjustment, effective April 1, 2019.

*Lease 6417:*

1. Revise the lease area to reflect the correct area of occupation and a 1-ft buffer around the existing pipelines and outfall conduit.
2. Revise the lease area to reflect the correct area of occupation for the buried power cables.
3. Amend Section 1, Land Use or Purpose, to accurately reflect the existing improvements authorized under this lease.
4. Delete the existing Land Description in the lease and replace it with a revised Exhibit A, Land Description, reflecting the change in the right-of-way area.
5. Revise rent to \$43,896 per year, with an annual Consumer Price Index adjustment, effective December 1, 2019 through May 31, 2025.
6. Revise rent to \$9,926 per year, with an annual Consumer Price Index adjustment, effective June 1, 2025.

## BACKGROUND:

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Beginning in 2017, a review of the lease files associated with DCOR, LLC (DCOR), revealed inconsistencies in the identified improvements within Lease Numbers 3116, 3997, 5967, and 6417. Since this time, staff has worked with DCOR to verify the existence, location, dimensions, and uses of the improvements under these leases to ensure that the Commission's records are correct. As a result of this process, staff has confirmed the information and dimensions for the subject improvements. Therefore, staff recommends a comprehensive action to correct the existing leases identified above, amend said leases as necessary to more accurately reflect the existing improvements, and revise rent for these leases as appropriate for the proposed corrections and amendments. As proposed, this comprehensive action will lead to an increase in the total aggregate rent collected from the subject leases.

Additionally, when staff began analyzing the subject leases, staff advised DCOR to pause rent payments until the various inconsistencies with the leases could be rectified. This was done because staff thought these inconsistencies would be resolved quickly and that, from an accounting standpoint, it would be more orderly to first resolve the inconsistencies and then have the Lessee make its payments. Ultimately, the situation was not resolved in a timely manner due to circumstances beyond the control of both parties. As a result, DCOR accrued penalty and interest on unpaid invoices from 2019 through 2023. At staff's direction, DCOR paid the pending rent invoices in 2023 and has continued making annual payments since then; however, the accrued penalty and interest remains on DCOR's leases. As this penalty and interest resulted from staff's direction to delay rental payments, pending Lease review, staff believes a fair solution is to offset the proposed increased rent against the accrued penalty and interest. Therefore, staff recommends waiving the penalty and interest<sup>1</sup> for the subject leases and backdating the revised rents to the first year in which DCOR paused rent payments. This will allow the proposed rents to be applied retroactively, will ensure that the State receives appropriate compensation for the actual improvements within each lease for the period during which DCOR paused payments, and will address the

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<sup>1</sup> The Commission may exempt application of Penalty and Interest where P&I was assessed by lessee using "an accounting procedure pursuant to an agreement with a member of the Commission's staff" (2 C.C.R § 1911(c)(1)(A)).

penalty and interest that DCOR accrued during staff's analysis of the subject leases.

## STAFF ANALYSIS AND RECOMMENDATION:

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### AUTHORITY:

Public Resource Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 1911, 2000, and 2003.

### PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Commission has an interest in ensuring that the leases it approves reflect actual conditions and that changes to those conditions are appropriately documented. As described below, certain leases issued to DCOR included a lease area that was larger than necessary for DCOR's use. **The proposed amendments are intended to limit and narrow the previous authorizations and to update rental methodologies to account for actual, installed improvements and to ensure consistency with current leasing practice.**

#### *Lease 3116:*

The Lease currently authorizes an 8-inch natural gas pipeline, 8-inch oil pipeline, 4-inch water line, 4-inch power cable, and a non-operational 8-inch oil pipeline serving State Platform Eva in San Pedro Bay, offshore of Huntington Beach in Orange County.

The 8-inch gas line is no longer used. This pipeline was flushed, pickled, and idled in 2016, and it no longer serves as a transit corridor for product from federal Platform Edith. **Consistent with the Commission's current practices**, the buffer on either side of this pipeline will be reduced from 10 feet to 1-foot. Additionally, the 4-inch power cable identified in the lease was never actually installed. Instead, the platform receives power via a power cable that is assessed rent under Lease 6417. Therefore, this power cable will be removed from the authorized improvements for Lease 3116.

Considering the area of actual occupation, staff has determined the lease area should be reduced from 16.552 acres to 3.446 acres. This represents both the area occupied by the subject improvements and the area needed for DCOR to carry out its authorized activities on State land and includes impact areas consistent with **the Commission's practices** for similar facilities. The revised lease area, in

combination with an updated land value appraisal and current rent assessment methodologies, will result in an increased rent of ~~\$249,916~~\$219,926, with an annual Consumer Price Index adjustment, effective March 26, 2019.

*Lease 3997:*

The Lease area currently consists of two parcels, designated as Parcel A and Parcel B. Parcel A contains a power conduit that originates from an upland electrical substation near Summerland, which is owned and operated by Southern California Edison. This power conduit extends approximately 3.7 miles across the Santa Barbara Channel to Platform A, an offshore drilling and production platform in federal waters of the Pacific Ocean. The conduit provides necessary power for drilling and production operations on the platform. Parcel B is a 500-foot by 600-foot area alongside Parcel A which is occupied by a 250-foot loop of the same power conduit. This loop provides slack which allows the conduit to be raised out of the water to facilitate repairs.

