

**STAFF REPORT
C64**

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08/17/17
PRC 8010.9
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GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

California Department of Parks and Recreation

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean adjacent to Refugio State Beach, near Goleta, Santa Barbara County.

AUTHORIZED USE:

Management of an existing underwater recreation area.

LEASE TERM:

20 years, beginning February 1, 2018.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On February 27, 1998, the Commission authorized the issuance of Lease No. PRC 8010.9, a General Lease - Public Agency Use, to the California Department of Parks and Recreation (State Parks), for the management of an underwater recreation area adjacent to Refugio State Beach, for a term of 20 years, beginning February 1, 1998 ([Item C17, February 27, 1998](#)). That lease will expire on January 31, 2018. The Applicant is now applying for a new lease.

The Advisory Board on Underwater Parks and Reserves approved the underwater recreation area on October 19, 1991. The inclusion of the

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sovereign land as part of the underwater recreation area allowed State Parks to allocate funding to develop the required onshore facilities to support the underwater recreation area. The onshore facilities available to the public include wash down stations, outdoor showers, and gear drop-off areas.

In addition to the onshore facilities that support the use of the underwater recreation area, the adjacent Refugio State Beach (Refugio) provides a lifeguard station on the west side of the cove. There are campgrounds on the east and west sides which are full every day in the summer and most weekends year-round. Visitors come to Refugio to enjoy the ocean, and it is a popular destination for surfing, kayaking, and diving.

The management of the underwater recreation area by State Parks provides for the preservation of the natural underwater resources for future generations, while also promoting access and enhancing Public Trust consistent uses such as boating, fishing, surfing, diving, and other water-related recreational activities. The underwater recreation area includes kelp beds, shallow rocky reefs, and sandy bottom habitat creating fishing and diving opportunities to explore and enjoy these natural resources. There are no structures or improvements located within the underwater recreation area.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. The proposed lease also requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

Climate Change Analysis:

The lease area consists of sovereign land located in the Pacific Ocean, offshore of Refugio State Beach in Santa Barbara County. Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding and larger tidal events, and can affect erosion and sedimentation rates. There are no structures or other improvements associated with this lease. Due to the offshore, underwater location of the underwater recreation area, the lease premises will not be adversely affected by the effects of sea-level rise.

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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 the 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 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.

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.

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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with the 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.

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 – Public Agency Use to the California Department of Parks and Recreation beginning February 1, 2018, for a term of 20 years, for the management of an underwater recreation area as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

PRC 8010.9

LAND DESCRIPTION

A parcel of tide and submerged land in the Pacific Ocean adjacent to Refugio State Beach in the County of Santa Barbara, State of California, described as follows:

Bounded on the North by the Ordinary High Water Mark of the Pacific Ocean and on the West, South and East by the following described line:

BEGINNING at the Northwest Corner of the lands shown as Parcel C on that certain Record of Survey filed January 8, 1965 in Book 68 at Page 96, Records of said County, said corner being on the Southerly line of the Southern Pacific Railroad Right of Way as shown on said Record of Survey;

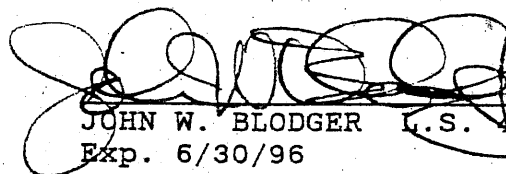
THENCE along the West line of said Parcel C,
South 01°44'26" West 148.54 feet;

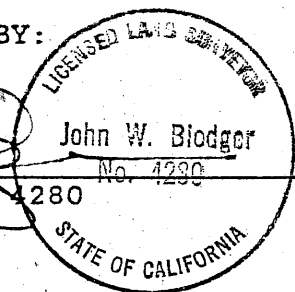
thence leaving said West line South 45° West 3300.00 feet;

thence Easterly 15,000.00 feet, more or less, to a point on the line defining 120°02'45" West Longitude, distant along said line of Longitude South 2640.00 feet from the center line of the lands described in the Deed to the Southern Pacific Railroad Company recorded November 4, 1899 in Book 68 of Deeds at Page 277, Records of said County;

thence North 2640 feet along said line of Longitude to said previously recited centerline and the end of the herein described line.

