

**STAFF REPORT**

**23**

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06/28/19  
PRC 8795.1  
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**ASSIGNMENT OF LEASE**

**LESSEE/ASSIGNOR:**

Brian D. Burke and Kathy Lamprecht

**APPLICANT/ASSIGNEE:**

David Hoyle and Sara L. Welch

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

Sovereign tide and submerged land located in the Pacific Ocean, adjacent to 4630 Opal Cliff Drive, near Santa Cruz, Santa Cruz County.

**AUTHORIZED USE:**

Use and maintenance of an existing 2-foot-wide cutoff stem wall.

**LEASE TERM:**

10 years, beginning August 22, 2018.

**CONSIDERATION:**

\$842 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

Liability insurance in an amount no less than \$1,000,000 per occurrence.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

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

On April 19, 2018, the Commission authorized an issuance of a General Lease – Protective Structure Use to Brian D. Burke and Kathy Lamprecht for the use and maintenance of an existing a 2-foot-wide cutoff stem wall ([Item C64, April 19, 2018](#)).

On September 26, 2018, interest in the upland parcel was deeded to David Hoyle and Sara L. Welch. The Applicant is now applying for an

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assignment of the lease and agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, September 26, 2018. The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources.

**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 lease area is located in the Pacific Ocean, adjacent to 4630 Opal Cliff Drive in Santa Cruz.

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 Monterey 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 Monterey<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

As stated in *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

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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 lease area includes an existing 8-foot-high, 2-foot-thick stem wall located at the toe of the coastal bluff. The stem wall was placed along the bottom of an existing seawall that encases the seaward face of the natural bluff in concrete. The stem wall within the lease area will be vulnerable to the impacts from sea-level rise and more frequent and intense storms that are the result of climate change. The stem wall is likely to degrade over the lease term due to increased time of exposure to wave action, storm surge, and higher total water levels. Bluff erosion as a result of precipitation, groundwater drainage, wind force, and slumping may also exert pressure on the stem wall from the landward side. Therefore, it may require more frequent maintenance to ensure continued function during and after storm seasons and reduce the risk it poses to public safety in the event the stem wall becomes a source of marine debris or a coastal hazard as a result of dislodgement or structural failure.

The stem wall also has the potential to exacerbate the impacts of sea-level rise and increased storm and wave activity on sovereign land adjacent to the lease area. The beach area seaward of the stem wall is subject to width reduction and loss from erosion, scour, and coastal squeeze (the reduction of beach width due to the inability of the beach to naturally migrate landward as a result of hard armoring infrastructure). In addition to the stem wall exerting an artificial influence on the natural landward migration of the beach, it is also a barrier between the naturally eroding bluffs and the beach, and effectually prevents beach replenishment via natural passive erosion. In general, seawalls increase beach scour at the toes and sides of the walls by reflecting and refracting wave energy back onto the beach with higher force due to their placement and composition. 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 this stem wall, unless beach replenishment projects are implemented.

The lease is a 10-year General Lease – Protective Structure Use that began on August 22, 2018. The stem wall may be subject to the climate change effects of the projected sea-level rise scenario provided above during the lease term. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement.

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Further climate change impact analyses on the lease area will be assessed at the time the lease expires in 2028 if an application is submitted for a new lease, and would be based on projected sea-level rise scenarios at that time.

**Conclusion:**

For all the reasons above, Commission staff believes issuance of this lease will not substantially interfere with the Public Trust needs and values 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. 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 may be required to remove the stem wall and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This 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; and Strategy 1.2 to provide that the current and future management of ungranted sovereign lands and resources and granted lands, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning.
3. Assignment of lease is not a project as defined by the California Environmental Quality Act because it is an administrative action 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, section 15378, subdivision (b)(5).

**EXHIBITS:**

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

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

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

Find that the proposed assignment will not substantially interfere with the 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 the assignment of Lease No. PRC 8795.1, a General Lease – Protective Structure Use of sovereign land, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Brian D. Burke and Kathy Lamprecht to David Hoyle and Sara L. Welch, effective September 26, 2018.

