

STAFF REPORT

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GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

LeLand Rock

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Van Duzen River (River), adjacent to Assessor's Parcel Number 201-261-009, near Alton, Humboldt County.

AUTHORIZED USE:

Annual placement, use, and removal of up to two seasonal bridge crossings (bridges) over the River. The exact location of the bridges may vary from year to year within the lease premises due to conditions in the River.

LEASE TERM:

5 years, beginning January 1, 2020.

CONSIDERATION:

\$508 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Annual reporting of extraction plans and location of the seasonal bridges.
- Posting low-bridge warning signs when the bridges are in place.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

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Public Trust and State's Best Interests Analysis:

On August 19, 2015, the Commission authorized a General Lease - Right-of-Way Use for the annual placement, use, and removal of the bridges over the Van Duzen River to LeLand Rock ([Item C34, August 19, 2015](#)). The lease expired on December 31, 2019. The Applicant is now applying for a General Lease – Right-of-Way Use for the continued activities.

The Van Duzen River, which is a tributary to the Eel River, has been used for gravel extraction since 1911. Twelve gravel operations are currently located along an approximately 10-mile stretch of the Eel and Van Duzen rivers. The area surrounding the lease premises is owned by the Applicant and is the lowest gravel extraction site along the Van Duzen River.

The Applicant is applying to continue their previously authorized activities in order to access a large gravel bar just upstream from the River's confluence with the main stem of the Eel River to extract up to 100,000 cubic yards of aggregate per year. The location of the bridges will vary depending on the River's morphology and annual avoidance plans developed by a qualified fisheries biologist in consultation with the reviewing resource agencies. The bridges consist of two 58-foot-long railroad flat cars placed side by side over the River with gravel abutments using either washed gravel or gravel scraped from surrounding areas. Brow logs or large concrete blocks will be used to stabilize abutment fill and decrease encroachment of the aggregate fill into the River. All fill material will be removed from the River and abutment areas will be restored to their original condition when the bridges are removed. The bridges will be placed no earlier than June 30 and removed no later than October 15 each year.

The California Coastal Commission (CCC) Coastal Development Permit No. 1-15-0205-A2 is being used to comply with the requirements of the California Environmental Quality Act (CEQA). Therefore, staff recommends aligning the expiration date of the lease with the expiration date of the environmental document, which expires on December 31, 2024.

The bridges will be installed with a minimum of 3 feet of clearance above the surface of the water, and low bridge warning signs will be posted when the bridges are in place. Passage for canoes, kayaks, and other water-related activities on the River will therefore remain available throughout the year. While the bridges do not facilitate water-dependent activities, they do not interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease. The bridges

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do not significantly alter the land, and the lease does not alienate the State's sovereign interest, or permanently impact public rights.

The lease is limited to a 5-year term and does not grant the lessee exclusive rights to the lease premises. The lease includes provisions requiring the lessee to obtain necessary permits; requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved; and 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.

Climate Change:

The project area is not tidally influenced and, therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

The temporary seasonal bridge crossings shall be placed no earlier than June 30 of each year and must be removed no later than October 15. While the lease premises and surrounding land may be vulnerable to climate change impacts, these projected effects are not expected to affect the proposed use of the lease premises during the lease term.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs and values 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. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be

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required to cease placement of the bridges and maintain the premises in their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. 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.
3. The CCC prepared an environmental document pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), and granted Permit No.1-15-0205-A2 for this Project on March 11, 2020.

Staff has reviewed the document and determined that the conditions, as specified in the California Code of Regulations, title 14, section 15253, subdivision (b), have been met for the Commission to use this document for its compliance with CEQA.

4. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Coastal Commission
North Coast Regional Water Quality Control Board
California Department of Fish and Wildlife
County of Humboldt Extraction Review Team (CHERT)
U.S. Army Corps of Engineers

APPROVALS REQUIRED:

National Marine Fisheries Service

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 CCC Permit No.1-15-0205-A2 prepared for this Project and adopted on March 11, 2020, by the CCC pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), is a substitute document as provided by California Code of Regulations, title 14, section 15252, subdivision (a), and that the Commission has reviewed and considered the information therein.

Find that the conditions described in the California Code of Regulations, title 14, section 15253, subdivision (b), have been met for the Commission, acting as a responsible agency, to use the environmental document to comply with the requirements of CEQA. (Cal. Code Regs., tit. 14, § 15096.)

Determine that the Project, as approved, will not have a significant effect on the environment.

