

**CALENDAR ITEM
C44**

A 67
S 35

06/24/08
W 26257
S. Young

GENERAL LEASE - NON COMMERCIAL USE

APPLICANT:

Huntington Beach Wetlands Conservancy
21900 PCH
Huntington Beach, CA 92646

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Pacific Ocean, adjacent to Huntington State Beach,
Huntington Beach, Orange County.

AUTHORIZED USE:

Restore the Talbert Ocean Outlet Channel (Channel), which includes 1) initial dredging of a maximum of 29,000 cubic yards of material and 2) perform two maintenance dredging episodes at five and ten year intervals at the Channel, a maximum of 200,000 cubic yards of material may be removed, and 3) deposit approximately 151,000 cubic yards of suitable dredged material in the near shore and/or below the mean high tide line on the adjacent Huntington State Beach during the initial restoration and deposit a maximum total of 200,000 cubic yards of said material in the subsequent five and ten year maintenance dredging intervals at said location.

LEASE TERM:

15 years, beginning June 24, 2008.

CONSIDERATION:

No monetary consideration will be charged as the project will result in a public benefit. The dredged material may not be sold.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability coverage of no less than \$1,000,000.

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Other:

Commission staff will monitor compliance by the Applicant to ensure the Mitigation Monitoring and Reporting Program are complied with on the Lease Premises.

OTHER PERTINENT INFORMATION:

1. On July 12, 1988, the Orange County Flood Control District (District) granted an easement to the Huntington Beach Wetlands Conservancy (Conservancy) for construction of a wetlands project, with the right to operate and maintain the wetlands as an open space and wildlife habitat within the fee-owned portion of the District's Talbert Channel right-of-way.
2. The Conservancy is a non-profit, tax-exempt, public benefit corporation which works with local, state and federal agencies and property owners to acquire, restore, and manage the coastal wetlands in the Orange County coastal zone. Funding for new projects and for restored wetlands maintenance comes from conservation bonds, state and federal grant funds and private donations.

The Huntington Beach Wetlands are a relic salt marsh habitat associated with the Santa Ana River in south Huntington Beach in Orange County. The Wetlands occupy approximately 188 acres and function as a home to the state-endangered Belding's savannah sparrow and the California least tern. The Wetlands have suffered substantial degradation over time as a result of isolation from tidal influence, historic channelization and filling, and damage from unauthorized public access.

The Huntington Beach Wetlands consist of Talbert Marsh, Brookhurst Marsh, Magnolia Marsh and Newland Marsh. Although these wetlands involve historic tide and submerged lands, they are located within the Mexican land grant. These marshes are located within the perimeter description of Rancho Las Bolsas. As such, these lands were granted by the Spanish and/or Mexican Government to private parties prior to California statehood and were confirmed into private ownership by the United States pursuant to the Treaty of Guadalupe Hidalgo. This Rancho grant was confirmed into private ownership and a confirmatory patent was issued by the United States in December of 1868.

The State is precluded from asserting that it acquired a sovereign property interest as an incident of statehood within the exterior boundaries of these confirmed Rancho grants pursuant to the holdings in Summa Corporation v. California 466 U.S. 198 (1984). The ordinary high water mark of the Pacific Ocean (mean high tide line if unaffected by fill or artificial

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accretions) designates the boundary between tide and submerged lands under CSLC jurisdiction and Department of Parks and Recreation ownership of Huntington State Beach. Seawater propagates through the lower mile of Talbert Channel through Talbert Marsh. Talbert Marsh was restored by the Conservancy in 1990. That restoration effort improved tidal flushing and circulation to the Marsh, establishing sensitive salt marsh habitat and improving flood control for the southern portion of Huntington Beach.

The Upper Magnolia Marsh is currently being restored as part of a mitigation project by the city of Huntington Beach. Restoration of Newland Marsh is pending and will be dependent on the Conservancy's acquisition of the property and funding for the restoration effort.