EXHIBIT A  
LAND DESCRIPTION

PRC 8795.1

DESCRIPTION OF A 2 FOOT WIDE STRIP OF TIDE AND SUBMERGED LAND, SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND LYING ADJACENT TO THE RANCHO ARROYO DEL RODEO, ALSO BEING ADJACENT TO LOT 16 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "OPAL CLIFFS SANTA CRUZ COUNTY, CALIFORNIA" FILED FOR RECORD IN VOLUME 25 OF MAPS AT PAGE 12, SANTA CRUZ COUNTY RECORDS; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS; TO WIT

**COMMENCING** at a found 3/4" iron pipe tagged L.S. 4150 on the northwestern boundary of Opal Cliff Dr. at the most eastern corner of Lot 23 as said iron pipe is shown on that certain map entitled "Record of Survey a portion of the Lands of Phillip E. Karleen, Jr. & Geriann Trustees' Opal Cliffs, filed for record on the 15<sup>th</sup> day of September 1999 as shown on said map;

**THENCE FROM SAID POINT OF COMMENCEMENT** and along the northwestern boundary of Opal Cliff Drive South 63° 59' West 52.57 feet; thence continuing along said northwestern boundary South 64° 04' West 52.60 feet to a found 3/8" iron pin at the most southern corner of Lot 25 as shown on the abovementioned record of survey map; thence leaving said northwestern boundary, South 26° 01' East 50.09 feet to the southeastern boundary thereof; thence along said southeastern boundary North 63° 59' East (at 13.57 feet, a found 1/2" iron pipe tagged RE 6270) 103.57 feet, to the most western corner of said Lot 16; thence southeasterly along the southwestern boundary thereof South 44°02' East 150.81 feet, a little more or less to the base of an existing seawall and the **POINT OF BEGINNING**

Thence from said **POINT OF BEGINNING** leaving said southwestern boundary of said Lot 16 along the base of said seawall the following courses and distances; North 50°25' East 8.50 feet; thence North 48°22' East 12.30 feet; thence North 26°37' East 18.00 feet; thence North 52°10' East 15.00 feet; thence North 55°45' East 4.90 feet, more or less, to the northeastern boundary of the aforementioned Lot 16, from which point the northeastern corner thereof bears North 44°02' West 131.43 feet distant; thence leaving the base of said seawall, southeasterly along the northeastern boundary thereof South 44°02' East 2.03 feet; thence leaving said last mentioned boundary parallel with and 2.00 feet distant perpendicular from the base of said seawall the following courses and distances; South 55°45' West 5.18 feet; thence South 52°10' West 14.48 feet; thence South 26°37' West 17.93 feet; thence South 48°22' West 12.72 feet; thence South 50°25' West 8.38 feet, more or less, to the southwestern boundary of said Lot 16; thence along said southwestern boundary North 44°02' West 2.01 feet, more or less to the point of beginning;

Excepting therefrom any portion lying landward of the Ordinary High Water Mark.

