

CALENDAR ITEM

C77

A 35

10/19/12

PRC 7456.1

S 19

D. Simpkin

**CONSIDER ACCEPTANCE OF A LEASE QUITCLAIM DEED, ISSUANCE OF A
GENERAL LEASE – RIGHT-OF-WAY USE, AND ASSIGNMENT OF LEASE**

LESSEE/ASSIGNOR:

The Cultured Abalone, Inc.
2927 De La Vina Street, Suite C
Santa Barbara, CA 93105

ASSIGNEE:

The Cultured Abalone Farm, LLC
9580 Dos Pueblos Canyon Road
Goleta, CA 93117

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean, near Goleta, Santa Barbara County.

AUTHORIZED USE:

Continued use, maintenance, and operation of two 18-inch diameter intake pipelines extending 1,550 feet into the Pacific Ocean and three 8-inch diameter intake pipelines extending 850 feet into the Pacific Ocean.

LEASE TERM:

20 years, beginning October 19, 2012.

CONSIDERATION:

Annual rent in the amount of \$2,430, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Surety Bond:

\$10,000

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Other:

1. Should the Cultured Abalone Farm (Assignee), LLC fail to purchase the assets of the Cultured Abalone, Inc. within one year of the issuance of this lease, the authorized assignment will become null and void. Any later assignment will require the submittal of an application and authorization by the Commission.

OTHER PERTINENT INFORMATION:

1. Lessee has permission to use the upland adjoining the lease premises.
2. On September 27, 1990, the Commission authorized the issuance of Lease No. PRC 7456.1, a General Lease – Right-of-Way Use to The Cultured Abalone, Inc., for a 30-year term, effective October 1, 1990, for the installation, operation, and maintenance of three eight-inch diameter pipelines for use with the upland aquaculture facility (abalone farm). On December 16, 1998, the Commission authorized an Amendment of Lease to authorize the installation of two 8-inch diameter pipelines and the extension of the existing 8-inch diameter pipelines. The lease expires on September 30, 2020.
3. On September 14, 2011, the Lessee submitted an application to extend the term of the existing lease an additional 10 years.
4. Since the lease is more than 20 years old, Commission staff proposed that the Lessee submit a quitclaim of its leasehold interest and enter into a new 20-year lease. This option allows the Commission to update the lease conditions to current standards.
5. In addition, the Lessee has requested an assignment of the lease. It is expected that the Assignee will complete the purchase and take control of the lease premises within one year of the Commission's authorization. Should the Assignee fail to complete the purchase within one year of the Commission authorization of this lease, the authorized assignment will become null and void and the Cultured Abalone, Inc. will remain in control of the lease premises. Any later assignment will require the Commission's approval.
6. **Acceptance of a Lease Quitclaim Deed:** The staff recommends that the Commission find that the subject acceptance of a quitclaim deed does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA) because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

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

7. **Issuance of a New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of 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.

8. 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 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Acceptance of Lease Quitclaim Deed and Assignment of Lease: Find that the subject acceptance of a quitclaim deed is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of a New Lease: 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).

CALENDAR ITEM NO. **C77** (CONT'D)

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 effective October 18, 2012, the acceptance of a lease quitclaim deed and termination of General Lease – Right-of-Way Use No. PRC 7456.1, issued to The Cultured Abalone, Inc.
2. Authorize the issuance of a new General Lease – Right-of-Way Use to The Cultured Abalone, Inc., beginning October 19, 2012, for a term of 20 years, for the continued use, maintenance, and operation of two 18-inch diameter intake pipelines extending 1,550 feet into the Pacific Ocean and three 8-inch diameter intake pipelines extending 850 feet into the Pacific Ocean as shown on Exhibit B (for reference purposes only) and described on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$2,430, adjusted annually by CPI, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; liability insurance with coverage of no less than \$1,000,000; and surety bond in the amount of \$10,000.
3. Authorize the assignment of Lease No. PRC 7456.1, a General Lease – Right-of-Way Use, of sovereign land located in the Pacific Ocean as shown on Exhibit A (for reference purposes only) and as described in Exhibit B attached and by this reference made a part hereof, from The Cultured Abalone, Inc. to The Cultured Abalone Farm, LLC. This assignment shall be null and void if the assignee has not completed the purchase of the operation within one year of this authorization.

EXHIBIT A

A parcel of tide and submerged land, 50 feet in width, in the Pacific Ocean, situated within the County of Santa Barbara, State of California, described as follows:

A strip of land 50.00 feet in width, lying 25 feet on each side of the following described centerline:

Beginning at a point on the southerly line of the 17.169 acre parcel of land as shown on the map filed in Book 112 of Record of Surveys at page 94, Santa Barbara County Records, said point bearing N 44° 44' 25" W, 380.40 feet from the most southeasterly corner of said parcel; thence S 45° 15' 35" W; 1550.00 feet to the end of the herein described centerline.

