

This Calendar Item No. C31 was approved as Minute Item No. 31 by the California State Lands Commission by a vote of 3 to 0 at its 04-05-04 meeting.

**CALENDAR ITEM
C31**

A 41
S 19, 23

PRC 2589

04/05/04
WP 2589.9
J. Smith

**AMENDMENT OF LEASE
AND
AND APPROVAL OF CONCESSION CONTRACTS
TO MALIBU PIER PARTNERS, LLC**

LESSEE:

California Department of Parks and Recreation
39996 Pacific Coast Highway
Malibu, California 90265

SUBLESSEE (CONCESSIONAIRE):

Malibu Pier Partners, LLC
450 Mission St, Suite 500
San Francisco, California 94105

AREA, LAND TYPE, AND LOCATION:

1.18 acres, more or less, of sovereign lands in the Pacific Ocean, Malibu, Los Angeles County.

PROPOSED AREA, LAND TYPE, AND LOCATION:

41.75 acres, more or less, of sovereign lands in the Pacific Ocean, Malibu, Los Angeles County.

AUTHORIZED USE:

LEASE: Operation and maintenance of a recreational pier, sports fishing area, tour boat service, restaurants, commercial shops and public restroom facilities.

**SUBLEASES
(CONCESSION
CONTRACTS):**

Restaurant, Food Service, Retail, Sport fishing, Boat Tours, Bait Station(s) and Beach Equipment Rental.

TERM:

LEASE: 30 years, beginning June 23, 1997.

CALENDAR ITEM NO. C31 (CONT'D)

SUBLEASES

(CONCESSION
CONTRACTS):

20 years, beginning on the date of final approval from the Department of General Services.

CONSIDERATION:

LEASE:

Public Use and Benefit

SUBLEASES
(CONCESSION
CONTRACTS):

Minimum Annual Rent of \$250,000 less a percentage of gross receipts from pier concession operations; plus fees for special events as established and permitted by State Parks; plus annual parking rent in the amount of \$12,000. To be placed by State Parks into the State Park and Recreation Fund.

PROPOSED AMENDMENT:

Replace the current land description for Lease No. PRC 2589.9 with the land description attached hereto as Exhibit B describing the area of sovereign lands occupied by the Malibu Pier and the additional area of sovereign lands occupied by and surrounding seven existing mooring buoys; and approve short-term and long-term concession contracts (subleases) between the California Department of Parks and Recreation (Parks) and Malibu Pier Partners, LLC. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. Applicant is the Lessee of Lease No. PRC 2589.9 for the Malibu Pier. There are seven existing mooring buoys located offshore of the pier. Three of the existing mooring buoys are utilized by Los Angeles County Lifeguards. The other four mooring buoys are to be utilized by the concessionaire, Malibu Pier Partners, LLC, to support the sport fishing/boat tour operation. It is not known exactly when the buoys were installed, but it appears that they have existed since the early 1990s.

CALENDAR ITEM NO. C31 (CONT'D)

Through a previous oversight, the sovereign land occupied by the buoys was not included in the lease to Parks. Parks has requested that the current land description for Lease No. PRC 2589.9 be replaced with the land description attached hereto as Exhibit B to include the additional area of sovereign lands occupied by and surrounding the seven buoys. All of the moorings are inspected annually by County divers. The moorings used by County lifeguards are in excellent condition. The moorings that will be used by the concessionaire will require the installation of new chain and buoys, and will be of the same material and built to the same specifications as the County's moorings.

Staff recommends that the Commission approve the new land description for the Malibu Pier and the additional area of sovereign lands occupied by the seven existing buoys.

As mentioned above, Los Angeles County utilizes portions of the pier and water area for its lifeguard operations. There is no formal agreement between Parks and the County for this use. It is staff's understanding that the County contributed funds to the restoration of the pier under the condition that it be allowed to continue to use the facilities for its lifeguard operations.