**CONTAINING** 117 square feet of land a little more or less.

SURVEYED AND COMPILED IN APRIL 2008 BY BOWMAN & WILLIAMS, CONSULTING CIVIL ENGINEERS, FILE NO. 24082.2.REV2

*Bryan F. Happee*

7/21/08

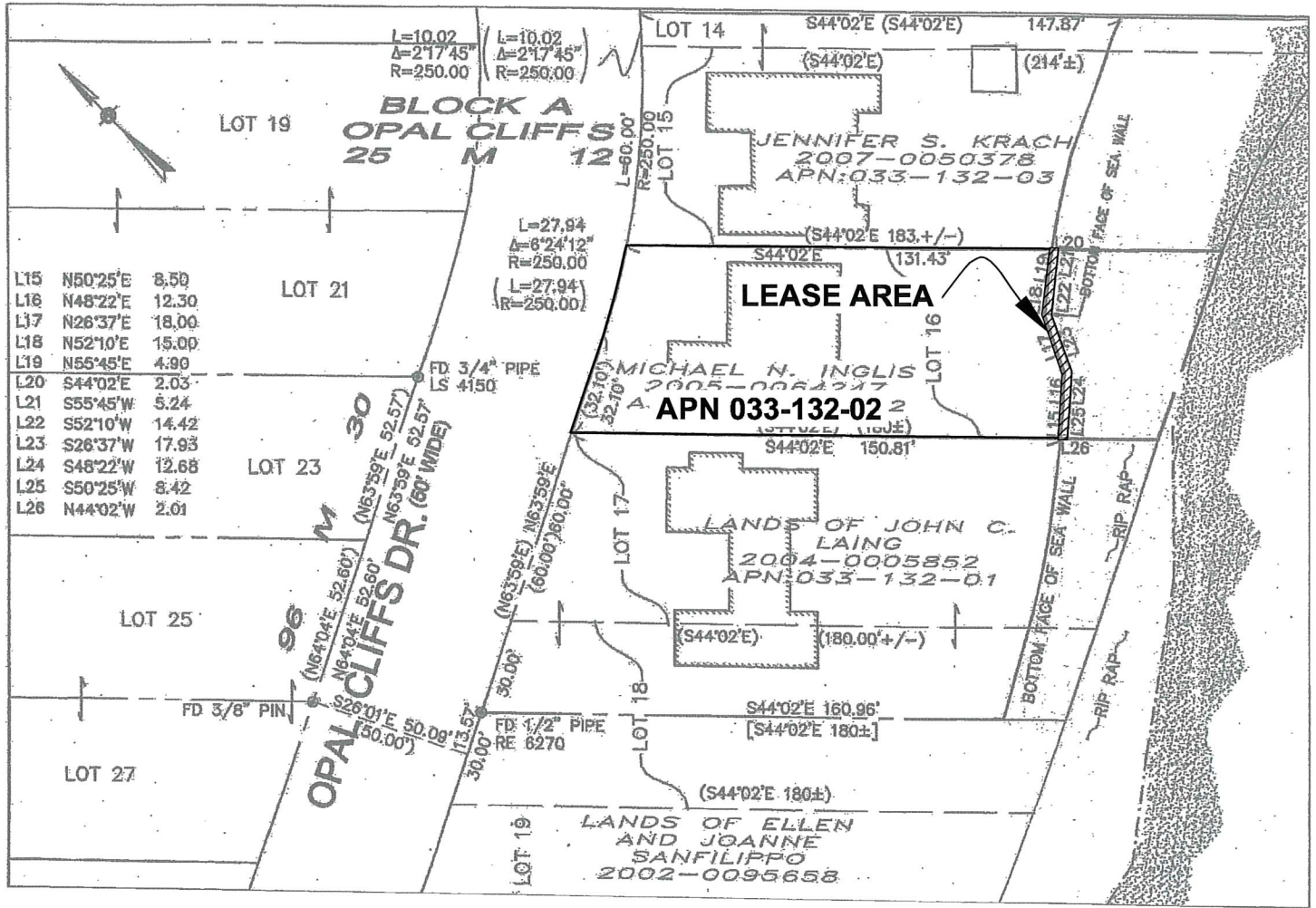


BRYAN F. HAPPEE PLS 8229 RENEWAL DATE 12/31/09

File No. 24082.2  
Drawn By \_\_\_\_\_  
Checked By \_\_\_\_\_  
July 18, 2008  
APN 033-132-02

NO SCALE

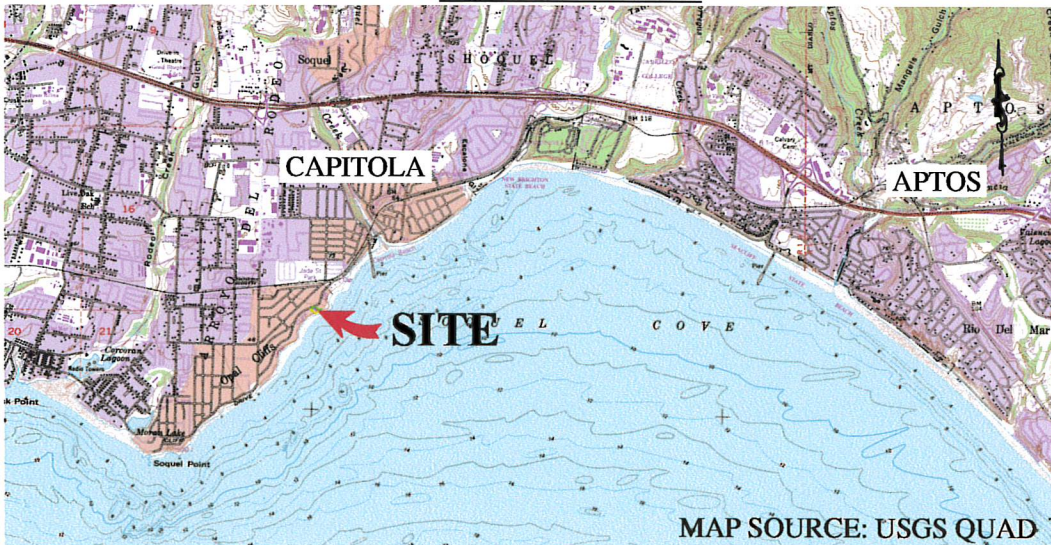
# SITE



4630 Opal Cliff Drive

NO SCALE

# LOCATION



# Exhibit B

PRC 8795.1  
 DAVID HOYLE &  
 SARA L. WELCH  
 APN 033-132-02  
 GENERAL LEASE -  
 PROTECTIVE STRUCTURE USE  
 SANTA CRUZ 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.