

**CALENDAR ITEM
C13**

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10/16/08
PRC 6045.9
M. Clark

AMENDMENT OF A GENERAL LEASE – PUBLIC AGENCY USE

LESSEE:

United States Department of the Interior
Fish and Wildlife Service
9500 Thornton Avenue
Newark, California 94560

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Alameda, San Mateo, and Santa Clara counties.

EXISTING AUTHORIZED USE:

San Francisco Bay National Wildlife Refuge.

EXISTING LEASE TERM:

Beginning September 1, 1981 and expiring August 31, 2047.

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.

PROPOSED AMENDMENT:

Amend the Land Description, as described in Exhibit A, to include 360 acres, more or less, of sovereign land in Corkscrew Slough, Smith Slough, and Steinberger Slough, adjacent to Bair Island, within the Don Edwards San Francisco Bay Wildlife Refuge; authorize construction dredging for levee breaching purposes; the use of a temporary work area that includes the placement of spud pilings, warning signs and buoys; and inclusion of specific provisions for the construction activities.

All other terms and conditions of the lease shall remain in effect without amendment.

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OTHER PERTINENT INFORMATION:

1. The Lessee has the right to use the uplands adjoining the lease premises.
2. On August 20, 1981, the Commission authorized a General Lease – Public Agency Use to the United States Department of the Interior, Fish and Wildlife Service (USFWS), for the operation, management, protection, and maintenance of 935 acres, more or less, of sovereign land to be used in conjunction with the San Francisco Bay National Wildlife Refuge, which encompasses refuge areas in Alameda, San Mateo, and Santa Clara counties. That lease will expire August 31, 2047. On May 22, 1986, the Commission amended the Lease to include an additional 722.34 acres, of sovereign land deeded to the State by the Leslie Salt Company. On September 23, 1987, the Commission again amended the Lease to include approximately 267.58 acres of land accepted in a Memorandum of Understanding authorized at the August 21, 1984, Commission meeting. The Lessee is now applying for an amendment to the lease to include Corkscrew Slough, Smith Slough, and Steinberger Slough, adjacent to Bair Island, in the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) under the Bair Island Restoration and Management Program (BIRMP) near Redwood City, San Mateo County.
3. Bair Island was historically part of a large complex of tidal marsh that was diked and converted into salt evaporation ponds for the commercial production of salt. The land was eventually drained and is now managed as part of the Refuge. The goal of BIRMP is to restore 1,400 acres of wetlands and salt ponds to tidal marsh. This restoration project is a five-year program consisting of four phases. Phase 1 will consist of construction dredging in conjunction with levee breaching at two sites along Outer Bair Island into Steinberger Slough. Dredged and excavated material from the breaches will be used to create ditch blocks on the uplands to help control new tidal flows through Outer Bair Island. Phase II will consist of constructing a flow restrictor, with boat portage, in Corkscrew Slough designed to partially block tidal flows and a flow constrictor in Smith Slough designed to completely block tidal flows and restore historic meander through Inner Bair Island. The flow restrictor and flow constrictor will be constructed of excavated fill and quarry stone or cellular coffer. In addition, construction dredging along with levee breaching will be performed in Smith Slough at two sites along Inner Bair Island during this phase. Dredged and excavated material from the breach will be used to create ditch blocks on Inner Bair Island. Phase III will consist of slightly raising Middle Bair Island's levees. Phase IV will complete the construction dredging and levee breaching process in

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Corkscrew, Smith, and Steinberger Sloughs at five sites along Middle and Outer Bair Islands.

4. Phase I, II, and IV of the project anticipate that the contractor will use one of three alternative dredging methods for the levee breaching on Inner, Middle, and Outer Bair Island. The first alternative would be the use of a marine based hydraulic system staged from a barge where the contractor would cut material using a hydraulic dredge, slurry the material with slough water and pump it to an upland ditch block. The second alternative would include the use of a marine based clamshell dredge to excavate material that would be placed on a scow and lifted over the levee to an upland ditch block. In both of the above alternatives, the barge will be anchored by temporary spud pilings. The third and mostly likely alternative to be used is land based equipment where the equipment would be placed on the upland while excavating material in the breach channel. All material removed from the levee breaches will be placed on the uplands as material for additional ditch blocks. At all times during construction activities in Corkscrew Slough, Smith Slough, and Steinberger Slough, warning signs and buoys will be placed upstream and downstream of the construction site in order to provide notice to the public that construction activities are taking place in the Sloughs and to exercise caution. Due to timing constraints to complete initial dredging this year, Commission staff is recommending approval of the inclusion of the additional lands into the lease and all dredging and levee work proposed in Phase I, II, and IV. At such time as the Lessee moves forward with Phase II and staff has reviewed the final design for the proposed flow facilities, the project may again be brought before the Commission for consideration.
5. An Environmental Impact Report (EIR) was prepared for this project by the California Department of Fish and Game and certified on January 22, 2008. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program prepared in conformance with the provisions of the CEQA (Public Resources Code Section 21081.6) and adopted by the lead agency. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained on file in the Sacramento Office of the California State Lands Commission.
6. 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.

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APPROVALS OBTAINED:

U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration, San Francisco Regional Water Quality Control Board and the San Francisco Bay Conservation and Development Commission

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

March 5, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR WAS PREPARED FOR THIS PROJECT BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME AND CERTIFIED ON JANUARY 22, 2008, AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096 (h), AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA 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:

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 6045.9, A GENERAL LEASE – PUBLIC AGENCY USE, TO AMEND THE LAND DESCRIPTION, AS DESCRIBED ON EXHIBIT A, TO INCLUDE 360 ACRES, MORE OR LESS, OF SOVEREIGN LANDS IN CORKSCREW SLOUGH, SMITH SLOUGH, AND STEINBERGER SLOUGH WITHIN THE LEASE PREMISES IN THE DON EDWARDS SAN FRANCISCO

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BAY NATIONAL WILDLIFE REFUGE; AND AUTHORIZE CONSTRUCTION DREDGING FOR LEVEE BREACHING PURPOSES; THE USE OF A TEMPORARY WORK AREA THAT INCLUDES THE PLACEMENT OF SPUD PILINGS, WARNING SIGNS AND BUOYS AS SHOWN ON EXHIBIT B (FOR REFERENCE PURPOSES ONLY); AND INCLUSION OF SPECIAL PROVISIONS FOR THE CONSTRUCTION ACTIVITIES; EFFECTIVE OCTOBER 16, 2008; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.