

**CALENDAR ITEM
C19**

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S 2

06/22/17
W 27085
M. Schroeder

GENERAL LEASE – OTHER

APPLICANT:

Tolowa Dee-ni' Nation

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, offshore of the Smith River, near Prince Island (Assessor's Parcel Number 102-010-12), Del Norte County.

AUTHORIZED USE:

Placement and monitoring of two water quality monitoring buoys for data collection; removal of all improvements upon completion of research project and upon lease expiration.

LEASE TERM:

5 years, beginning June 22, 2017.

CONSIDERATION:

\$125 per year.

SPECIFIC LEASE PROVISIONS:

1. Lessee shall notify Lessor in writing no more than 15 days after installation of each buoy of the exact location and GPS coordinates of each buoy.
2. Lessee shall provide notification to the Commander, U.S. Coast Guard District 11, Northern Region for inclusion in the Local Notice to Mariners, at least 14 days prior to each buoy installation and removal.
3. Lessee shall remove all Improvements no later than the end date of this lease.
4. Liability insurance in an amount no less than \$1,000,000 per occurrence.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501, and 6503;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

Applicant has submitted an application for a General Lease – Other for a research project to assess the effect of climate change on surf smelt habitat. The Applicant's project includes ocean water quality monitoring and data collection. The project will also allow the Applicant to collaborate with the Central and Northern California Ocean Observing System.

The Applicant proposes to install two water quality monitoring buoys for monitoring and data collection in the Pacific Ocean offshore of the Smith River. One buoy will be installed north of the Smith River and within a Marine Protected Area (MPA), the Pyramid Point State Marine Conservation Area (SMCA), and the second buoy will be installed south of the Smith River. The Tolowa Dee-ni' Nation is exempt from the area and take regulations for Pyramid Point SMCA (Cal. Code Regs., tit. 14, § 632, subd. (b)(1)) (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=90242>). The Applicant received a Scientific Collecting Permit from the California Department of Fish and Wildlife to conduct the monitoring and data collection work.

To avoid potential conflicts with rocks, reefs, eelgrass beds, and other sensitive habitat in the MPA, only a small portion of the MPA is being considered for placement of one of the buoys. The MPA covers most of the section of coast north of the mouth of the Smith River to the Oregon border.

The Applicant plans to effectively measure and provide information about long-term conditions that affect marine water quality and evaluate the state of coastal waters. Surf smelt are listed as a climate watch species and are at moderate-high to high ranking in vulnerability because of potential reductions in beach spawning habitat due to sea-level rise. The baseline water quality data that will be collected and analyzed will aid in habitat and species vulnerability assessment of climate change on key coastal fisheries to inform ocean and coastal management planning for the Applicant.

The proposed lease is limited to a 5-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the

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lease, the lessee will be required to remove all improvements from State land. The proposed lease requires the lessee to insure the lease premises and indemnify the State and pay annual rent for the occupation of the public land.

Climate Change Analysis:

The proposed project is a short-term (5-year) research/monitoring project offshore the Smith River in Del Norte County. The activity would not involve the construction of permanent structures or facilities. Due to the type of activity and short-term, temporary nature of the project, a sea-level rise analysis is not necessary at this time.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time or for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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.
2. 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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(5).

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

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

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APPROVALS OBTAINED:

California Department of Fish and Wildlife
California Coastal Commission

APPROVALS REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

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

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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(5).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to the Tolowa Dee-ni' Nation beginning June 22, 2017, for a term of 5 years, for the placement and monitoring of up to two water quality monitoring buoys for data collection, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$125; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27085

LAND DESCRIPTION

Two parcels of submerged lands situate in the bed of the Pacific Ocean near the mouth of the Smith River lying adjacent to Township 17 North, Range 1 West and Township 18 North, Range 1 West, Humboldt Meridian as shown on the Official U.S. Government Township Plats approved November 6, 1856, Del Norte County, State of California, more particularly described as follows:

PARCEL 1

COMMENCING at a NGS monument "B 1399" (Epoch 2010.00) having CCS83 Zone 1 coordinates of Northing (y) = 2608668.21 feet, Easting (x) = 5962570.39 feet which bears North 25° 30' 58" West, 38183.18 feet from a NGS monument "K 1399" (Epoch 2010.00) having CCS83 Zone 1 coordinates of Northing (y) = 2574209.29 feet, Easting (x) = 5979018.42 feet; thence North 21° 20' 57" West 6484.89 feet to the POINT OF BEGINNING the following eight (8) courses:

1. South 17° 39' 52" East 1468.12 feet;
2. South 12° 26' 25" West 4658.09 feet;
3. South 12° 13' 27" East 2089.65 feet;
4. South 25° 39' 17" West 2971.66 feet;
5. South 01° 23' 55" East 1578.88 feet;
6. South 85° 17' 46" West 4742.33 feet;
7. North 04° 34' 07" East, 12517.76 feet;
8. North 88° 13' 26" East, 5095.30 feet to the POINT OF BEGINNING.

