

STAFF REPORT

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C. Hudson

**CONSIDER ADOPTION OF A NEGATIVE DECLARATION AND
ISSUANCE OF A GENERAL LEASE – OTHER**

APPLICANT:

Southern California Marine Institute

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, located approximately 0.3 mile offshore between Bunker Point and White Point on the Palos Verdes Peninsula, city of Rancho Palos Verdes, Los Angeles County.

AUTHORIZED USE:

Construction, restoration, enhancement, use, and maintenance of the Palos Verdes Reef Restoration Project (Project).

LEASE TERM:

25 years, beginning February 27, 2018.

CONSIDERATION:

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.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence, or equivalent staff-approved self-insurance program.

Other:

1. Construction activities may only occur between May 1 and September 30 to avoid the lobster-fishing season.
2. Within 60 days of Project completion, Lessee shall provide Lessor a set of as-built plans detailing the location of the

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improvements including, if necessary, revised Exhibits A and B. The revised Exhibits shall be incorporated into the Lease and shall replace the existing Exhibits, upon review and written approval by the Commission's Executive Officer or designee.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Proposed Project:

The Applicant has applied for a General Lease – Other for the construction, restoration, enhancement, use and maintenance of the Project, with support from the U.S. Department of Commerce, NOAA, and MSRP. The Project was developed to compensate for biological resource losses caused by contaminated sediments from the Palos Verdes Shelf Superfund Site. This reef restoration project will restore historic rocky reef habitat that was buried by sedimentation from nearby landslides, thereby providing essential fish habitat and substrate for kelp, other marine algae, and marine invertebrates, creating a productive rocky-reef ecosystem in an area with limited hard substrate.

California Environmental Quality Act:

NOAA is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) for the proposed Project and prepared an Environmental Assessment (EA). The Commission is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063). The Initial Study concluded that "there is no substantial evidence, in light of the whole record before the agency, that the Project may have a significant effect on the environment" (State CEQA Guidelines, § 15070, subd. (a)).

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), NOAA and Commission staffs prepared a EA/Negative Declaration (ND), with the ND, identified as CSLC ND No. 793, State Clearinghouse No. 2017021066, included as an appendix to the EA. The EA and Initial Study/ND were circulated for a 30-day public review period.

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The notification of the EA/ND for the Palos Verdes Reef Restoration Project (Project) followed the public noticing requirements pursuant to State CEQA Guidelines section 15072. Notification of the 30-day public comment period for the EA/ND was sent out on February 21, 2017, to 87 staff members of local, county, state, and federal government, representatives of Native American tribes, councils, and nations, academic and independent research institutions, and other non-government organizations throughout the region. Additionally, a newspaper advertisement was published in *The Los Angeles Times* on February 25, 2017, and included information about the public comment period; how to submit comments to the Commission; and the date, time, and location of a public meeting.

At the close of the public comment period on March 22, 2017, NOAA and Commission staffs received 46 comment letters. NOAA staff also held a public meeting on March 2, 2017, during the 30-day public review to provide an informal opportunity for stakeholders to ask clarifying questions directly to MSRP staff, which includes staff from the Commission, regarding the EA/ND.

The primary areas of concern raised during and subsequent to the public comment period and a summary of the response to these concerns include:

- Comment: Dichlorodiphenyltrichloroethane (DDT) and Polychlorinated biphenyl (PCB) concentrations in the sediment at the proposed Project site

Response:

- The amount of DDT and PCB in the sediment at the proposed Project site is at the ambient levels consistent with the rest of the nearshore habitats in the Southern California Bight (including Abalone Cove State Marine Conservation Area [SMCA]). Reef construction would not expose any buried pollutants that are not currently available to the ecosystem.
- The proposed reef would be constructed on top of a shallow layer of sand (approximately 10 to 15 centimeters up to 1 meter) that is covering a historic low-relief reef/bedrock, thus very little sediment would be disturbed during quarry rock placement.
- Areas of high concentrations of DDT and PCB in the sediment are located at White Point outfall, where the Superfund Site is located, approximately 2 kilometers away in deeper water

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(greater than 30 meters). The proposed site is not in this area of concern.