3. The Conservancy is now applying to the Commission for a lease in connection with the proposed Huntington Beach Wetlands Restoration Project, which will restore 130 acres within Talbert Marsh, Brookhurst Marsh, Magnolia Marsh and the Talbert Channel (Project). The current Project proposes to restore the Talbert Channel to its original constructed condition and add a sediment trap within the channel, remove sand shoals and construct a sediment trap in Talbert Marsh, and introduce tidal flow to Brookhurst and Magnolia Marshes. The total volume of dredged material for construction is approximately 290,000 cubic yards from all sources, which includes approximately 29,000 cubic yards from sovereign lands. Of that amount, approximately 121,000 cubic yards, dredged from the Brookhurst and Magnolia marshes, will be transported off-site due to high silt content and grain size of the material, which are not suitable for ocean disposal; approximately 18,000 cubic yards will be reused onsite; and the remaining approximately 151,000 cubic yards will be placed primarily in the nearshore area and/or on the adjacent Huntington State Beach.

Depending on weather conditions and time of year, the dredged material may be deposited southeast of the Talbert Channel, offshore of Newport Beach. As this proposed deposition site is within lands legislatively granted to the city of Newport Beach, deposition of the dredged material at that location would not be included in the proposed lease. Separate authorization will be required from the city of Newport Beach.

The Conservancy proposes additional periodic maintenance dredging totaling a maximum of approximately 200,000 cubic yards of material from the Talbert Channel. This additional maintenance dredging will be completed in two phases, at approximately five- and ten-year intervals following completion of the initial restoration project. All of the material to

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be maintenance-dredged would either be hydraulically pumped to the nearshore and/or placed on the beach. The proposed Lease provisions require that the Conservancy contact Commission staff 90 days prior to any planned maintenance dredging and deposition activity within the Lease Premises.

The Project would be implemented over a three year period beginning in September 2008, and extending to May 2011, and would only occur from September through March to avoid impacts to sensitive species.

4. On July 10, 1989, the Commission authorized the issuance of a 49-year General Permit – Public Agency Use (Permit No. PRC 7312.9) to the District for construction and maintenance of the Talbert Ocean Outlet Channel. The portion of the existing Talbert Ocean Outlet Channel that is within the Lease Premises, consists primarily of two soft bottom stone jetties occupying approximately 58,202 square feet of state owned sovereign lands. The Permit authorized the dredging of a maximum of 7,500 cubic yards of material during construction of the Channel. The Permit included a provision that the dredged material be used for beach replenishment. The Conservancy has received the District's approval to deposit dredged materials within the District's lease area. The District is working in partnership with the Conservancy in its efforts to restore the Huntington Beach Wetlands.

It is expected that the District will assume responsibility for future maintenance dredging of the Talbert Channel after the Conservancy completes the restoration project and the two subsequent maintenance dredging activities.

5. A Mitigated Negative Declaration was prepared and adopted for this project by the County of Orange. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the County of Orange.
6. 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 OBTAINED:

Regional Water Quality Control District – Santa Ana Region
Orange County, Environmental Planning Services Division

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FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Coastal Commission
City of Huntington Beach
California Department of Fish and Game
California Department of Parks and Recreation
County of Orange – Flood Control District
City of Newport Beach

EXHIBITS:

- A. Location and Site Map
- B. Land Description
- C. Mitigation Monitoring Program

PERMIT STREAMLINING ACT DEADLINE:

July 27, 2008

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF ORANGE AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

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:

