

**CALENDAR ITEM  
C31**

A 06  
S 03

10/16/08  
W 26289  
S.Young

**GENERAL LEASE - PUBLIC AGENCY USE**

**APPLICANT:**

United States Department of the Interior  
Fish and Wildlife Service  
San Francisco Bay National Wildlife Refuge Complex  
9500 Thornton Avenue  
Newark, CA 94560

**AREA, LAND TYPE, AND LOCATION:**

2.9 acres, more or less, of sovereign lands within East Marin Island in San Rafael Bay, offshore of the city of San Rafael, Marin County.

**AUTHORIZED USE:**

Maintenance and management of a portion of East Marin Island as part of the Marin Islands National Wildlife Refuge, a component of the National Wildlife Refuge System.

**LEASE TERM:**

49 years, beginning October 16, 2008.

**CONSIDERATION:**

\$1 per year as agreed in the 1992 Memorandum of Understanding between the U.S. Fish and Wildlife Service, the California State Lands Commission, the California Department of Fish and Game, the Marin County Open Space District, and the Trust for Public Land. Annual rental to be prepaid in the amount of \$49 for the entire term of the lease by October 15, 2009.

**SPECIFIC LEASE PROVISIONS:**

1. At the expiration of the lease, Lessee will have the right of first refusal in connection with the issuance of a new long-term lease.
2. Should Lessee earn income from the lease premises in excess of operation and maintenance costs, the Lessor reserves the right to establish an annual rent at a reasonable rate based on the amount of any

CALENDAR ITEM NO. **C31** (CONT'D)

excess income; however, Lessor shall not consider such income to be excess if such income is deposited in a special fund for operation of those portions of the Refuge covered under the Lease.

3. This lease shall terminate by its own terms and be of no further force and effect if Lessee should use the area described herein for any purpose not directly related to the preservation, habitat restoration, or enhancement of the area for wildlife refuge purposes.
4. Lessee may implement the final Comprehensive Conservation Plan for the Marin Islands National Wildlife Refuge, including habitat restoration and enhancement, without further approval of the Lessor.

**BACKGROUND:**

In 1990, the Commission, along with the California Department of Fish and Game (DFG), the Marin County Open Space District (MCOSD), the Trust for Public Land and the United States Department of Interior, Fish and Wildlife Service (Service) entered into a Memorandum of Understanding (MOU) for the purchase of 339.29 acres of tidelands including East Marin Island and West Marin Island in San Rafael Bay.

On March 27, 1990, the Commission authorized the contribution of Kaplioff Land Bank Funds in the amount of \$500,000 towards the purchase of the land, to establish the Marin Islands National Wildlife Refuge (Refuge). The land was subsequently acquired and in 1992 the Refuge was established as a joint National Wildlife Refuge and a State Ecological Reserve.

The day-to-day management of the Refuge is provided by the Service under the MOU. The Refuge was established to provide wintering habitat for migratory birds and nesting habitat for waterbirds. The entire Refuge encompasses 339.29 acres of submerged tidelands and the two islands. Approximately 326.21 acres of Refuge are tideland lots located in the bed of San Rafael Bay. The tideland portion of the property is unfilled and in a natural condition and, as such, remains an integral part of the overall San Francisco Bay estuarine ecosystem.

West Marin Island is 2.8 acres of open space used primarily for bird nesting purposes. Due to its isolated location, the island is a productive rookery for a variety of water fowl and has been identified by the Service as having the largest heron rookery in San Francisco Bay. Herons and egrets nesting in this rookery feed in the tidal wetlands fringing both islands. The Island provides a sanctuary for nesting waterbirds, free from human disturbance. DFG owns West Marin Island and the surrounding tidelands.

CALENDAR ITEM NO. **C31** (CONT'D)

East Marin Island consists of approximately 10.28 acres. The Service took title to the eastern 5.8 acres of East Marin Island and approximately 80 acres of tidelands. The Commission took title to 2.9 acres of the western portion of East Marin Island. The remaining acreage is owned by DFG and the Trust for Public Land. The Service also took title to existing improvements on the Island, including rights-of-way for power and water lines and existing buildings. As part of the MOU, the Commission agreed to lease its 2.9 acres to the Service on a 49-year, renewable basis for the sum of \$1.00 per year. In return, the Service would assume management responsibility for Marin Islands National Wildlife Refuge.

