

**STAFF REPORT  
C54**

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12/03/18  
W 27217  
G. Kato

**GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

County of Santa Barbara

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Pacific Ocean, southwest of Sand Point Road, near Carpinteria, Santa Barbara County.

*AUTHORIZED USE:*

Repair, operation, and maintenance of an existing rock revetment.

*LEASE TERM:*

49 years, beginning December ~~113~~, 2018.

*CONSIDERATION:*

\$125 per year plus the public benefit; with the State reserving the right at any time to adjust the monetary rent if the Commission finds such action to be in the State's best interests.

*SPECIFIC LEASE PROVISIONS:*

- Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the lease premises.
- Lessee agrees that it shall support and facilitate, to the extent allowed by law, public access to and along the Lease Premises and not attempt to prevent, restrict, or otherwise interfere with:
  - Any other party's efforts to secure legal public access to the coastal beach and the Pacific Ocean along and adjacent to the Lease Premises;
  - The public's use of any legal public access to the coastal beach and the Pacific Ocean along and adjacent to the Lease Premises; or
  - The public's use of the coastal beach and the Pacific Ocean along and adjacent to the Lease Premises.

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, and 6321.2;  
California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

The existing rock revetment was originally constructed by the County of Santa Barbara (County) in 1964. At the time of the construction, the County Board of Supervisors established the Sandyland Seawall Maintenance District Number 1 (District) pursuant to provisions of the Improvement Act of 1911, Division 7 of the Streets and Highways Code of the State of California. The District is administered by the County, with expenses for maintaining the rock revetment paid by the upland property owners through assessments. The rock revetment was repaired and expanded seaward in 1983. The rock revetment was further repaired in 1994 and 1998.

The location and extent of the State's fee-owned sovereign lands are generally defined by reference to the ordinary high water mark of tide and submerged lands, as measured by the mean high tide line. The boundary remains ambulatory except where there has been fill or artificial accretion or the boundary has been fixed by agreement or court decision.

The Commission and the upland property owners have conflicting claims as to ownership of the real property located under portions of the rock revetment. The upland property owners contend that the legal boundary between the privately-owned upland property and the sovereign state tidelands is seaward of the lease premises. Commission staff contends that the legal boundary between the privately-owned uplands and the sovereign state tidelands is generally along the mean high tide line surveyed in 1964 in certain areas and the 1983 interpolated mean high tide line in other areas. The 1983 mean high tide line is interpolated from contours depicted on County of Santa Barbara Project No. F88009 & F88010 seawall improvement plans titled "Construction Plans for Seawall Improvements" dated June 24, 1983. The State Lands Commission and the upland property owners vigorously deny each other's contentions of the unique facts and law applicable to this particular section of coastline within Santa Barbara County.

Commission staff and the upland owners have been involved in extended discussions over many years, including mediation in 2016. To avoid potential costly, protracted litigation with uncertain results, the parties are prepared to accept the proposed lease between the Commission and the

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County with no prejudice as to the determination of jurisdiction, ownership or boundaries.

The presence of the rock revetment, which provides primarily a private benefit to the upland homeowners, may represent an impediment to public access and enjoyment of the adjacent beach; however, the lease expressly requires that the lessee shall support and facilitate public access and not prohibit, interfere, or otherwise restrict the public's access, use, and enjoyment of any areas of state-owned lands within or adjacent to the lease premises.

The proposed lease requires the County to maintain the revetment in good order and repair and indemnify the State for any liability incurred as a result of repairing, operating, and maintaining the revetment. While staff rarely recommends a such a long lease term, the public benefit associated with this proposed lease includes the preservation of the state's current or future ownership and boundary claims and is in settlement of potentially costly, protracted litigation with uncertain results over the boundary and title contentions between the upland property owners and the Commission.

**Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, increased flooding, and erosion affect both open coastal areas and inland waterways in California. The rock revetment is located in a tidally influenced area vulnerable to wave action at the current sea level of the Pacific Ocean. This rock revetment, made up of large boulders, helps protect 24 upland residences along Sand Point Road. Information submitted with the lease application indicates that a Wave Uprush Study was prepared for the rock revetment in 2006, and sea-level rise was determined to be negligible along this segment of the Santa Barbara coastline, with regional geologic uplift offsetting the effects of long-term sea level rise. The following is an overview of current sea-level rise projections and effects for the lease area.

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. Projected sea-level rise scenarios for the proposed lease area (Santa Barbara tide gauge) are listed in Table 1.

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**Table 1. Projected Sea-Level Rise for Santa Barbara<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.7
2040	1.1
2050	1.8
2100	6.6

Source: Table 22, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a baseline of the year 2000.