The exact location of the electrical conduit is known and verified based on as-builts and bathymetric surveys. These surveys confirmed that the area of occupation currently authorized under Lease 3997 (29 acres) is significantly greater than the actual area occupied by the authorized improvement, or what is required for maintenance of the improvement. The Lease will be amended to reflect the true area of occupation, and rent for the power conduit will be modified to accurately reflect its length and to ensure rent is calculated in a manner that is consistent with **the Commission's current practices**. The modified annual rent will be \$3,207, with an annual Consumer Price Index adjustment, effective July 17, 2019. Additionally, the existing Land Description contains a clerical error which will be corrected through this comprehensive action. The associated Site and Location Map will also be corrected to reflect the correction made in the Land Description.

*Lease 5967:*

The Lease authorizes two bundled pipeline systems to convey crude oil, natural gas, water, and electricity to and from offshore platforms Gina and Gilda in federal waters. The pipeline bundle serving Platform Gina (Parcel 1) contains a 10.75-inch oil pipeline, a 6.625-inch natural gas line, a 3.25-inch power cable, and a non-operational 6.625-inch water line (which extends 2,300 feet from the platform). The pipeline bundle serving Platform Gilda (Parcel 2) contains a 12.75-inch oil pipeline, a 10.75-inch natural gas line, a 6.625-inch water line, and 3.25-inch power cable.

Staff has determined that the lease originally authorized a significantly wider area than what is necessary for the Lessee to perform the authorized activities. Therefore,

based on the area of actual occupation and the area required to perform necessary maintenance, the lease area should be reduced from 22.79 acres to 9.271 acres. This represents the area needed for DCOR to carry out its authorized activities on State land and includes the area needed for the improvements and **impact areas consistent with the Commission's practices for similar facilities**. The revised lease area will result in a modified rent of \$62,640, with an annual Consumer Price Index adjustment, effective April 1, 2019.

*Lease 6417:*

The current lease authorizes a 24-inch pipeline conduit (extending 700 feet from shore through the surf zone of the Pacific Ocean) containing two 4-inch power cables serving Platform Eva (Eva) and Platform Edith (Edith), and a 6-inch gas line from shore to Eva and from Eva to Edith on the Outer Continental Shelf in the Pacific Ocean.

Staff has endeavored to rectify inconsistencies between the improvements identified within the lease and the existing improvements as indicated on as-built drawings and bathymetric survey maps of the improvements. Based on this work, staff determined that the two existing power cables measure 3.3 inches and 3.5 inches in diameter, and that the authorized 6-inch gas line running from shore to Eva was never installed. The existing 3.3-inch power cable runs from Edith to shore, while the existing 3.5-inch electrical cable runs from Eva to shore. The 3.5-inch power cable was previously assessed rent in both Lease 6417 and Lease 3116 but will only be included in Lease 6417 moving forward.

Additionally, in 2017, DCOR began using the 6-inch gas line between Eva and Edith to transport gas produced at Eva to be used at Edith; this is the opposite direction from the originally authorized flow for this gas pipeline, and the gas was used to power microturbines on Platform Edith. In December 2024, the Commission approved a settlement that authorized DCOR to reverse flow through this 6-inch gas line between Eva and Edith, and to use it for the transportation of crude oil.<sup>2</sup> Therefore, as of June 2025, this pipeline **contributes to the State's oil and gas** production, and compensation for this use of sovereign lands is captured through royalties on this production. As such, no consideration will be assessed in Lease 6417 for this improvement from June 2025 onwards.

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<sup>2</sup> This Settlement was part of a larger agreement requiring DCOR to commence the early abandonment and decommissioning of Platform Esther, off Seal Beach.

Given the above, staff has determined that annual rent for Lease 6417 should be revised to \$43,896, with an annual Consumer Price Index adjustment, for the period of December 1, 2019 through May 31, 2025. Staff has further determined that, starting on June 1, 2025, the date that compensation for the 6-inch gas line was converted to a separate royalty payment, consideration for the remaining improvements under Lease 6417 should be assessed rent using a diameter-inch by lineal-foot method that is consistent with **the Commission's practices** when calculating rent for similar improvements. This will result in a modified rent of \$9,926, with an annual Consumer Price Index adjustment, effective June 1, 2025.

*Waiver of Penalty and Interest:*

Since 2017, staff has worked with DCOR to investigate discrepancies between the improvements and occupation authorized under the subject leases and the actual occupation and improvements constructed. The various leases were originally issued in the 1960s to prior operators, and the land uses, acreage, and other elements of these leases carried over to subsequent lease terms. More recently, bathymetric surveys were performed by DCOR to validate the location and presence of certain pipelines. These surveys revealed that the subject leases were either assessed rent for improvements that were never installed, or authorized occupation of significantly more land than was needed for the authorized uses.