As a provision of the MOU, the Service, in cooperation with all parties to the agreement, was required to prepare a management plan for the Refuge. That document has now been prepared and the resulting Final Comprehensive Conservation Plan (Plan) and Environmental Assessment have been adopted by the Service.

The Service, as required under the terms of the MOU, is now applying for a 49-year General Lease – Public Agency Use for the maintenance and management of the 2.9 acres of State owned sovereign lands at East Marin Island. The Service proposes to undertake a vegetation mapping project to determine the location and extent of non-native and native plants on the East and West Islands. A coordinated plan will be developed to reduce non-native colonies and replace those with native plantings. The vegetation management plan will restore the natural landscape of the islands in support of the wildlife in the Refuge. Native vegetation is suited for nesting by the egret and heron colony. In addition, the Service will provide a limited number of guided tours (not more than six per year) to East Marin Island when requested by groups or a group of individuals. A walking trail and interpretive panels will be constructed to facilitate the tour. Under the proposed Conservation Plan, a cultural resources assessment will also be conducted. The assessment will produce an inventory of the important cultural elements on the Refuge as well as provide a cultural element to the guided tours. Fishing and wildlife viewing will continue to be allowed in the Refuge waters. However, to further protect the Refuge, boats will be prohibited from docking at the Islands. Fishing brochures and information will be created by the Service to communicate appropriate wildlife-dependent recreational opportunities at the Refuge.

Under the terms of the MOU, the Service will also enter into a long-term cooperative agreement with the DFG for management of West Marin Island by the Service as part of both the Marin National Wildlife Refuge and the Marin Islands State Ecological Reserve. The Service is currently working with the DFG in developing such an agreement.

CALENDAR ITEM NO. **C31** (CONT'D)

**OTHER PERTINENT INFORMATION:**

1. East Marin Island of the Marin Islands National Wildlife Refuge would be managed as part of the National Wildlife Refuge System Administration Act of 1966, Refuge Recreation Act of 1962, the National Wildlife Refuge System Improvement Act of 1997, and other applicable laws.
2. The State Lands Commission proposes to use the Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) prepared and adopted for this project by U.S. Fish and Wildlife Service and identified as State Clearinghouse No. 2006084001, in place of a Mitigated Negative Declaration. The document was circulated for public review as broadly as state and local law may require and notice was given meeting the standards in Title 14, California Code of Regulations, section 15072 (a). Therefore, pursuant to Title 14, California Code of Regulations, sections 15221 and 15225, the staff recommends the use of the federal FONSI in place of a Mitigated Negative Declaration.
3. 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 REQUIRED:**

California Department of Fish and Game

**EXHIBITS:**

- A. Location and Site Map
- B. Land Description
- C. Finding of No Significant Impact Report

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT THE FINDING OF NO SIGNIFICANT IMPACT, PREPARED AND ADOPTED FOR THIS PROJECT BY U.S. FISH AND WILDLIFE SERVICE MEETS THE REQUIREMENTS OF THE CEQA. THEREFORE, PURSUANT TO TITLE 14, CALIFORNIA CODE OF

CALENDAR ITEM NO. **C31** (CONT'D)

REGULATIONS, SECTIONS 15221 AND 15225, ADOPT SUCH FEDERAL DOCUMENT FOR USE IN PLACE OF A MITIGATED NEGATIVE DECLARATION.

**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 ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE TO THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, BEGINNING OCTOBER 16, 2008, FOR A TERM OF 49 YEARS, FOR MAINTENANCE AND MANAGEMENT OF A PORTION OF EAST MARIN ISLAND AS PART OF THE MARIN ISLANDS NATIONAL WILDLIFE REFUGE AS SHOWN ON EXHIBIT A ATTACHED (FOR REFERENCE PURPOSES ONLY) AND AS DESCRIBED ON EXHIBIT B AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$1 TO BE PREPAID FOR THE ENTIRE TERM BY OCTOBER 15, 2009.