- Comment: Site selection

Response:

- The proposed Project's purpose is to restore historic rocky reef habitat that was buried by sedimentation from nearby landslides, thereby providing essential fish habitat and substrate for kelp, other marine algae, and marine invertebrates, creating a productive rocky-reef ecosystem in an area with limited hard substrate.
 - This reef restoration project will compensate for biological resource losses caused by contaminated sediments from the Palos Verdes Shelf Superfund Site. Since injuries were concentrated on the Palos Verdes Shelf and the Ports of Los Angeles and Long Beach, restoration in this area is the preferred option.
 - Creating reef outside of the Palos Verdes Shelf would not replace this lost habitat as effectively.
 - The sediment depth and location are ideal for a reef. Nearby reefs are very productive, and the proposed reef was modeled after the most productive reef (the KOU Reef) on the Palos Verdes Peninsula.
- Comment: White croaker (*Genyonemus lineatus*) migration and impacts to subsistence fishing

Response

- White croaker are not found at the proposed Project site. This has been confirmed through multiple dives/surveys conducted by NOAA and Vantuna Research Group in this area and white croaker that have never observed this species at the proposed site. The existing condition where the proposed reef would be constructed, which consists of a shallow layer of sand (less than 1 meter) that is covering a historic low-relief reef/bedrock, is not considered white croaker habitat.
- White croaker prefer muddy/silty, organic-rich sediments deep enough to support the burrowing worms and other benthic infauna that typically comprise their diet. This is why this

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species is found in deeper waters along the coast, but also in shallower waters in the coastal bays and harbors. This type of habitat can be found at White Point outfall and in Los Angeles and Long Beach harbors.

- The proposed Project would create rocky reef habitat, which is not suitable habitat for white croaker and which would not attract white croaker. This reef would likely attract rocky-reef associated species such as kelp bass (*Paralabrax clathratus*) and black perch (*Embiotica jacksoni*), which are less limited by fish consumption advisories than white croaker.
 - Since white croaker are not found at the proposed site, the proposed reef would not displace white croaker and cause them to migrate to adjacent waters (including to the Los Angeles and Long Beach harbors).
 - The proposed restoration reef is approximately 0.3 mile offshore, beyond kelp beds, and is not an area accessible to shore-based anglers.
- Comment: Potential effects on the success of the Abalone Cove SMCA as a result of the proposed Project

Response:

- The proposed reef is not expected to attract fish from the SMCA. The distance between the proposed reef and the SMCA is greater than the typical home range of the majority of rocky reef species.
 - The only potential effects on the SMCA are expected to be an increase in the overall health of the marine biological community by providing increased larval connectivity by increasing the overall available habitat in the region.
- Comment: Potential impacts of the proposed Project on surf breaks/surfing conditions near the proposed Project site

Response:

- The water depth between the top of the proposed reef and the water's surface is at least 12 meters.

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- Typical surfable waves on our coast will not break until a bottom depth of less than 6 meters is reached. Wave conditions along the Rancho Palos Verdes coastline are controlled by shallow natural reefs that lie inshore of the Project site in water depths of approximately 4 to 6 meters.
- Since the reef modules are comprised of narrow sets of individual rock piles rather than a single large obstacle set parallel to shore, most of the wave energy will pass well over the top of the reef and through the channels between reef modules. The naturally existing reef that these restoration reef modules are modeled after lies directly in the path of the Japan Cove surf break and clearly does not cause any harm to surfing conditions.
- Comment: Potential impacts to the proposed reef of future landslides and ongoing sedimentation at the proposed Project site

Response:

- This reef is designed to be resilient against the ongoing sedimentation caused by the Portuguese Bend Landslide by maximizing the amount of vertical relief of the reef itself. Natural high-relief reef patches in the area have persisted (i.e., are not being buried) and remain very productive because the rocks are well above the sediment.
- The project specifically incorporates sedimentation into the design. The placement of the reef modules was designed so that sediment can move between the reef modules within a block through sand channels that are 10 to 20 meters wide. This will help to prevent the buildup of sediment within reef blocks as sand is moved by wave action and longshore currents.
- The reef placement is below (deeper than) the inshore high relief reefs and as such will not affect or alter wave action or other coastal sediment transport processes.
- The placement of an artificial reef 0.48 kilometer offshore will not affect the rate of erosion of the toe of the landslide, which is approximately 2 kilometers from the nearest reef module. The rate of the landslide itself is controlled by terrestrial processes and will not be affected by the restoration reef.