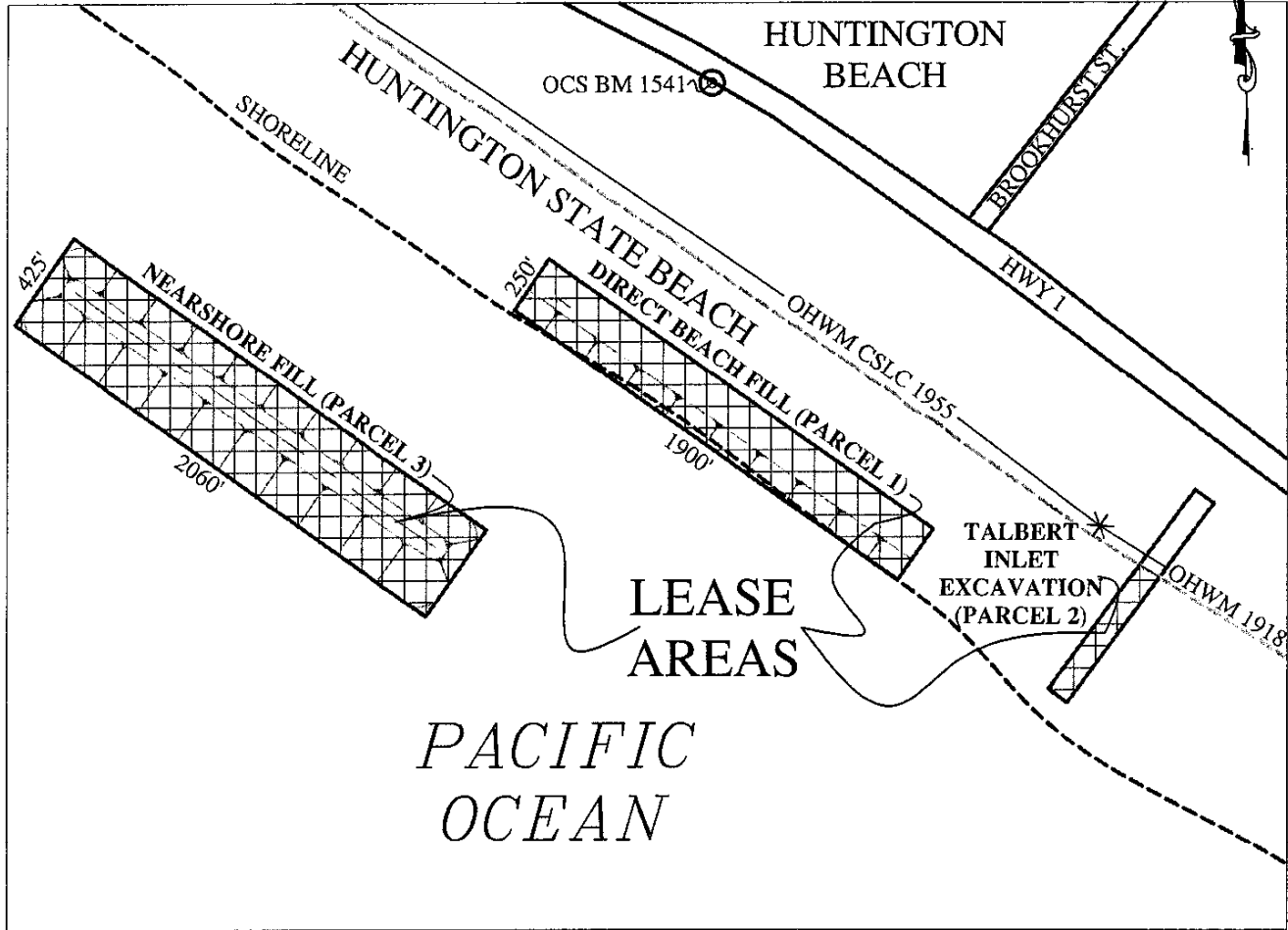
AUTHORIZE ISSUANCE OF A GENERAL LEASE – NON-COMMERCIAL USE, TO THE HUNTINGTON BEACH WETLANDS CONSERVANCY BEGINNING JUNE 24, 2008, FOR A TERM OF 15 YEARS, FOR THE

