

**STAFF REPORT**

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06/28/19

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PRC 2714.1

D. Simpkin

**GENERAL LEASE – RECREATIONAL USE AND APPROVAL OF RULES AND REGULATIONS FOR PUBLIC ACCESS TO AND USE OF MULTIUSE PIER**

**APPLICANT:**

Pebble Beach Company

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Stillwater Cove, Carmel Bay, Monterey County.

*AUTHORIZED USE:*

Use and maintenance of an existing multiuse pier with public access.

*LEASE TERM:*

10 years, beginning November 1, 2019.

*CONSIDERATION:*

\$2,014 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

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

Bond: \$20,000 surety bond or other security.

Other: Lessee shall comply with any and all agreements between the Lessee and Monterey Bay National Marine Sanctuary during the term of the Lease regarding the collection of errant golf balls. Lessee shall notify Lessor's staff within 30 days, upon termination or expiration of such agreement covering errant golf ball recovery efforts.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

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

On June 28, 2010, the Commission authorized issuance of a 10-year General Lease – Recreational Use to the Pebble Beach Company ([Item C59, June 28, 2010](#)) for the continued use and maintenance of an existing multiuse pier and approval of rules and regulations for public access to and use of the pier. The lease will expire on October 31, 2019. The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the pier.

The Applicant owns the upland adjoining the lease premises. The pier is available for public recreational use year-round, and recreational boat launching May 15 through September 15. Public parking is available (reserved and unreserved). A list of pier rules, regulations, and access restrictions are identified in "Pier Rules & Regulations By Pebble Beach Company" attached as Exhibit C. The list is posted at the entrance to the pier.

The Del Monte Forest Area – Land Use Plan/Local Coastal Program, adopted by Monterey County on July 17, 1984, and certified by the California Coastal Commission on September 24, 1984, provides for public access to Stillwater Cove via an agreement between Monterey County and the Pebble Beach Company. This agreement establishes the public's right to vehicular and pedestrian/bicyclist access through Del Monte Forest subject to reasonable toll, regulations, and hours of operation. Pebble Beach and the Del Monte Forest is accessible via 17-Mile Drive and an admission fee of \$10.50 per vehicle.

Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

Staff recently became aware that thousands of errant golf balls have been deposited by golfers into the waters offshore of the Pebble Beach Golf Course. Although this has been happening for many years, the problem was only discovered a few years ago. After speaking with the Lessee and staff of the Monterey Bay National Marine Sanctuary (MBNMS), staff was provided a copy of an agreement between the Lessee and MBNMS. The agreement includes both marine and shoreline collection requirements, educating Pebble Beach golfers and caddies as well as conducting regular staff trainings, and reporting the number of golf balls collected. The agreement will remain in effect until February 11, 2024. The Lessee and MBNMS have agreed to act in good faith to determine a mutually

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agreeable collection plan to begin after the expiration of the initial 5-year agreement. The proposed lease includes a provision requiring the lessee to comply with the existing agreement and any subsequent agreements between the Lessee and MBNMS.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. The lessee will be required to provide a surety in the amount of \$20,000.

**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 existing structures subject to the proposed lease are located within Stillwater Cove at Carmel Bay, Monterey County. Stillwater Cove is located near sea-level elevation, and as a result is vulnerable to flooding and storm surge events.

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.

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**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 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 multiuse pier. In addition, beach exposure to wave action, storm surge, and higher total water levels will possibly increase the amount of sand deposited on the front of the beach area adjacent to the multiuse pier. Therefore, the pier may require more frequent maintenance activities to ensure continued function during and after storm seasons and to reduce the risk it poses to public safety.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains fixed pilings and an access ramp. Flooding conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the cove. The fixed features may need to be reinforced to withstand future conditions.

More locally based knowledge of sea-level rise impacts, and adaptation strategies will be available to Stillwater Cove residents as a result of the ongoing efforts to update Monterey County's Local Coastal Program for

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this area. The county has not had a Sea-Level Rise Vulnerability Assessment or any other local plans or reports that deal with sea-level rise and climate change impacts. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) 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 interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed 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 may be required to remove the pier 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 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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**EXHIBITS:**

- A. Land Description
- B. Location and Site Map
- C. Pier Rules and Regulations by Pebble Beach Company

**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 2, section 2905, subdivision (a)(2).

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

Find that the proposed 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 foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Pebble Beach Company beginning November 1, 2019, for a term of 10 years, for the use and maintenance of an existing multiuse pier, as described in Exhibit A and shown on Exhibit B (for reference purposes only) and by this reference made a part hereof; approve “Pier Rules & Regulations By Pebble Beach Company” for public access to, and use of, the multiuse pier as shown in Exhibit C attached and by this reference made a part hereof; rent in the amount of \$2,014 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; and surety bond or other security of \$20,000.