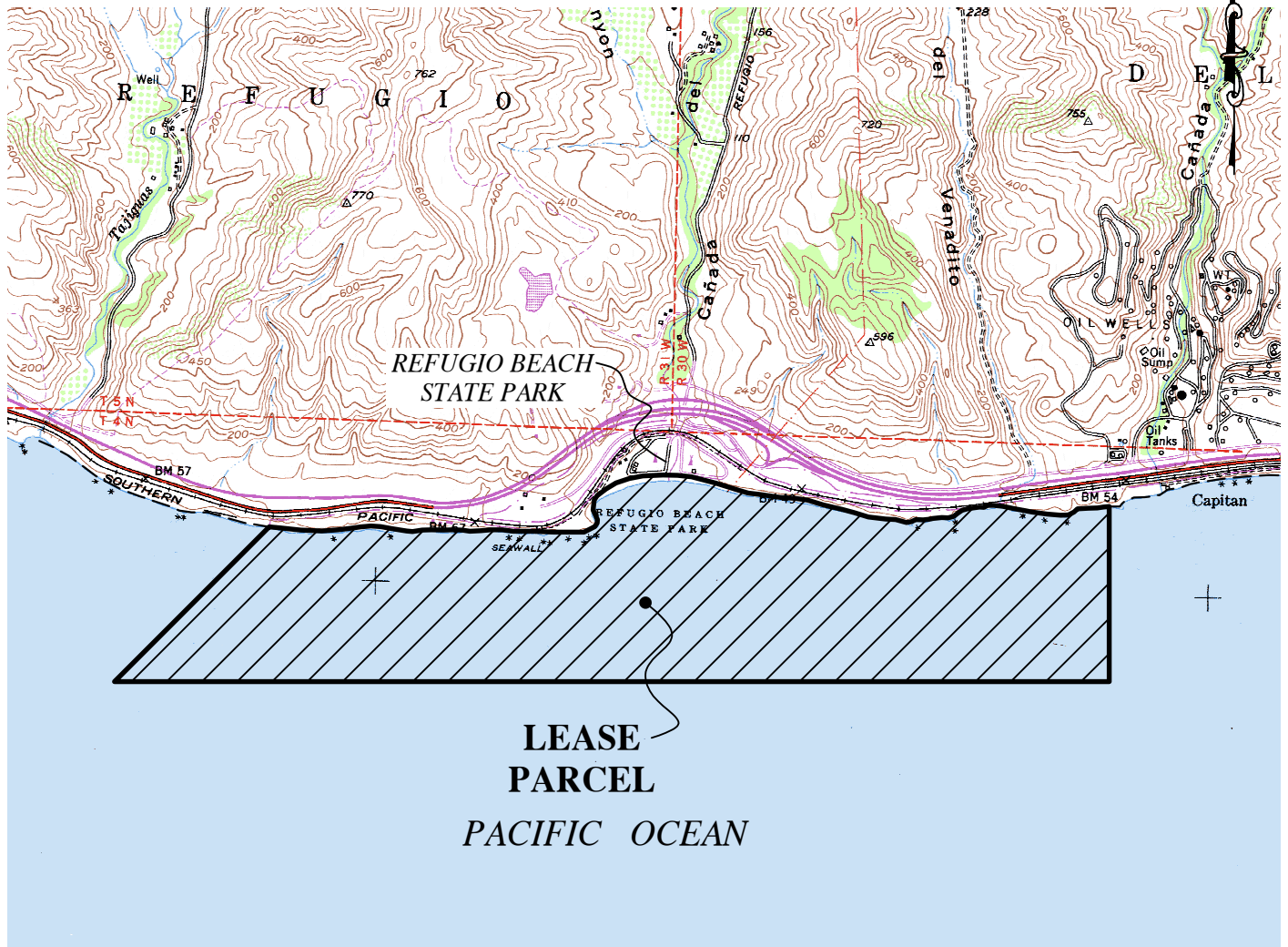
DESCRIPTION APPROVED BY:


JOHN W. BLODGER L.S. 1280
Exp. 6/30/96



NO SCALE

SITE



REFUGIO BEACH STATE PARK, CALIFORNIA

NO SCALE

LOCATION



SITE

PACIFIC OCEAN

MAP SOURCE: USGS QUAD

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 8010.9
CA DEPARTMENT OF PARKS
& RECREATION
GENERAL LEASE -
PUBLIC AGENCY USE
SANTA BARBARA COUNTY



SITE

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