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- Comment: Project funding

Response:

- The Project and associated studies are funded by the Montrose Settlements Restoration Program (MSRP). For information about the settlement and MSRP, please see the “Public Trust and State’s Best Interests Analysis” below.

- Comment: Stakeholder outreach and communication

Response:

- The concept for the proposed Project was part of the EA for the MSRP Restoration Plan-Phase 2. A 45-day public comment period was held from October 17, 2011, to December 19, 2011. Additionally, two public meetings were held on October 26, 2011, and November 9, 2011. The final plan was published in June 2012.
- For information about public outreach and communication for the proposed Project’s EA, including NOAA’s independent outreach and the requirements under CEQA, please see below.

The comments received were compiled and summarized, and responses were prepared by NOAA and Dr. Daniel Pondella (Director, Southern California Marine Institute; Director, Vantuna Research Group, Occidental College), with input from Commission staff. Additionally, two white papers were prepared in response to the comments received regarding DDT concentrations and surfing impacts at the Project site. Finally, a reef design report completed in October 2016 as part of the initial reef design was provided in response to public comments. The reef design report provides a summary of the comprehensive monitoring and surveys of existing reefs around the Palos Verdes Peninsula; details the design criteria for the restored reef and describes design alternatives; and outlines a post-construction monitoring plan.

In response to the comments received during the public comment period, NOAA staff independently held an additional public meeting on October 11, 2017, at the Malaga Cove Library Gallery Room in Palos Verdes Estates. Approximately 17 members of the public attended the meeting, as well as staff from the California Department of Fish and Wildlife. Formal presentations were given by David Witting (NOAA) and Dr. Pondella, followed by a question and answer (Q&A) session. Many of the primary areas of concern raised during the public comment period were also

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echoed during the Q&A session. In addition, concerns were raised regarding the environmental review and public notification process, which include the important Project-related actions and dates outlined below.

Action	Date
Start of Public Comment Period	February 21, 2017
First Public Meeting	March 2, 2017
Public Notice in The Los Angeles Times	February 25, 2017
End of Public Comment Period	March 22, 2017
Second Public Meeting	October 11, 2017
Appendix D Posted to Commission Website	February 13, 2018
Commission Meeting	February 27, 2018

The responses to comments, two white papers regarding surfing impacts and DDT concentrations, and the reef design report described above were subsequently added as Appendix D to the EA/ND. Staff determined that this change does not constitute a “substantial revision,” as defined in State CEQA Guidelines section 15073.5, subdivision (b), because the responses to comments, white papers, and reef design report do not identify new significant environmental effects or mitigation measures. Recirculation of the EA/ND prior to Commission consideration is not required pursuant to State CEQA Guidelines section 15073.5, subdivision (c)(4) because the responses to comments, white papers, and reef design report merely clarify, amplify, or make insignificant modifications to the ND.

Based upon the Initial Study, the EA/ND, and the comments received in response thereto, there is no substantial evidence that the Project will have a significant effect on the environment; California Code of Regulations, title 14, section 15074, subdivision (b).

Public Trust and State’s Best Interests Analysis:

From the late 1940s to the early 1970s, millions of pounds of DDTs and PCBs were discharged into ocean waters off the southern California coast. Most of these contaminants originated from the Montrose Chemical Corporation manufacturing plant located in Torrance, California. The Montrose Chemical Corporation discharged contaminants onto the Palos Verdes Shelf through an ocean outfall offshore from White Point, harming fish, birds, and other wildlife in the area.

In 2001, the Commission, NOAA, and other federal and state agencies reached a settlement with the parties responsible for the contamination

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and established the MSRP. The MSRP's goal is to restore, replace, rehabilitate, or otherwise compensate for the natural resources destroyed by the DDT and PCB contamination in the region. The MSRP is overseen by a Trustee Council which includes the Commission; NOAA; the United States Fish and Wildlife Service; the National Park Service; the California Department of Fish and Wildlife; and the California Department of Parks and Recreation.