**EXHIBIT A**

**LAND DESCRIPTION**

A Parcel of tide and submerged lands in a portion of the Pacific Ocean known as Stillwater Cove, adjacent to Rancho El Pescadero, County of Monterey, State of California, more particularly described as follows:

COMMENCING at the most westerly corner of the most westerly parcel of land (containing 1.620 acres) as shown and designated on the map titled "Del Monte Properties Company, Pebble Beach, California, Record of Survey of a Portion of Rancho El Pescadero", dated January, 1958, and filed in Volume X-1 of Surveys at Page 172, records of Monterey County, California; thence S 60°53'30" W 394.83 feet; thence S 87°42'20" E, 9 feet; thence S 02°17'20" W, 37.2 feet along the easterly edge of the Stillwater Cove Pier to the ordinary high water mark of the Pacific Ocean, said point being the POINT OF BEGINNING; thence continuing along the easterly edge of said pier the following two (2) courses:

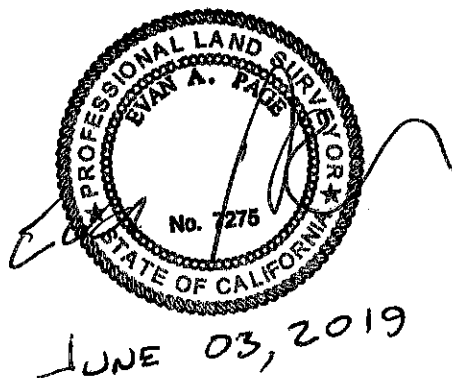
- 1) S 02°17'20" W, 160.4 feet and
- 2) S 87°42'40" E, 6 feet to the northeasterly corner the pier-level landing to the stairs leading to the boarding platform;

thence continuing S 87°42'40" E, 9 feet; thence S 02°17'20" W, parallel to the easterly edge of said pier, 81 feet; thence N 87°42'40" W, parallel to the southerly edge of said pier, 60 feet to the southwesterly corner of said pier; thence N 02°17'20" E, parallel to the westerly edge of said pier, 34 feet; thence S 87°42'20" E, 9 feet to an angle point along the west edge of said pier; thence along the westerly edge of said pier the following two (2) courses:

- 1) N 32°17'20" E, 30 feet and
- 2) N 02°17'20" E, 181.8 feet to the ordinary high water mark;

thence S 86°03'35" W, 9 feet, along the ordinary high water mark to the POINT OF BEGINNING.