PARCEL 2

COMMENCING at a NGS monument "B 1399" (Epoch 2010.00) having CCS83 Zone 1 coordinates of Northing (y) = 2608668.21 feet, Easting (x) = 5962570.39 feet which bears North 25° 30' 58" West, 38183.18 feet from a NGS monument "K 1399" (Epoch 2010.00) having CCS83 Zone 1 coordinates of Northing (y) = 2574209.29 feet, Easting (x) = 5979018.42 feet; thence South 14° 38' 16" West 10479.40 feet to the POINT OF BEGINNING the following nine (9) courses:

1. South 05° 57' 46" East 1250.33 feet;

2. South 05° 57' 53" West 1188.84 feet;
3. South 20° 43' 22" East 2041.24 feet;
4. South 11° 18' 52" West 6985.27 feet;
5. South 07° 19' 18" East 3351.76 feet;
6. South 09° 53' 25" West 13061.45 feet;
7. North 87° 05' 03" West, 5644.05 feet;
8. North 04° 47' 05" East, 27044.88 feet;
9. North 88° 38' 22" East, 5840.59 feet to the POINT OF BEGINNING.

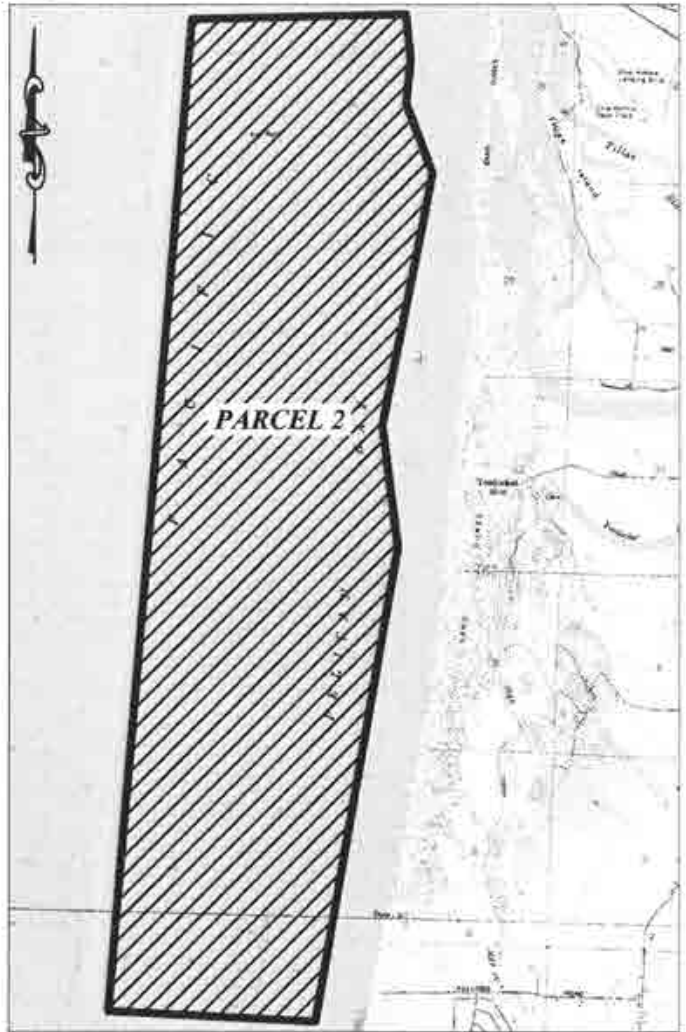
END OF DESCRIPTION

Prepared 04/21/2017 by the California State Lands Commission Boundary Unit



NO SCALE

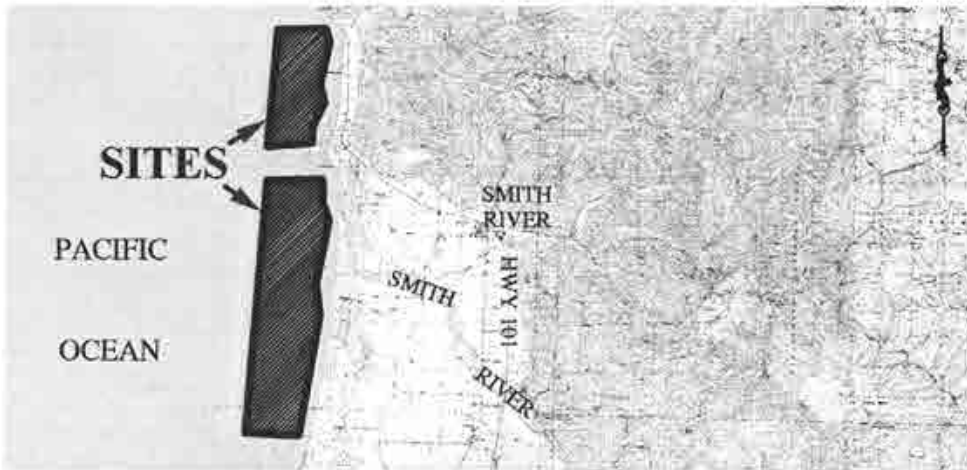
SITES



PACIFIC OCEAN NEAR SMITH RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B
 W 27085
 TOLOWA DEE-NI' NATION
 APN 102-010-12
 GENERAL LEASE -
 OTHER
 DEL NORTE 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.