

**STAFF REPORT
C28**

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10/18/18
PRC 5096.9
D. Tutov

GENERAL LEASE – DREDGING

APPLICANT:

Benicia Port Terminal Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Carquinez Strait, at the Port of Benicia, near Benicia, Solano County.

AUTHORIZED USE:

Maintenance dredging of a maximum of 90,000 cubic yards of sediment material annually. Dredged material will be disposed of at U.S. Army Corps of Engineers approved disposal sites or at approved beneficial upland use sites. Dredged material may not be sold.

LEASE TERM:

10 years, beginning October 16, 2018.

CONSIDERATION:

No monetary consideration is proposed for the lease because: 1) the dredging will provide a public benefit by enhancing water-related commerce and navigation in Carquinez Strait, and 2) there is no commercial benefit from the dredging because the dredged material may not be sold, as specified in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On November 13, 2003, the Commission authorized issuance of a Dredging Lease to Benicia Port Terminal Company to dredge a maximum of 90,000 cubic yards of material annually ([Item C02, November 13,](#)

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[2003](#)). The lease was terminated effective October 15, 2008. On October 16, 2008, the Commission authorized Termination and Issuance of a new Dredging Lease to Benicia Port Terminal Company to remove 90,000 cubic yards of material annually. The lease expires on October 15, 2018 ([Item C22, October 16, 2008](#)). The Benicia Port Terminal Company has applied for a General Lease – Dredging for maintenance dredging of a maximum of 90,000 cubic yards of sediment material annually from the Carquinez Strait, at the Port of Benicia, Solano County.

The U.S. Army maintained the Port of Benicia from the 1850s until its private acquisition in 1964. Since then the Port has operated as a commercial port for international trade, and dredging has occurred most years. The dredging area is approximately 1.74 acres adjacent to the Benicia Port wharf. Annual dredging is necessary to maintain a design depth of 39 feet below mean lower low water plus an overdepth allowance of 2 feet, which allows for safe berthing and navigation for cargo vessels. According to the Dredged Material Management Office (DMMO), the dredged material is suitable for unconfined aquatic disposal at the Carquinez Strait Disposal Site (SF-9) and placement at the Montezuma Wetlands Project and the Cullinan Ranch Restoration Project.

Overall, the project is considered beneficial because it will promote water-related commerce and navigation, which are recognized Public Trust uses. Furthermore, the project will not substantially impede or impair any other Public Trust uses in the area. The lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also has a limited term of 10 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in the Carquinez Strait, near Benicia, which is a tidally influenced site vulnerable to flooding at current sea levels.

In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. 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 more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding*

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California Plan: 2018 Update (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris.

The combination of these projected conditions could increase the likelihood of sediment accretion within the lease premises during the term of the lease, thus increasing the volume of sediment to be dredged and presenting hazards to public safety and navigation within the channel.

The application is for a dredging lease and may require more frequent dredging events to ensure continued functionality during and after storm seasons. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine; will not substantially interfere with Public Trust needs at this location, at this time, and 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (g).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304, example (g).

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, or 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 issuance of a General Lease – Dredging to the Benicia Port Terminal Company beginning October 16, 2018, for a term of 10 years, for maintenance dredging of a maximum of 90,000 cubic yards of sediment material annually, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; dredged material will be disposed of at U.S. Army Corps of Engineers approved disposal sites or approved beneficial upland use sites and may not be sold; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

PRC 5096.9

LAND DESCRIPTION

A parcel of tide and submerged land, situate in the City of Benicia in the bed of Carquinez Strait, Solano County, California, more particularly described as follows:

BEGINNING at Station 6B on the Pierhead Line established by the U.S. Army Corps of Engineers, as shown on that drawing "HARBOR LINES FOR CARQUINEZ STRAIT CALIFORNIA" file No. 4-4-10 dated August 31, 1965 and approved October 5, 1965, said point being at the end of a course "South 57° 33' 13" West, 3025.97 feet"; thence along said U.S. Pierhead Line North 57° 37' 13" East, 2550.00 feet; thence leaving said Pierhead Line, South 32° 26' 47" East, 150.00 feet; thence South 57° 33' 13" West, 2550.00 feet; thence North 32° 26' 47" West, 150.00 feet to the Station 6B at the POINT OF BEGINNING.

