

**STAFF REPORT
C29**

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08/23/18
PRC 9408.1
M. Schroeder

AMENDMENT OF LEASE

APPLICANT/LESSEE:

Tolowa Dee-ni' Nation

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).

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.

PROPOSED AMENDMENT:

Amend the lease to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only). All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and State's Best Interests Analysis:

On June 22, 2017, the Commission authorized a 5-year General Lease – Other with the Applicant for placement and monitoring of two water quality monitoring buoys for data collection; removal of all improvements upon

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completion of the research project and upon lease expiration ([Item C19, June 22, 2017](#)). The lease will expire on June 21, 2022. The Lessee is now applying to amend the lease for the expansion of the lease area.

The goal of the project is to conduct baseline ocean water chemistry monitoring to aid in the assessment of climate change in the development of ocean and coastal management planning. In addition, the project will start the collection of ocean baseline water quality data that can help inform an assessment of smelt habitat and a State-designated Marine Protected Area (MPA) and be used for long-term water quality monitoring to assess climate change. Through the project, the Lessee will be able to collaborate with the Central and Northern California Ocean Observing System.

The Lessee will install two water quality monitoring buoys in the Pacific Ocean offshore of the Smith River. One buoy will be installed north of the Smith River and within 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)(B)(1)) (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=90242>).

To provide greater flexibility in the placement of the monitoring buoys in order to avoid potential conflicts with seagrass beds, rocky substrate or other important habitat, the Lessee has applied to expand the lease area.

The lease includes certain provisions protecting the public's use of the lease area by requiring the Lessee to obtain necessary permits. The lease has a limited term of 5 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time. The lease also contains provisions that require the lessee to remove the improvements at the end of the lease term. The lease requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

The 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 temporary nature of the project, the project will not be affected by sea-level rise.

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Conclusion:

For all the reasons above, staff believes the issuance of this lease amendment is consistent with the common law Public Trust Doctrine and is in the best interests of the State at this time.

OTHER PERTINENT INFORMATION:

1. A letter of non-objection was issued for this amendment on July 20, 2018 to allow the Lessee to meet their deployment date targets.
2. 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.
3. 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.

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

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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 amendment of lease will not 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.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9408.1, a General Lease – Other, effective August 23, 2018, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

EXHIBIT A

PRC 9408.1

LAND DESCRIPTION

A parcel 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:

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 31° 44' 30" West 8247.65 feet to the POINT OF BEGINNING the following four (4) courses:

1. South 01° 27' 06" West 32635.11 feet;
2. North 88° 31' 44" West 16535.86 feet;
3. North 01° 29' 27" East 32635.11 feet;
4. South 88° 31' 44" East 16513.51 feet to the POINT OF BEGINNING.