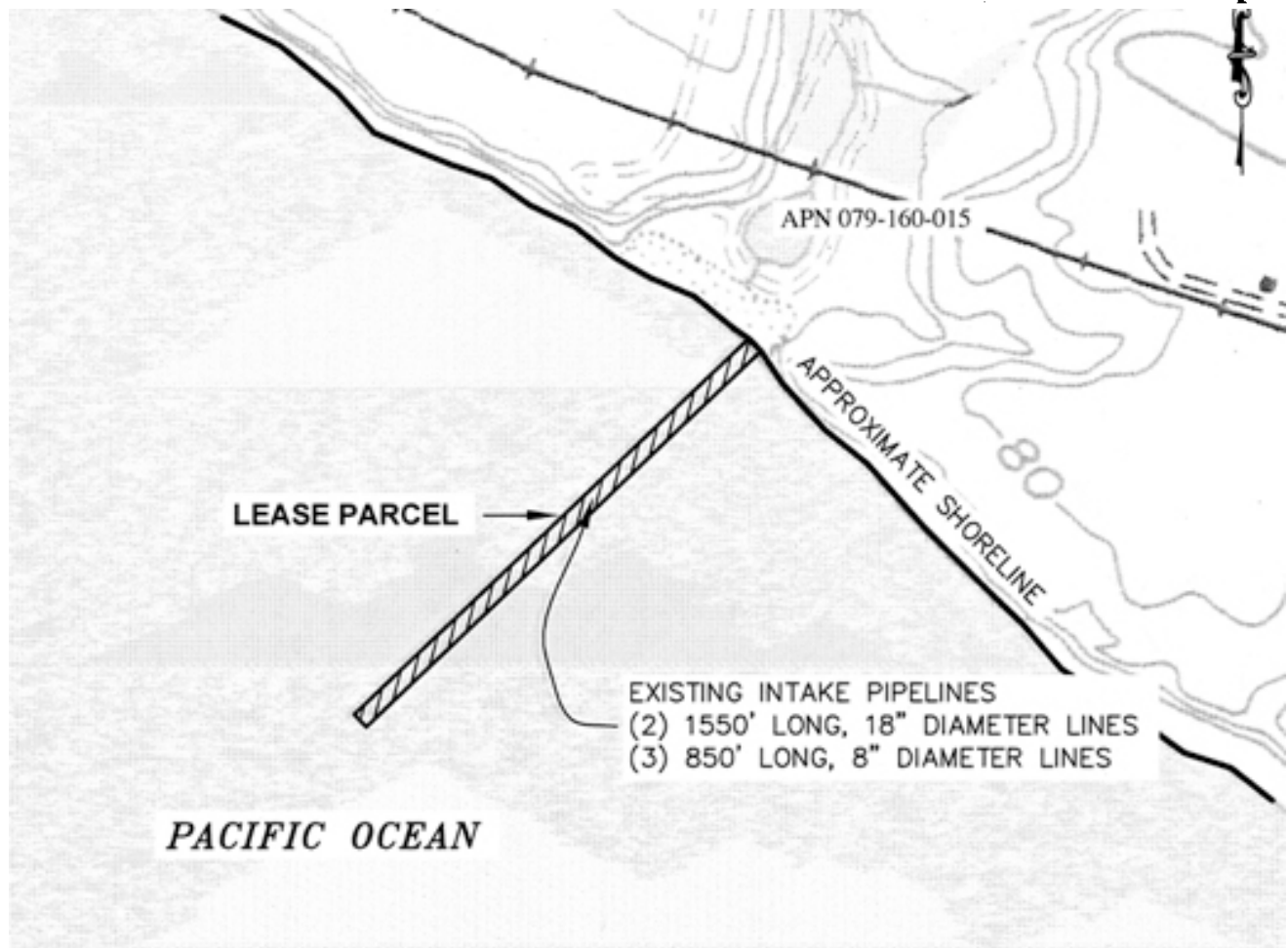
ALSO EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean

END OF DESCRIPTION

Revised November 18, 1998

NO SCALE

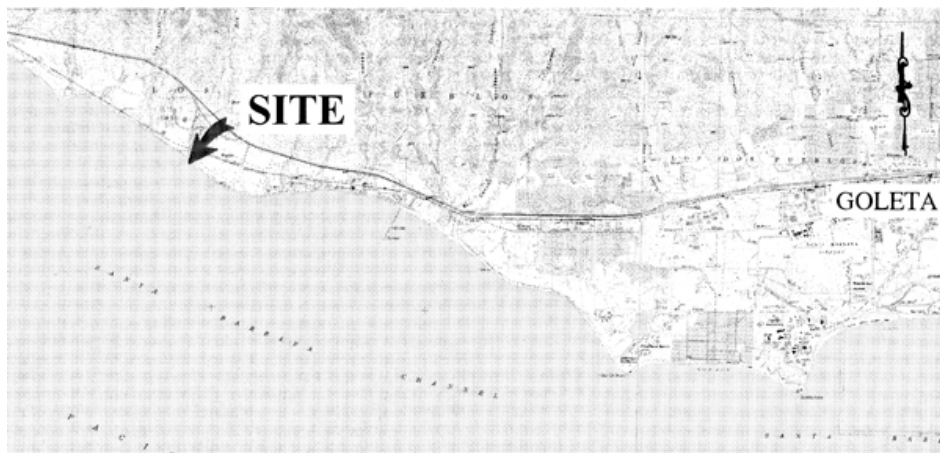
SITE



9580 DOS PUEBLOS CANYON RD., GOLETA

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

PRC 7456.1
THE CULTURED ABALONE
APN 079-160-015
GENERAL LEASE -
RIGHT-OF-WAY USE
SANTA BARBARA COUNTY



DJF 1/10/12