Parks indicates that six million dollars have been spent on pier restoration. In order to establish a presence on the pier for purposes of security, and in an effort to establish some of the visitor serving programs to facilitate the public's use and enjoyment of the pier, Parks entered into a short-term concession agreement on September 29, 2003, with the Malibu Pier Partners, LLC, for limited concession operations. The long-term contract, which will require approval by the Department of General Services, provides for enhancing the visitor serving programs and requires the concessionaire to fully fund completion of the concession improvements.

In addition to revenues that will accrue to the State Park and Recreation Fund, the long-term contract provides for separate funds for capital improvements to facilitate repairs and preventative measures identified by routine comprehensive structural inspections. Commission staff has reviewed both the short-term and long-term contracts and recommends that the Commission approve both documents as being consistent with the terms of Lease No. PRC 2589.9.

CALENDAR ITEM NO. C31 (CONT'D)

3. EXISTING MOORING BUOYS

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905(c)(3).

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

SUBLEASES (CONCESSION CONTRACTS)

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

4. EXISTING MOORING BUOYS

This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CALENDAR ITEM NO. C31 (CONT'D)

CEQA FINDING:

EXISTING MOORING BUOYS

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061, AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(c)(3).

SUBLEASES (CONCESSION CONTRACTS)

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

EXISTING MOORING BUOYS

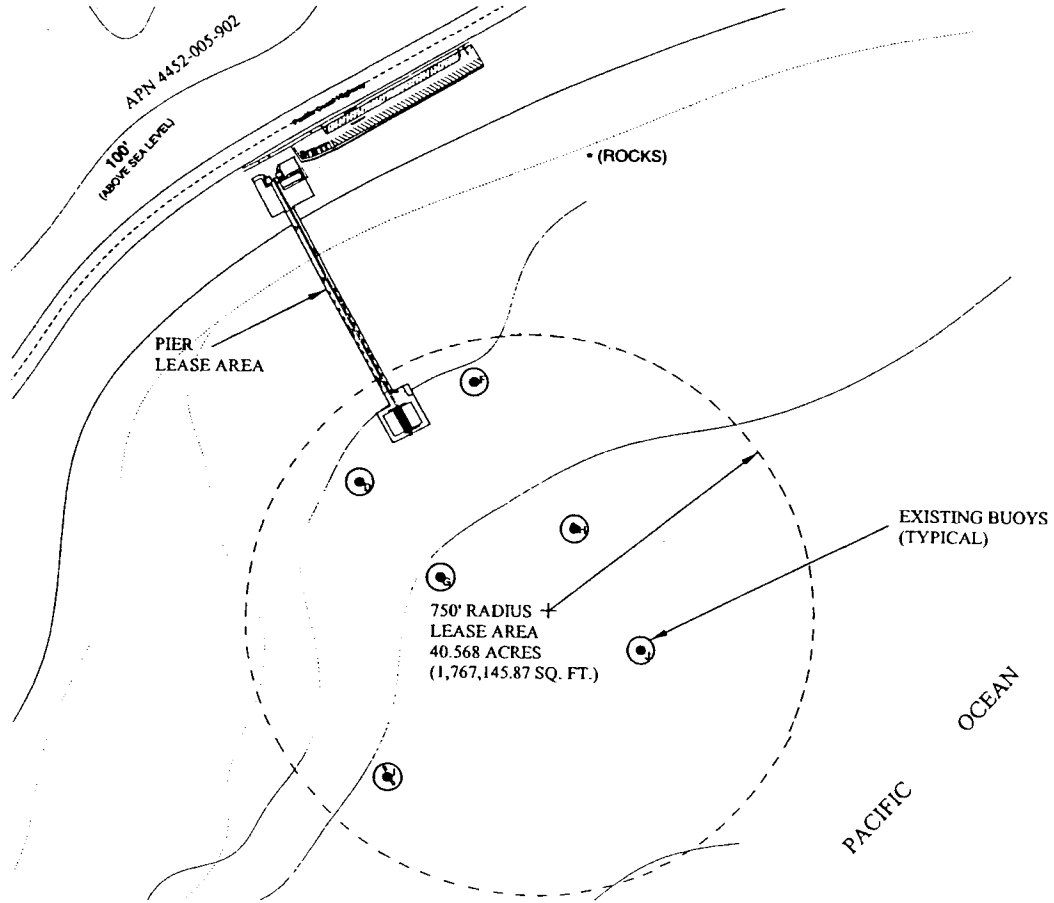
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 2589.9, A GENERAL LEASE - PUBLIC AGENCY USE, EFFECTIVE APRIL 5, 2004, TO REPLACE THE CURRENT LAND DESCRIPTION WITH THE LAND DESCRIPTION ATTACHED HERETO AS EXHIBIT B FOR THE MALIBU PIER AND THE ADDITIONAL AREA OF SOVEREIGN LANDS OCCUPIED BY AND SURROUNDING SEVEN EXISTING MOORING BUOYS; AUTHORIZE THE SHORT-TERM AND LONG-TERM CONCESSION CONTRACTS (SUBLEASES) BETWEEN THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION AND MALIBU PIER PARTNERS, LLC, FOR PIER CONCESSION OPERATIONS. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