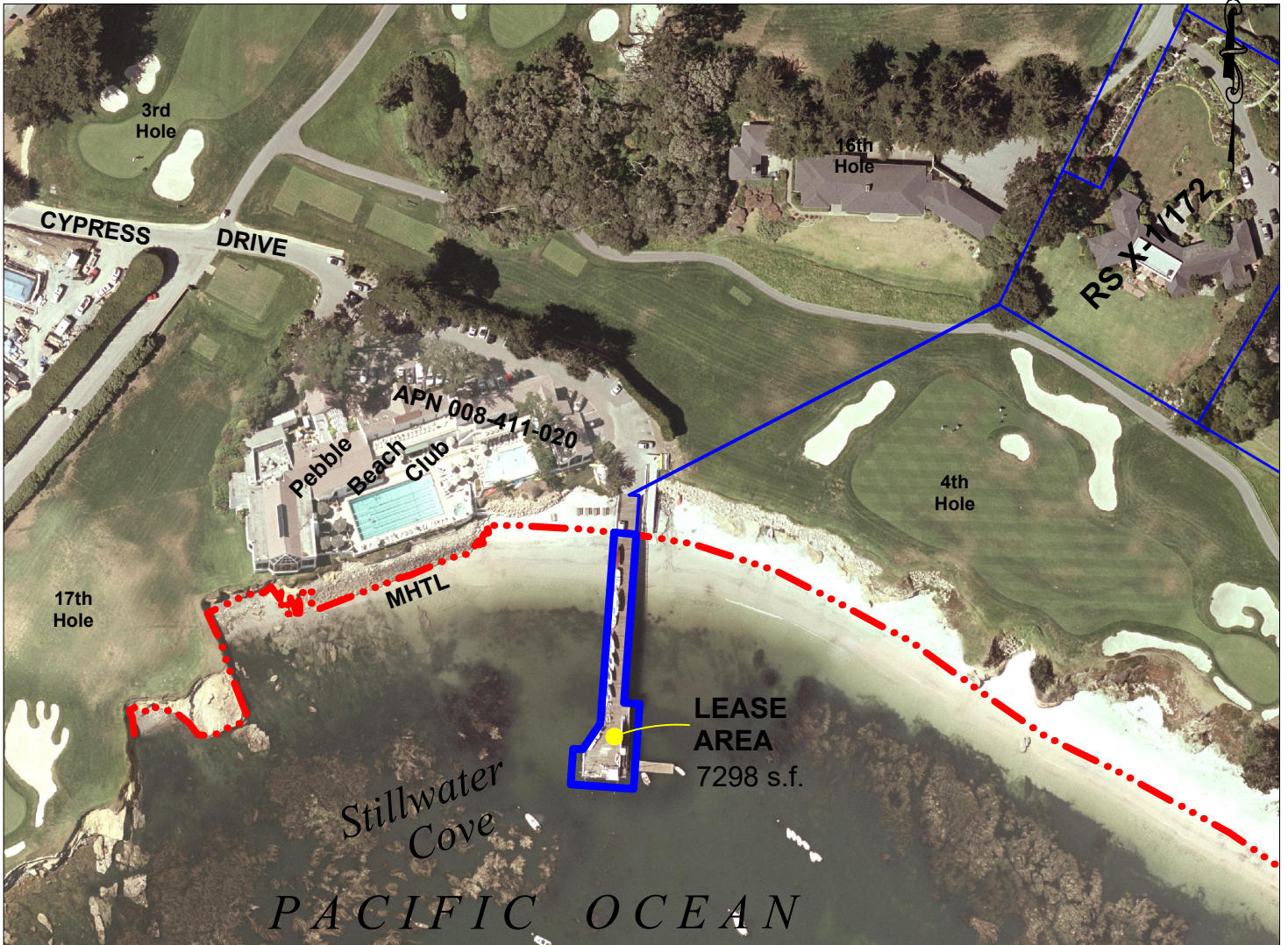
**END DESCRIPTION**





NO SCALE

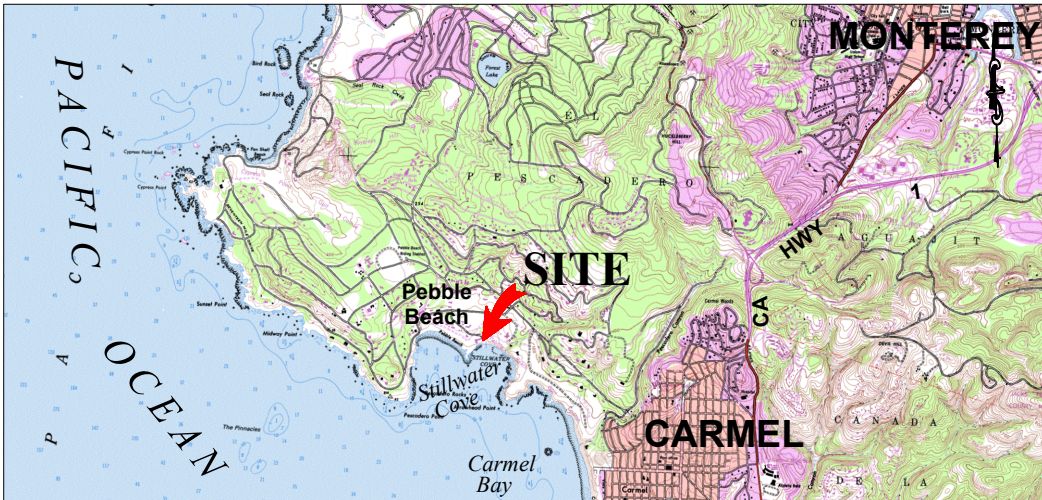
# SITE



### STILLWATER COVE PIER, PEBBLE BEACH

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 2714.1

Pebble Beach Company

APN 008-411-020

GENERAL LEASE -  
RECREATIONAL USE  
MONTEREY 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.



## EXHIBIT C

### Pier Rules & Regulations By Pebble Beach Company

1. The Pier is open to the public for recreational uses during daylight hours only.
2. Sunbathing, beachcombing, picnicking, scuba diving water entry for habitat observation, swimming, and water entry for small watercraft are allowed on the beach to the east of the pier.
3. Use of the pier is at your own risk. No lifeguard on duty.
4. No overnight camping, firearms or weapons, motorized vehicles, spearguns, collecting of marine species protected by Federal or State Fish and Game agencies, or other such activities that may be unlawful or unsafe will be permitted.
5. Boat Launching- For non-commercial/recreational use by reservation only:
  - o Boat hoist available May 15 – Sept 15, only.
  - o Use of boat hoist is restricted to authorized personnel only.
  - o Boat owners must provide their own lifting straps for use of hoist.
  - o Limit of 10 boats may be launched from the boat hoist per day.
  - o Inquire at (831) 625-8536 for boat launch and user fees.
6. Loading/unloading of equipment shall be limited to 15 minutes in the marked equipment drop off/pickup area.
7. Parking
  - o Reserved parking is located near the entry to the Beach Club parking lot along the 17<sup>th</sup> Hedgerow. For reservations, inquire at (831) 625-8536.
  - o Unreserved parking is available on a first come, first served basis in the Lodge Tennis Court parking lot and Casa Palmero/Spa parking lot.
  - o The Beach & Tennis Club parking lot is for members only.
  - o All non-members vehicles left parked in the members only area will be towed at the vehicle owner's expense.
8. Periods of Restricted Access
  - o Daily 11:00 a.m. – 2:00 p.m. – Beach Club parking lot is closed to all non-member automobile traffic (no equipment drop off or pickup permitted). Pedestrian access during this period is permissible.
  - o Special Events – The pier facilities are closed during periods when entry to the Forest by the general public is restricted (e.g., major golf tournaments), or when major events are scheduled at the Beach and Tennis Club (e.g., recreation/social events), such closures not to exceed 45 days per year.
9. From September 16 – May 14, the pier facilities are closed; however, pedestrian access to the pier is permitted.