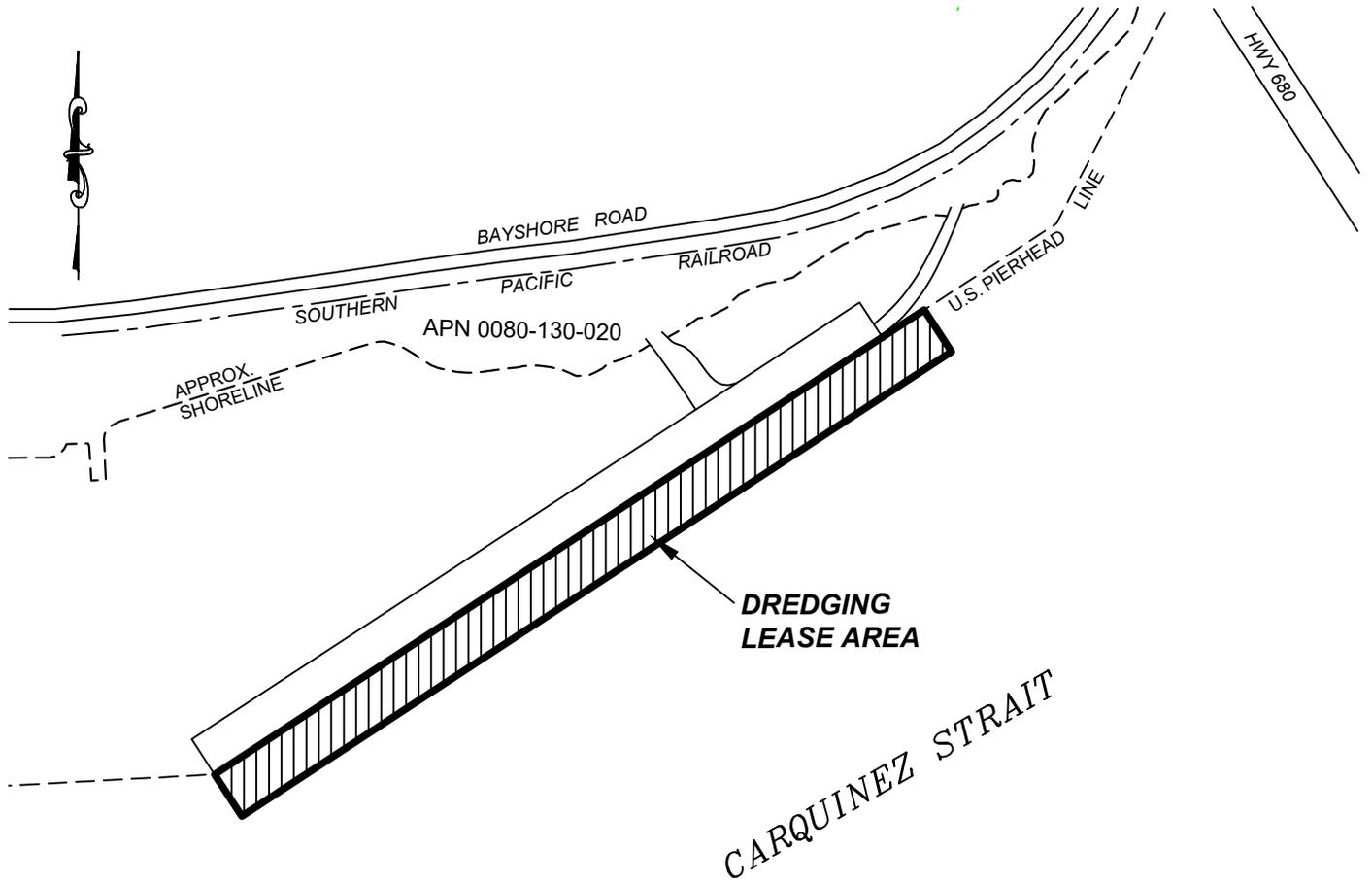
END OF DESCRIPTION

Prepared 08/21/18 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



PORT OF BENICIA, CARQUINEZ STRAIT, BENICIA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5096.9
 BENICIA PORT TERMINAL
 COMPANY
 APN 0080-130-020
 GENERAL LEASE-
 DREDGING
 SOLANO COUNTY



SITE

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.