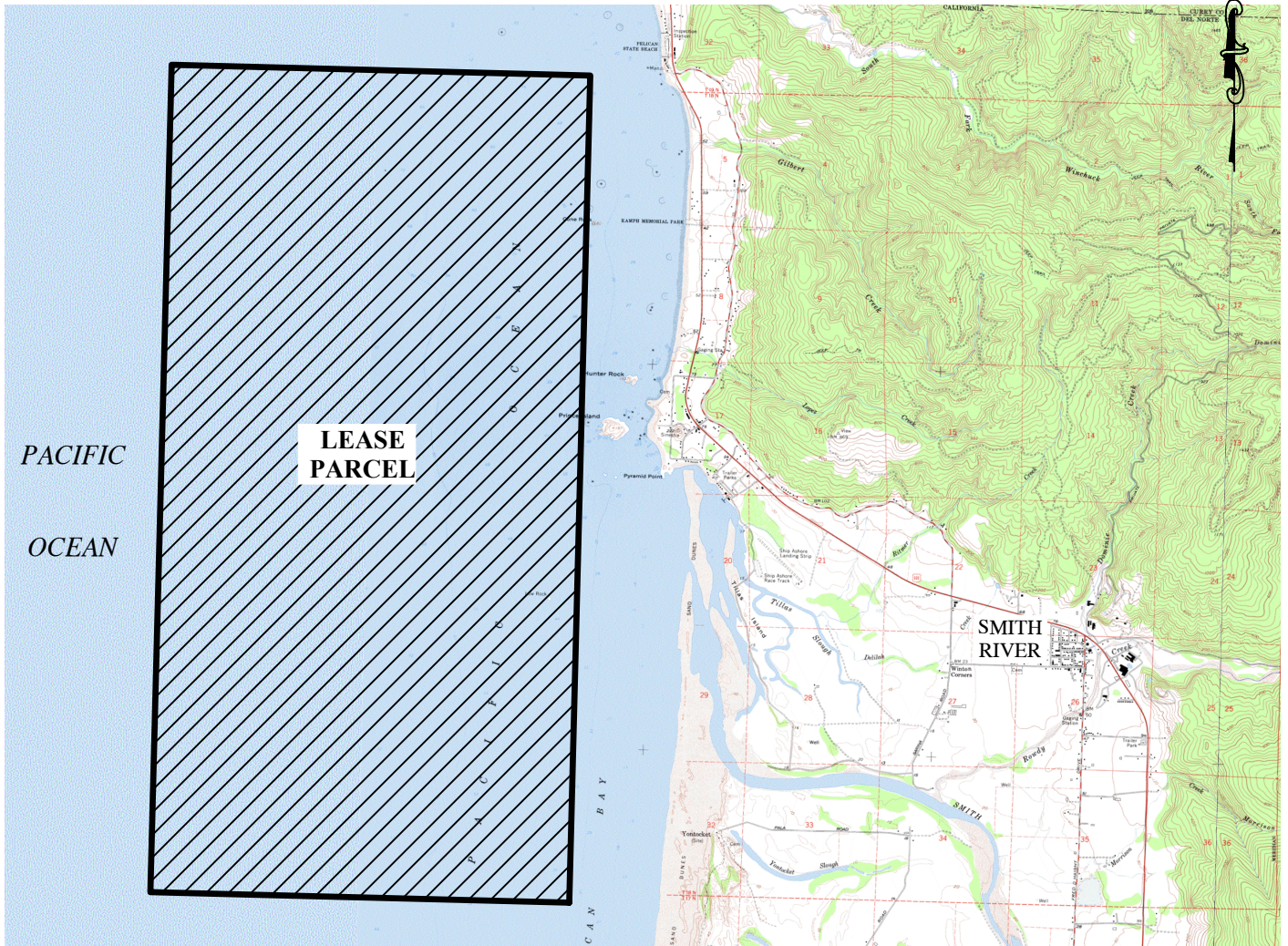
END OF DESCRIPTION

Prepared 05/24/2018 by the California State Lands Commission Boundary Unit



NO SCALE

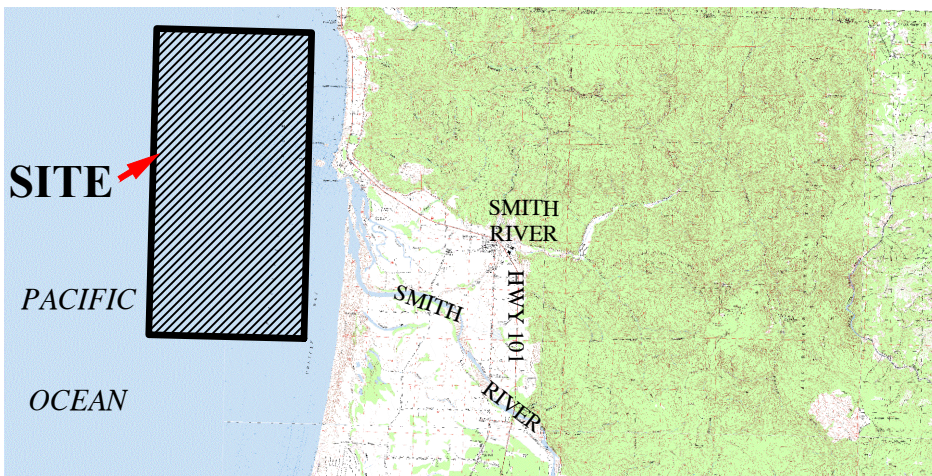
SITE



PACIFIC OCEAN NEAR SMITH RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9408.1
 TOLOWA DEE-NI' NATION
 APN 102-010-12
 GENERAL LEASE -
 OTHER
 DE 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.