In 2005, the Trustee Council approved [MSRP Restoration Plan-Phase 1](#), which included fishing, fish habitat, and bird restoration projects. In 2012, the Trustee Council released [MSRP Restoration Plan-Phase 2](#), which allocated the roughly \$15 million remaining in the settlement fund for additional projects. The Trustee Council approved the proposed Project, which is expected to cost \$6.49 million, as part of MSRP Restoration Plan-Phase 2.

In MSRP Restoration Plan-Phase 2, the Trustee Council determined that the Project would effectively provide long-term benefits to fish on the Palos Verdes Shelf by restoring reef habitat buried by landslides.

While not associated with DDT and PCB contamination, landslides caused by human activity destroyed large amounts of fish habitat in the Palos Verdes Shelf. Road construction on Palos Verdes Drive triggered the Portuguese Bend Landslide in 1956, burying natural rocky reef in the area. The landslide continued to release sediment through the 1990s, but by 1999 had slowed dramatically thanks to efforts to stabilize the area. However, the Portuguese Bend Landslide continues to release sediment due to wave action.

Additionally, a landslide occurred from the 18th hole of the Trump National Golf Club, which sits above Bunker Point, on June 2, 1999. While this landslide was stabilized relatively quickly, there was a large release of sediments into the ocean which buried additional reef habitat.

The Trustee Council determined that the Project, by restoring reef habitat buried by these landslides, would help compensate for the harm caused by DDT and PCB contamination in the Palos Verdes Shelf.

The proposed Project site is located on 69 acres of sovereign land approximately 0.3 mile offshore of the city of Rancho Palos Verdes, between Bunker Point and White Point on the Palos Verdes Peninsula, beyond existing kelp beds at a water depth of approximately 15 to 21

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meters. The entire area of the Project site measures approximately 133 acres and parallels about 1.5 miles of coastline.

The proposed Project site is a former reef buried by a landslide. The proposed reef was designed to be resilient against any ongoing sedimentation caused by the Portuguese Bend Landslide. The proposed reef and its construction will not affect any landslides in the area.

The proposed Project site is not located in the Palos Verdes Superfund Site, which is about 2 kilometers away. The proposed Project site is not contaminated – it has levels of contaminants similar to ambient levels in the region, including the nearby Abalone Cove State Marine Conservation Area. Project activities will not disturb the Superfund Site or release any latent contamination.

The proposed reef will not affect waterborne recreation. The reef would be too deep to affect wave breaks for surfing, and would not negatively impact boating.

If the Project is approved, the artificial rocky-reef habitat will be created through the placement of 70,300 tons of quarried rock on 40 acres of sandy ocean bottom within the Project site. The quarry rock will be transported to the site by tugboat and supply barge from existing quarries on Santa Catalina Island, Los Angeles County.

The supply barges will be towed by a tug boat, two at a time, approximately 30 miles to the Project site. Each trip will transport approximately 4,000 tons of quarry rock. A total of 18 trips from Santa Catalina Island to the Project site will be necessary to complete the Project. The rock will be clean and free of contaminants pursuant to the California Department of Fish and Wildlife artificial reef material specification guidelines. The rock will be placed at the Project site using a derrick barge, flat-deck supply barge, GPS markers, anchoring points, rock placement line, and front-end track loader. A “push off” construction method using a front-end track loader will be used to place the rock within the Project area and parallel with the shoreline. Construction will only occur between May 1 and September 30 to avoid the lobster-fishing season and to utilize the calm weather conditions that are typical of that time of year.

The proposed Project would benefit the Public Trust by expanding existing rocky-reef habitat, which in turn is expected to improve aquatic resources and functions by providing suitable habitat substrate and shelter for fish

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and other marine organisms such as kelp, bass, and California sheephead on sovereign land. The proposed reef, and its construction, will not negatively impact Public Trust uses such as surfing, boating, or other waterborne recreation.

Climate Change:

Project construction emissions would not exceed the South Coast Air Quality Management District air quality or greenhouse gas (GHG) thresholds of significance and would not have a significant impact on the environment or substantially contribute to a global GHG emissions. Additionally, Project construction would not conflict with applicable plans, polices, or regulations adopted for the purposes of reducing GHG emissions. Therefore, the Project would not result in significant impacts to GHG emissions. Due to the offshore, underwater location of the proposed artificial reef, the Project would not be affected by sea-level rise.

