

**CALENDAR ITEM
C35**

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S 3

08/22/08
WP 4816.9
N. Smith

**TERMINATION OF EXISTING LEASE AND ISSUANCE
OF GENERAL LEASE - PUBLIC AGENCY USE**

LESSEE/APPLICANT:

Sanitary District No. 5 of Marin County
2001 Paradise Drive
Tiburon, CA 94920

AREA, LAND TYPE, AND LOCATION:

0.069 acres, more or less, of sovereign lands in San Francisco Bay, Paradise Cove, in the city of Tiburon, Marin County.

AUTHORIZED USE:

Construction, use, operation and maintenance of a six-inch diameter wastewater outfall pipeline.

LEASE TERM:

25 years, beginning August 25, 2008.

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 interest.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On July 19, 1993, the Commission authorized the issuance of a 20-year General Lease – Public Agency Use to the District for the continued use and maintenance of the existing four-inch diameter outfall pipeline. The pipeline is approximately 40 years old and was originally 400-foot-long and discharged to a minimum water depth at low tide of approximately 12 feet. Recent investigations by the District indicate that a large portion of the pipeline has broken off and the remaining pipe, which is located on lands sold and patented into private ownership by the Board of tideland

CALENDAR ITEM NO. C35 (CONT'D)

Commission and only the Public Trust Easement is under the jurisdiction of the Commission, is now approximately 100-feet-long and discharges to a depth of approximately ten feet, which minimizes dilution. A new outfall needs to be constructed to increase the length offshore in order reach the same location as originally constructed to provide a deeper discharge depth and to increase dilution. In addition to the construction of the new outfall pipeline, the District proposes to construct a new wastewater treatment plant. Staff is recommending that the existing lease to the District be terminated and that a new lease be issued for the new outfall pipeline.

3. The District acknowledges that an approximate 300-foot section of the existing four-inch pipeline broke and has become disconnected. Despite attempts by the District to locate the pipeline, the whereabouts of the pipeline at this time is unknown. However, should the pipeline be found and is located on lands under the jurisdiction of the Commission, the new lease provides that the District will be responsible for the pipeline and shall remove the pipeline within 30 days of receiving notice from Commission staff.
4. The proposed six-inch diameter outfall pipeline will extend 400 feet from the Paradise Cove Waste Water Treatment Plant into the San Francisco Bay. The Applicant proposes to use the horizontal directional drilling (HDD) construction method for almost all of the 400 foot pipeline of which approximately 300 feet will be located on sovereign lands. The drilling will start at the treatment plant and the pipeline will be routed under the existing rock rip-rap shoreline slope protection and end at a point near the diffuser in the Bay. The remaining 100 feet of the pipeline will be constructed as a single piece that will be lowered into the Bay and secured by a concrete cradle resting on the Bay bottom. This cradle anchor will also protect the diffuser and pipeline from boat anchor drag or other forces.
5. **Terminate Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

CALENDAR ITEM NO. **C35** (CONT'D)

6. **New Lease:** A Mitigated Negative Declaration (SCH #2008022130) was prepared and adopted on April 23, 2008, for this project by Sanitary District No. 5 of Marin County. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring was adopted by the Sanitary District No. 5 of Marin County on April 23, 2008.
7. 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:

Sanitary District No. 5 of Marin County

FURTHER APPROVALS REQUIRED:

San Francisco Bay Conservation and Development Commission, Department of Fish and Game, U.S. Army Corps of Engineers and the Regional Water Quality Control Board

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

January 1, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

ISSUANCE OF NEW LEASE: FIND THAT A MITIGATED NEGATIVE DECLARATION, SCH NO. 2008022130, AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED ON APRIL 23, 2008, FOR THIS PROJECT BY SANITARY DISTRICT NO. 5

CALENDAR ITEM NO. **C35** (CONT'D)

OF MARIN COUNTY AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN THE ENVIRONMENTAL DOCUMENT IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION.

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:

1. AUTHORIZE TERMINATION OF LEASE NO. PRC 4816.9, A GENERAL LEASE – PUBLIC AGENCY USE, EFFECTIVE AUGUST 24, 2008.

2. AUTHORIZE ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE LEASE TO SANITARY DISTRICT NO. 5 OF MARIN COUNTY BEGINNING AUGUST 25, 2008, FOR A TERM OF 25 YEARS, FOR CONSTRUCTION, USE, OPERATION AND MAINTENANCE OF A SIX-INCH DIAMETER WASTEWATER OUTFALL PIPELINE AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND AS DESCRIBED ON EXHIBIT B 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 INTEREST.