In 2019, staff intended to perform an administrative clean up by amending the leases to adjust authorized acreages and update rental methodologies. To reduce accounting burdens, staff directed DCOR to hold off on payment of rent until the new changes could be effectuated. Unfortunately, insufficient staffing combined with resource demands for the Rincon Island Decommissioning and South Ellwood Projects delayed completion of the administrative clean up. This was followed by the COVID-19 epidemic which delayed presenting the proposed amendments to the Commission. During this period, DCOR sought direction from staff on rental payment and was directed in 2023 to commence payment of all back rent and ongoing rent until the lease amendments could be considered. Pursuant to this direction, DCOR promptly paid all pending rent invoices and has continued to pay rent since. As part of this administrative clean up, DCOR seeks clarity that penalty and interest (P&I) will not apply to the period of 2019 through 2023, when it abided by **staff's direction, and staff believes** this position to be fair and equitable.

Commission regulations apply P&I to past due rental invoices at a rate of a 5 percent penalty of the principle sum immediately and simple interest on the unpaid balance of 1.5 percent each month (18 percent annually) ([2 C.C.R. § 1911](#)).

Regulations provide various circumstances in which P&I may be waived or excused including where the Lessee follows “**an accounting procedure pursuant to an agreement with a member of the Commission’s staff.**” Staff believes this exemption to apply to this situation. DCOR was cooperating with staff who were planning to propose lease amendments to administratively adjust the leases based on field investigations. To prevent the need for various accounting adjustments, DCOR was instructed to delay rental payments, but due to extraordinary circumstances, staff were unable to address the amendments in a timely fashion. DCOR promptly paid all back rent once directed. Waiver of P&I, in connection with the larger adjustments and administrative clean-up of the subject leases, is appropriate and eliminates rental and leasing discrepancies moving forward.

#### CONCLUSION:

The changes described above do not result in any changes in intensity of use or the installation or removal of any improvements but consist only of administrative adjustments to existing lease documents. Staff believes approval of the proposed amendments and revisions of rent will not impact or impair Public Trust resources and is in the best interests of the State.

#### OTHER PERTINENT INFORMATION:

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1. Approval or denial of the application to amend the subject leases is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land or a revision of rent, it exercises legislatively **delegated authority and responsibility as trustee of the State’s Public Trust lands** as authorized by law. Upon expiration or prior termination of a lease, 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” Strategic Focus Area of the Commission’s 2021-2025 Strategic Plan.
3. Lease amendments to reduce the authorized right-of-way, revise rent amounts, and waive accrued penalty and interest are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions 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).

4. Staff recommends that the Commission find that lease amendments to correct the descriptions of existing facilities are exempt from the requirements of 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 lease amendments to correct the descriptions of existing facilities are 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.

### PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the approval of the proposed amendments and revisions of rent will not result in a change in the use of Public Trust resources or impacts to them; and is in the best interests of the State.

### AUTHORIZATION:

1. Lease 3116: Authorize the amendment of Lease Number 3116, a General Lease – Industrial Use, to correct the lease area; amend Section 1, Land Use or Purpose, to correctly reflect the existing improvements; replace Section 3, Description of Lease Premises with Exhibit A, Land Description, reflecting the change in lease area; update Authorized Improvements to reflect the existing improvements and remove authorization for improvements that were never constructed; and revise the rent to ~~\$249,916~~219,926 per year, with an annual Consumer Price Index adjustment, effective March 26, 2019.
2. Lease 3997: Authorize the amendment of Lease Number 3997, a General Lease – Right-of-Way Use, to correct the lease area, replace the existing Exhibit A,

Land Description, and Exhibit B, Site and Location Map, with a revised Exhibit A, Land Description, and Exhibit B, Site and Location map to correct a clerical error in the existing Land Description and the associated error on the existing Site and Location Map; and revise rent to \$3,207 per year, with an annual Consumer Price Index adjustment, effective July 17, 2019.

3. Lease 5967: Authorize the amendment of Lease Number 5967, a General Lease – Industrial Use, to correct the lease area; amend Section 1, Land Use or Purpose, to correctly reflect the existing improvements; replace Section 3, Description of Lease Premises with the revised Exhibit A, Land Description, reflecting the change in lease area; and revise rent to \$62,640 per year, with an annual Consumer Price Index adjustment, effective April 1, 2019.
4. Lease 6417: Authorize the amendment of Lease Number 6417, a General Lease – Right-of-Way Use, to correct the lease area; replace Section 3, Description of Lease Premises with the revised Exhibit A, Land Description, to reflect the change in the right-of-way area; update Authorized Improvements to reflect the existing improvements and remove authorization for improvements that were never constructed; revise rent to \$43,896 per year, with an annual Consumer Price Index adjustment, effective December 1, 2019 through May 31, 2025; and revise rent to \$9,926 per year, with an annual Consumer Price Index adjustment, effective June 1, 2025.
5. Authorize waiving penalty and interest accrued between 2019 and 2023 for Lease Numbers 3116, 3997, 5967, and 6417.