Conclusion:

The restoration Project is a water-dependent use that will improve habitat for fish and marine organisms, which are Public Trust resources, on sovereign land. As reviewed in the Negative Declaration prepared for this project, discussed above, there is no substantial evidence that this Project will have a significant effect on the environment. As such, staff believes this particular use of public land by the Applicant, for a public benefit, is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation system.
2. 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:

None

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers (Los Angeles District)
California Coastal Commission
California Department of Fish and Wildlife
City of Rancho Palos Verdes
Regional Water Quality Control Board, Los Angeles Region
South Coast Air Quality Management District
The Bay Foundation
Santa Monica Bay Restoration Commission
Los Angeles County Sanitation District

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the ND, CSLC ND No. 793 (February 2017), State Clearinghouse No. 2017021066, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto and that the ND reflects the Commission's independent judgment and analysis.

Adopt the ND and determine that the Project, as approved, will not have a significant effect on the environment.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

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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:

1. Authorize issuance of a General Lease – Other to Southern California Marine Institute beginning February 27, 2018, for a term of 25 years, for construction, restoration, enhancement, use, and maintenance of the Palos Verdes Reef Restoration Project as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be 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; liability insurance in an amount no less than \$1,000,000 per occurrence, or equivalent staff-approved self-insurance program.
2. Authorize the Executive Officer or designee to approve replacement of Exhibit A, Land Description, and Exhibit B, Site and Location Map, if appropriate, upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction and installation.

EXHIBIT A

W 26853

LAND DESCRIPTION

A parcel of submerged land in the bed of Pacific Ocean, Southwest of the City of Rancho Palos Verdes, situate in the County of Los Angeles, State of California, more particularly described as follows:

COMMENCING at a NGS horizontal control monument stamped PALOS VERDES A (PID AA9330) bears S 14° 13' 43" W, 9521.16 feet to a point in the bed of the Pacific Ocean also being the POINT OF BEGINNING; thence along the following six (6) courses:

1. S 20°10'59" W, 914.37 feet;
2. N 65°06'56" W, 5494.70 feet;
3. N 29°52'27" E, 1279.82 feet;
4. S 29°54'42" E, 993.35 feet;
5. S 81°47'12" E, 2320.33 feet;
6. S 53°45'37" E, 2319.37 feet to the POINT OF BEGINNING.

The basis of bearings of this description is the California Coordinate System of 1983, Zone 5. All distances are grid distances.