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1) RESTORATION OF THE TALBERT OCEAN OUTLET CHANNEL (CHANNEL), INCLUDING INITIAL DREDGING OF A MAXIMUM OF 29,000 CUBIC YARDS OF MATERIAL, 2) PERFORMANCE OF TWO MAINTENANCE DREDGING EPISODES AT FIVE AND TEN YEAR INTERVALS AT THE CHANNEL, TOTALING A MAXIMUM OF 200,000 CUBIC YARDS OF MATERIAL, AND 3) DEPOSIT OF APPROXIMATELY 151,000 CUBIC YARDS OF SUITABLE DREDGED MATERIAL IN THE NEAR SHORE AND/OR BELOW THE MEAN HIGH TIDE LINE ON THE ADJACENT HUNTINGTON STATE BEACH DURING THE INITIAL RESTORATION AND DEPOSIT OF A MAXIMUM TOTAL OF 200,000 CUBIC YARDS OF SAID MATERIAL IN THE SUBSEQUENT FIVE- AND TEN-YEAR MAINTENANCE DREDGING INTERVALS AT SAID LOCATION AND AS SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; NO MONETARY CONSIDERATION WILL BE CHARGED AS THE PROJECT WILL RESULT IN A PUBLIC BENEFIT; THE DREDGED MATERIAL MAY NOT BE SOLD; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.

NO SCALE

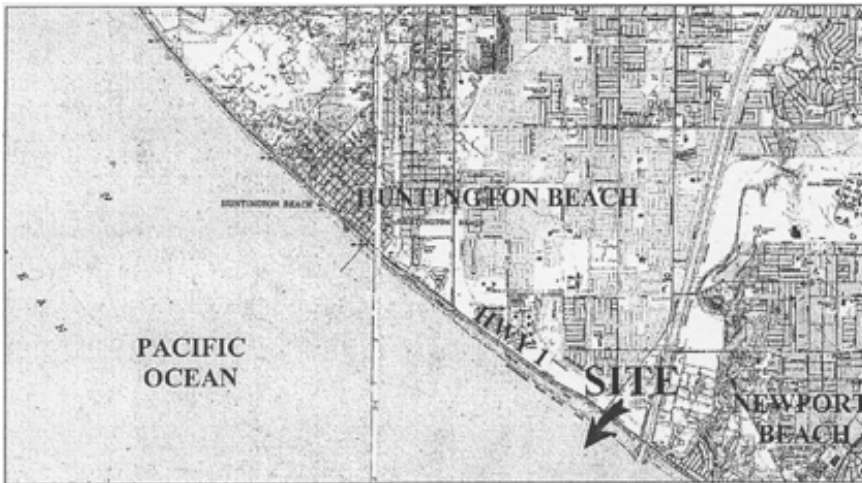
SITE



Huntington Beach Wetlands Restoration Project
Huntington State Beach, Huntington Beach

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

W 26257
 HUNTINGTON BEACH
 WETLANDS CONSERVANCY
 GENERAL LEASE
 NON-COMMERCIAL LEASE
 ORANGE COUNTY



MJF 5/28/08

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

MITIGATION MONITORING and REPORTING PROGRAM

In the following MMRP, each mitigation measure included in this Final IS/MND for the Huntington Beach Wetlands Restoration project is listed according to resource area. The project has incorporated these environmental protection measures as part of the project and shall be carried forward and implemented in accordance with project activities.

The time frame for implementation of each mitigation measure is listed. The agency or agencies responsible for monitoring the satisfactory implementation of mitigation measures also is identified. The timing and method of verification also is included.

