

MINUTE ITEM

This Calendar Item No. C37 was approved as Minute Item No. 37 by the California State Lands Commission by a vote of 3 to 0 at its 11-21-06 meeting.

**CALENDAR ITEM
C37**

A 73
S 38

11/21/06
PRC 8097 WP 8097.1
J. Smith

AMENDMENT OF LEASE

LESSEE:

Southern California Edison Company
2244 Walnut Grove Avenue
P.O. Box 800
Rosemead, California 91770

AREA, LAND TYPE, AND LOCATION:

862 acres, more or less, of sovereign lands in the Pacific Ocean, near San Clemente, Orange County.

AUTHORIZED USE:

Construction and maintenance of an artificial kelp reef.

LEASE TERM:

37 years, beginning August 1, 1999.

CONSIDERATION:

Expected Annual Rent as follows: Year 1 - \$20,400; Years 2-6 - \$20,160 per year; Year 7 - \$135,585; Years 8-10 - \$135,000 per year; annual rent is \$900 per acre and is calculated based upon the amount of acreage used during construction of Phase I and Phase II, including temporary use area used during construction. Lessee will perform surveys after construction of Phase I and Phase II to determine the actual acreage covered by the Lease. Lessee will also inform Lessor of the amount of acreage used during construction. Following year ten, the State reserves the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED AMENDMENT:

Authorize construction of Phase II of the Wheeler North Reef subject to the following conditions:

1. Lessee is required to adhere to the recommendations included in the 2005

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Monitoring Report entitled, "Findings and Recommendations of the Experimental Phase of the SONGS Artificial Reef Mitigation Project".

2. Lessee is required to prepare an invasive species control plan for Lessor staff's review and approval no less than 60 days prior to construction of Phase II.
3. Lessee shall remain in conformance with the invasive species control plan during the remaining term of the lease.

All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. On June 14, 1999, the Commission authorized the issuance of a lease to Southern California Edison for the construction and maintenance of an artificial kelp reef comprising 150 acres, within the 862-acre lease parcel, in the Pacific Ocean, near San Clemente, Orange County. The construction of the reef was required by the California Coastal Commission, pursuant to Coastal Development Permit 6-81-330, as mitigation for the operation of the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. The area of the Commission's lease totals 862 acres, of which 356 acres is deemed suitable substrate for sustaining kelp.

The artificial reef was to be constructed in two phases. Phase I, which was completed in September 1999, involved the construction of a 22.4-acre experimental reef. Based on the results of the five-year monitoring effort contained in the "Findings and Recommendations of the Experimental Phase of the SONGS Artificial Reef Mitigation Project", which was completed in 2005, the Phase I reef has proven to be successful.

The Lessee is now proposing to implement Phase II involving the creation of the remaining 127.6 acres of low profile, low relief reef constructed from quarry rock, similar to the reef constructed in Phase I. Eleven polygons will be constructed, varying in size from 2.4 to 37.5 acres. The Lessee is proposing four contingency polygons (totaling 22.4 acres) as potential alternative reef sites. These alternative sites would be used only in the event placement of the barge anchors in areas with valuable biological resources is required during construction of the 11 polygons.

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On August 8, 2006, the California Coastal Commission (CCC) concurred with the Executive Director's determination that the Preliminary Design Plan for the Phase II reef is consistent with the mitigation requirements of CDP 6-81-330-A. The Lessee expects to submit a permit application for the Final Design Plan to the CCC for consideration early next year.

The Lessee expects to begin construction of Phase II in May 2008. In addition to adhering to the recommendations included in the 2005 Final Monitoring Report, the Lessee is required to prepare an invasive species control plan for Commission staff review and approval no less than 60 days prior to construction of Phase II.

2. In recognition of the efforts of the late Dr. Wheeler J. North in the restoration and management of kelp, the Commission adopted a Resolution (Minute Item 50) on April 17, 2006, renaming the SONGS Artificial Reef the Wheeler North Reef.
3. An EIR was prepared and certified and a Mitigation Monitoring Program was prepared and adopted for this project by the California State Lands Commission in 1999. Commission staff has reviewed such documents previously certified and adopted by the Commission and has determined that the information and analyses remain valid.
4. Findings previously made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained on file in the Sacramento Office of the California State Lands Commission.
5. 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.

APPROVALS REQUIRED:

United States Army Corps of Engineers; Regional Water Quality Control Board; and the California Coastal Commission

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EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

April 6, 2007

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CALIFORNIA STATE LANDS COMMISSION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096(h), AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

SIGNIFICANT LANDS INVENTORY FINDING:

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 8097.1, A GENERAL LEASE – NON-INCOME PRODUCING USE, OF LANDS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE JANUARY 1, 2007, TO AUTHORIZE CONSTRUCTION OF PHASE II OF THE WHEELER NORTH REEF IN THE PACIFIC OCEAN, NEAR SAN CLEMENTE, ORANGE COUNTY, SUBJECT TO THE FOLLOWING: (1) LESSEE IS REQUIRED TO ADHERE TO THE RECOMMENDATIONS INCLUDED IN THE 2005 MONITORING REPORT ENTITLED, "FINDINGS AND

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RECOMMENDATIONS OF THE EXPERIMENTAL PHASE OF THE SONGS ARTIFICIAL REEF MITIGATION PROJECT"; (2) LESSEE IS REQUIRED TO PREPARE AN INVASIVE SPECIES CONTROL PLAN FOR LESSOR STAFF'S REVIEW AND APPROVAL NO LESS THAN 60 DAYS PRIOR TO CONSTRUCTION OF PHASE II; (3) LESSEE SHALL REMAIN IN CONFORMANCE WITH THE INVASIVE SPECIES CONTROL PLAN DURING THE REMAINING TERM OF THE LEASE. ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

Exhibit A

WP 8097.1

SOUTHERN CALIFORNIA
EDISON CO.
ARTIFICIAL REEF
VIC. SAN CLEMENTE, CA.
ORANGE COUNTY



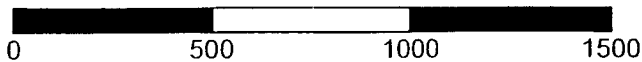
Lease Area →









San Clemente Pier

PACIFIC
OCEAN



Scale (m)



-  >90% sand
-  10-30% hard substrate
-  30-60% hard substrate
-  60-100% hard substrate
-  Experimental artificial reef module locations
-  Designed artificial reef-primary polygons
-  Designed artificial reef-contingency polygons
-  Areas of Special Interest (fisheries)

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 B

PRC 8097.1
May 13, 1999

LEGAL DESCRIPTION

A parcel of submerged land in the Pacific Ocean in the vicinity of the city of San Clemente, and San Mateo Point, Orange County, California, more particularly described as follows:

A four (4) sided parcel of submerged land in the Pacific Ocean having the following North American Datum 1983 geographic coordinates:

1. Latitude 33° 25' 01.7" North, Longitude 117° 37' 45.0" West
2. Latitude 33° 23' 15.2" North, Longitude 117° 36' 20.0" West
3. Latitude 33° 22' 57.6" North, Longitude 117° 36' 45.2" West
4. Latitude 33° 24' 47.3" North, Longitude 117° 38' 14.9" West,
containing 862 acres, more or less.

END OF DESCRIPTION

RL:rl

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