END OF DESCRIPTION

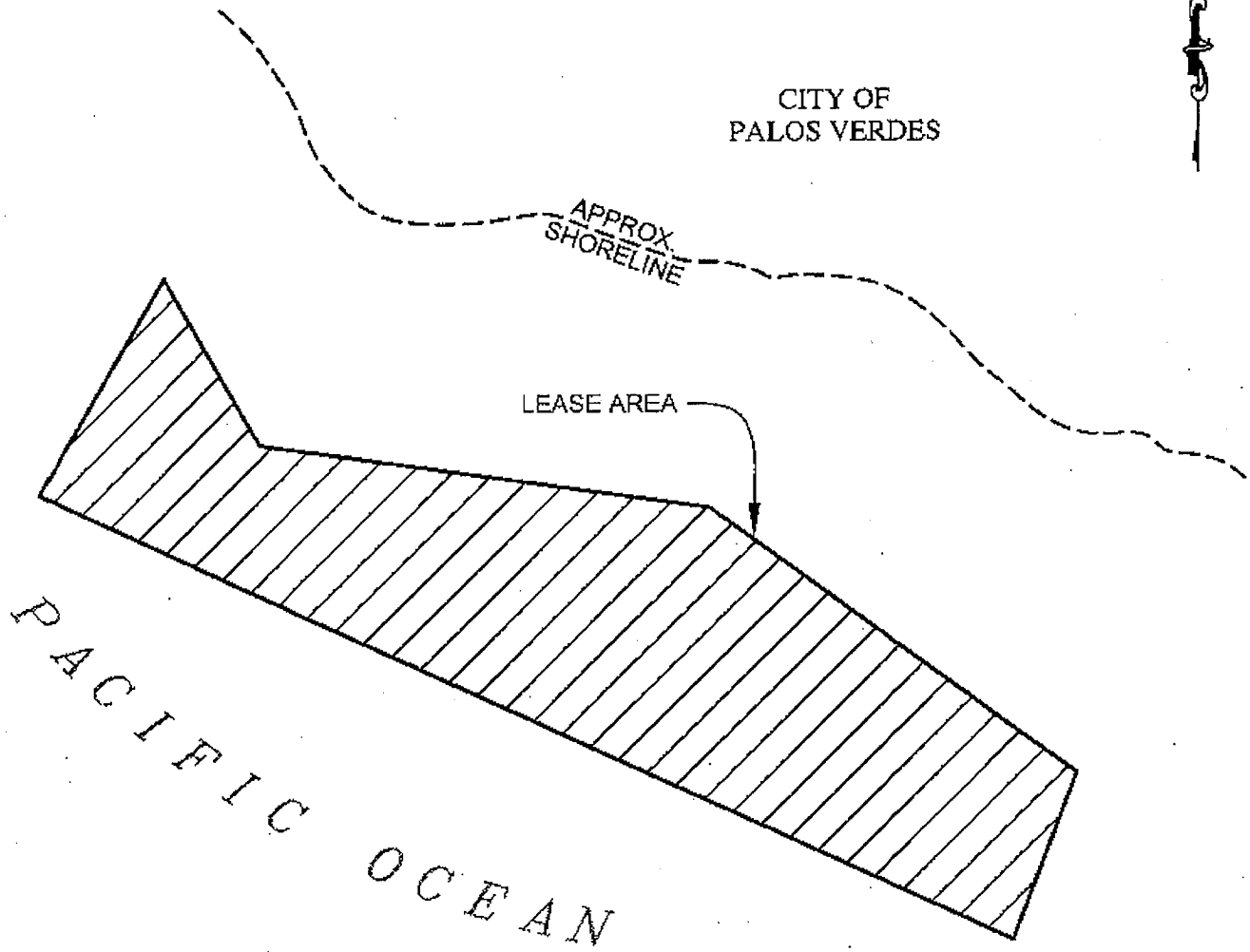
Prepared 03/01/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

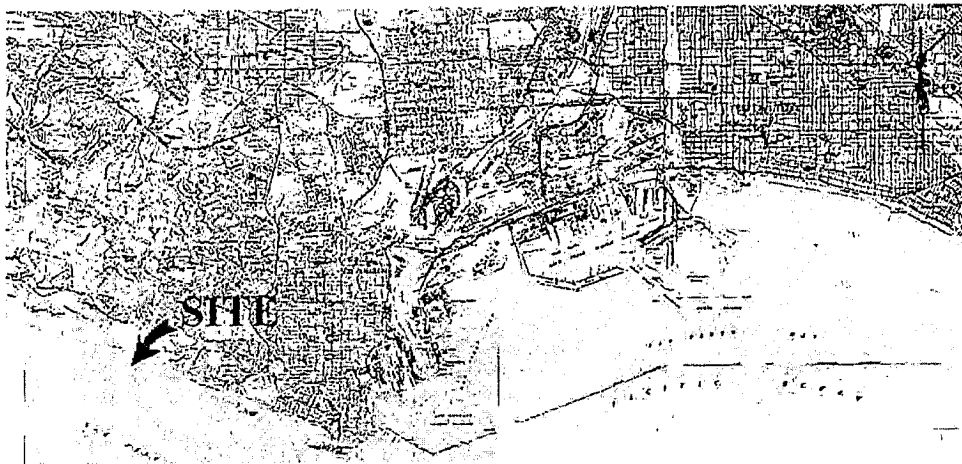
CITY OF
PALOS VERDES



OFFSHORE THE PACIFIC OCEAN, CITY OF RANCHO PALOS VERDES

NO SCALE

LOCATION



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

W 26853
SOUTHERN CALIFORNIA
MARINE INSTITUTE
GENERAL LEASE - OTHER
LOS ANGELES COUNTY



RGB 3/01/17