#	Mitigation Measure	Implementing Action	Method of Verification	Timing of Verification	Responsible Party
NOISE					
1	All dredging, grading and maintenance equipment, both stationary and mobile, shall be equipped with properly operating and maintained muffling devices.	Review of Plans and Specifications	Onsite monitor to assure compliance with mitigation measure.	Prior to start of any dredging, grading, and maintenance activities.	Huntington Beach Wetlands Conservancy
2	All dredging, grading, and maintenance activities shall comply with the City of Huntington Beach Municipal Code related to construction noise, limiting activities to the hours of 7:00 A.M. to 8:00 P.M., Monday through Saturday. Noise generated from dredging, grading and maintenance activities on Sundays, federal holidays, and nighttime hours (8:01 P.M. to 6:59 A.M.) are prohibited.	Review of Plans and Specifications	Onsite monitor to assure compliance with mitigation measure.	Prior to start of any dredging, grading, and maintenance activities.	Huntington Beach Wetlands Conservancy
Biological Resources - Birds					
1	Before the start of any construction and maintenance activities	Review of Plans and Specifications	Monitoring shall be accomplished	Prior to start of breeding season of the	Huntington Beach Wetlands

#	Mitigation Measure	Implementing Action	Method of Verification	Timing of Verification	Responsible Party
	on beach or marsh habitat, a qualified biologist shall survey the construction area for western snowy plover and Belding's savannah sparrows. If a protected bird species is foraging in or near the work area, construction and maintenance activities shall avoid the vicinity of the foraging birds until the birds have left the area.		by a biological monitor approved by CCC and CDFG. Monitoring reports shall be submitted by the biological monitor to County of Orange.	Belding's savannah sparrows and western snowy plover.	Conservancy
Biological Resources -Vegetation					
2	The loss of eelgrass shall be mitigated by conducting an on-site eelgrass transplant program at a mitigation ratio of 1.2 to 1, as required by the Southern California Eelgrass Mitigation Policy (NMFS 1991).	Review of Plans and Specifications	Surveys shall be conducted by SCUBA divers approved by NOAA Fisheries, CCC, and CDFG. Monitoring reports shall be provided to the agencies following each survey.	Surveys shall be conducted during the growing season immediately prior to construction.	Huntington Beach Wetlands Conservancy
Cultural Resources					
1	If buried cultural materials are encountered during construction, work shall be halted in that area until a qualified archaeologist evaluates the nature and significance of the find. This may require an archaeological test	Review of Plans and Specifications	A qualified archaeologist shall monitor excavation activities during the project construction. The cultural materials shall be evaluated	Prior to start of any dredging, grading, and maintenance activities.	Huntington Beach Wetlands Conservancy

#	Mitigation Measure	Implementing Action	Method of Verification	Timing of Verification	Responsible Party
	<p>program. If the Project Archaeologist recommends a test program, he or she shall prepare and implement a test plan.</p> <p>If the cultural material is deemed eligible for inclusion, mitigation shall consist of avoidance and preservation, if feasible. If avoidance is not feasible, the Project Archaeologist shall prepare a data recovery plan that identifies how the data necessary to address scientifically consequential research topics shall be recovered. The data recovery plan will then be implemented.</p>		<p>using CRHR eligibility criteria.</p>		
2	<p>If paleontological resources are found during project construction, the construction contractor shall immediately stop work in the area. The County shall be notified immediately and work shall not resume until the County can retain a qualified paleontologist to determine the significance of the find.</p>	<p>Review of Plans and Specifications</p>	<p>A County approved monitor shall be present during dredging, grading, and maintenance activities. If significant paleontological resources are found, they shall be salvaged and collected in compliance with the</p>	<p>Prior to start of any dredging, grading, and maintenance activities.</p>	<p>Huntington Beach Wetlands Conservancy</p>

#	Mitigation Measure	Implementing Action	Method of Verification	Timing of Verification	Responsible Party
			applicable regulations and sent to a designated museum.		
3	If a bone is uncovered that appears to be human, the County Coroner shall be contacted to determine the origin.	Review of Plans and Specifications	A County approved monitor shall be present during dredging, grading, and maintenance activities. If the coroner determines that the bone most likely represents a Native American interment, the Native American Heritage Commission in Sacramento shall be contacted to identify the most likely descendants.	Prior to start of any dredging, grading, and maintenance activities.	Huntington Beach Wetlands Conservancy