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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

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:

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning January 1, 2020, for a term of 5 years, for the continued use and maintenance of up to two seasonal bridge crossings, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$508, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7989.1

LAND DESCRIPTION

Two 30 foot wide by 120 foot long, more or less, strips of submerged lands lying in the bed of the Van Duzen River situate adjacent to Section 23, Township 2 North, Range 1 West, H.B.M. as shown on U.S. Government Township plat approved January 17, 1876, County of Humboldt, State of California, the location of the strips to be within the following described lands:

Said strips of land lying within the exterior boundaries of that parcel of land described in that Grant Deed recorded July 15, 1994 in document number 1994-19815-3 of Official Records of said County.

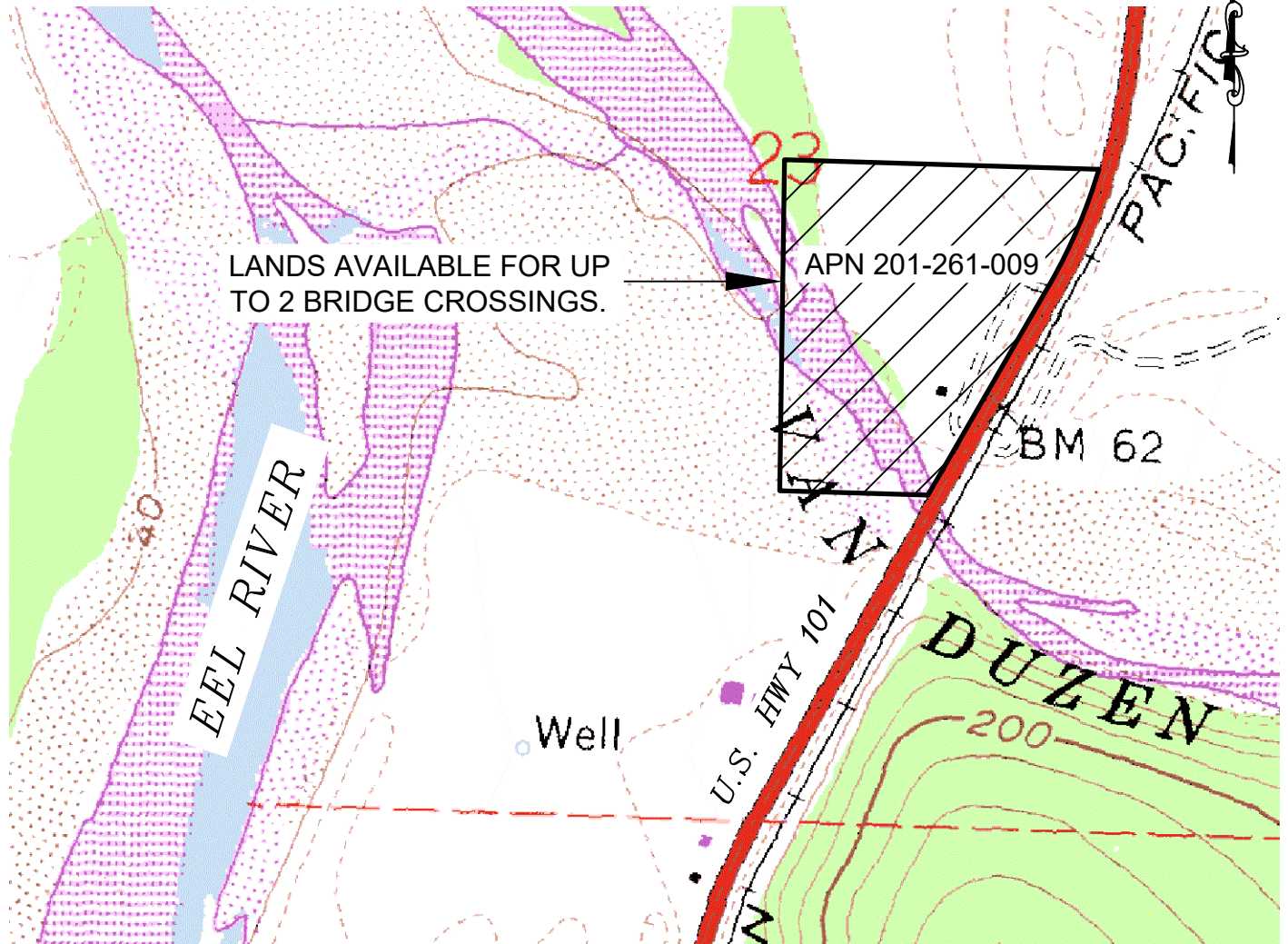
END OF DESCRIPTION

Prepared 06/18/2015 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



SEASONAL BRIDGE(S) CROSSING THE VAN DUZEN RIVER

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

LEASE 7989.1
LELAND ROCK
APN 201-261-009
GENERAL LEASE -
RIGHT - OF - WAY USE
HUMBOLDT COUNTY



DJF 3/17/2020