The combination of these projected conditions increases the likelihood of future damage to the rock revetment that can jeopardize the residences along Sand Point Road. As discussed in the *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), armoring structures along the coast, while intended to safeguard upland properties, offers only temporary protection, eventually accelerating long-term erosion and leaving homes and property at risk. The rock revetment area proposed to come under lease may become vulnerable to more frequent overtopping or inundation during high tides, king tides, and storms, as well as from storm runoff. As a result, the rock revetment may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. In the future and subject to regulatory review and approvals, the rock revetment may also need additional fortification to withstand higher levels of flood exposure and sea-level rise. Given the low elevation of the lease area and upland properties, with Carpinteria Salt Marsh bordering the inland north side of the residential properties, the rock revetment may also be subject to rising ground water levels as a result of sea-level rise, which may have potential to affect the subsurface foundation stability of the revetment.

The revetment also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on State sovereign land within and adjacent to the lease area. The beach area seaward of the revetment is subject to width reduction and loss from erosion, scour, and coastal squeeze (i.e., the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). Beach loss is anticipated to increase over the term of the lease, because of the combined factors of climate change impacts, natural dynamic coastal processes, and the presence of the rock revetment. The long-term presence of the revetment in the active littoral cell could also entrap coastal sediment, disrupting nourishment of downcoast shorelines.

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Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The proposed lease includes an acknowledgement that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

### **Conclusion:**

It is anticipated that sea level rise, coastal processes, and the existing rock revetment will contribute to the reduction in beach width and potentially impact public access. However, on balance, staff is recommending the proposed lease as a settlement mechanism to preserve the state's current and future ownership and boundary claims and avoid litigation (such as an action to quiet title) with unclear and unreliable results for this unique section of California's coast. For the reasons stated above, staff believes that the issuance of this lease will not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. The proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Commission staff is in receipt of a letter (2015) from the California Coastal Commission (Coastal) Enforcement Staff indicating that portions of the existing rock revetment are not permitted and expressing Coastal staff's concern that the revetment is not consistent with the goals of the Coastal Act. According to the letter, a 2008 application from the County seeking after-the-fact authorization from 's prior application with Coastal for the revetment was returned in 2010 as incomplete, and no subsequent authorization was sought or obtained. The issue remains unresolved. The lease requires the County to obtain all other necessary permits for the rock revetment and any related activities. Consistent with that requirement, the not acted upon due to various factors. The County has indicated it will apply to Coastal for the required Coastal Development Permit, and Coastal will conduct an independent analysis of the revetment and its potential adverse impacts to public beach access and other resources pursuant to its own authority through that permitting process. Nothing in the proposed lease would prejudice Coastal's independent authority to review an application for after-the-fact

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authorization of the revetment and to condition any approval to ensure the revetment is consistent with the Coastal Act (e.g., require relocation or other mitigation of the revetment impacts) through its permitting process. Nor does the proposed lease affect Coastal's ability to take appropriate enforcement actions for any pre-authorization violation associated with the revetment. The lease requires the County to obtain all other necessary permits for the rock revetment and any related activities.

3. Staff recommends that the Commission find that this activity is 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 15300.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**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, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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

Find that issuance of the proposed lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning December 113, 2018, for a term of 49 years, for repair, operation, and maintenance of an existing rock revetment as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; rent in the amount of \$125 per year plus the public benefit; with the State reserving the right at any time to adjust the monetary rent if the Commission finds such action to be in the State's best interests.

## EXHIBIT A

W 27217

### LAND DESCRIPTION

A strip of tide and submerged land lying in the Pacific Ocean, situate in the County of Santa Barbara, State of California, and lying 35.00 feet northeasterly and 30.00 feet southwesterly of the following described line:

COMMENCING at a point on the easterly boundary of Parcel B of Parcel Map No. 12350, filed in Book 17 of Parcel Maps, at Pages 71 thru 73, Records of said county, said point being the northerly terminus of that certain course depicted as N 1°05'00" E 599.25 feet on said map; thence along said boundary and southerly prolongation thereof, South 1°05'00" West 226.97 feet to a point on the Seawall Centerline as depicted on County of Santa Barbara Project No. F88009 & F88010 seawall improvement plans titled "Construction Plans for Seawall Improvements" and dated June 24, 1983, said point being the POINT OF BEGINNING; thence along said Seawall Centerline the following seven (7) courses:

- (1) South 47°32'19" East 133.53 feet;
- (2) South 41°32'19" East 550.00 feet;
- (3) South 43°32'19" East 473.00 feet;
- (4) South 44°32'19" East 577.00 feet;
- (5) South 42°38'39" East 1022.00 feet;
- (6) South 40°49'19" East 428.00 feet; and
- (7) South 41°38'55" East 73.09 feet to a point on the easterly boundary of Parcel One as described in that grant deed recorded July 18, 2007 as Instrument No. 2007-0053402, Official Records of said county, said point being the terminus of herein described line.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark of the Pacific Ocean.