NO SCALE

SITE MAP



Malibu Pier and Buoy Field
City of Malibu, Los Angeles County

LOCATION MAP

NO SCALE

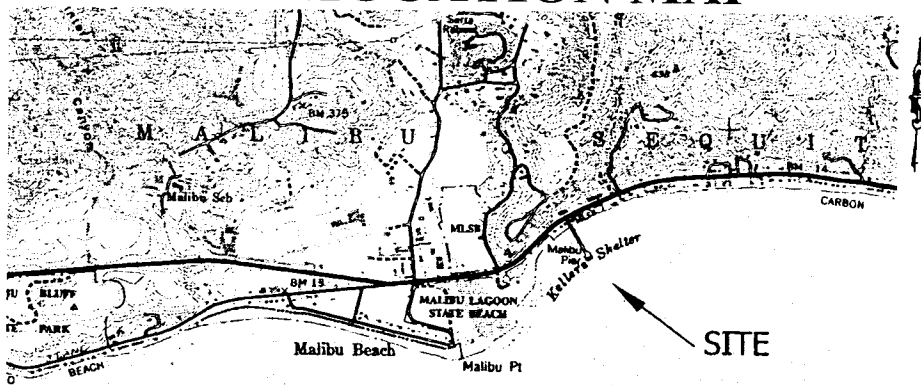


Exhibit A
State of California
Parks and Recreation
PRC 2589.9
City of Malibu
Los Angeles County



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.

CALENDAR PAGE MAP SOURCE: USGS QUAD

EXHIBIT B

PRC 2589.9

LAND DESCRIPTION

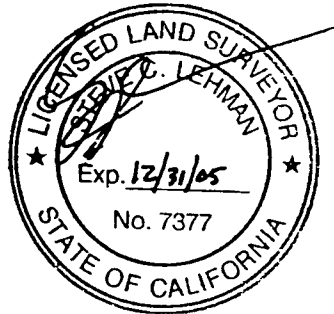
Two parcels of tide and submerged land lying in the Pacific Ocean adjacent to and southerly of that certain parcel of land described in Grant Deed filed August 15, 1944, in Book 21117, Page 357, Los Angeles County Recorders, City of Malibu, Los Angeles County, California.

Parcel 1 being immediately beneath an existing pier, together with a necessary use area extending 15 feet from the extremities of said pier.

Parcel 2 being a circular parcel having a radius of 750 feet and a center point having an approximate CCS83, ZONE 5 Coordinate of N1835482 feet and E6357307 feet.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION



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