The sidelines of said strip shall be prolonged or shortened to terminate on the northwest at the easterly boundary and southerly prolongation thereof of said Parcel B, and to terminate on the southeast at the easterly boundary and southerly prolongation thereof of said Parcel One.

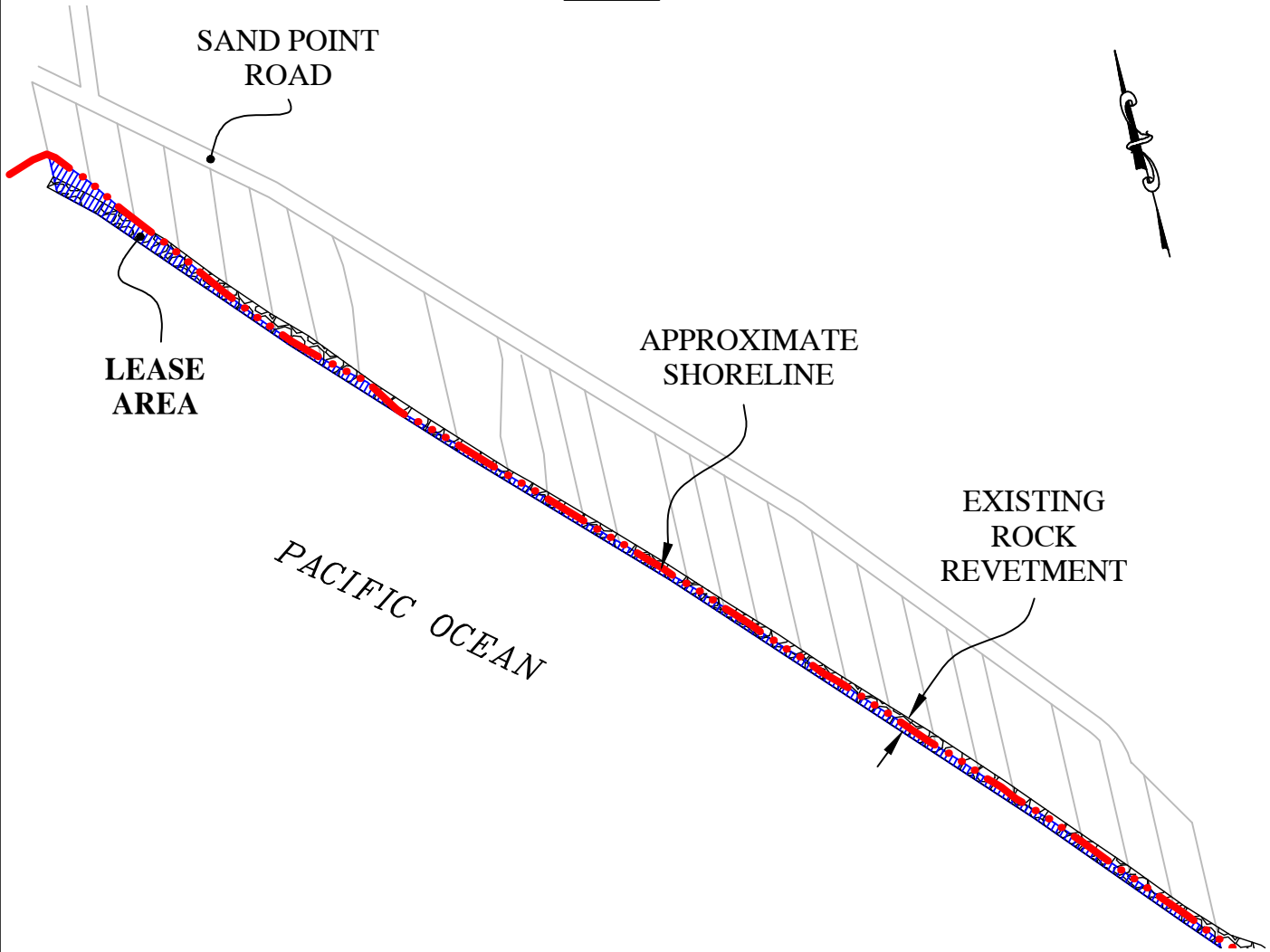
**END OF DESCRIPTION**

Prepared 11/20/2018 by the California State Lands Commission Boundary Unit.



# SITE

NO SCALE



539 THRU 845 SAND POINT ROAD, CARPINTERIA

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

W 27217  
COUNTY OF SANTA  
BARBARA  
GENERAL LEASE - PUBLIC  
AGENCY USE  
SANTA BARBARA COUNTY



JWP 11/20/18

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.