

**STAFF REPORT
09**

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Lease 7988.1
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GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

Eureka Ready Mix Concrete Co., Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Eel River, adjacent to Assessor's Parcel Numbers 201-221-009, 201-261-001, 106-221-001, 106-221-003, 106-221-004, and 106-221-005, near Fortuna, Humboldt County.

AUTHORIZED USE:

Continued annual placement, use, and removal of a seasonal bridge crossing. The exact location of the bridge may vary from year to year within the lease premises due to conditions in the Eel River.

LEASE TERM:

5 years, beginning January 1, 2020.

CONSIDERATION:

\$510 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$3,000,000 per occurrence.
- Annual reporting of extraction plans upon request and location of the seasonal bridge.
- Posting low-bridge warning signs when the bridge is in place.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 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 to the Eureka Ready Mix Concrete Co., Inc., for the annual placement, use, and removal of a seasonal bridge crossing ([Item C32, 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 Applicant owns and maintains the facilities. Staff recommends the lease begin on January 1, 2020, the day after the previous lease expired. The California Coastal Commission (CCC) Coastal Development Permit No. 1-15-0204-A2 is being used to comply with the requirements of the California Environmental Quality Act (CEQA). Therefore, staff also recommends aligning the expiration date of the proposed lease with the expiration date of the environmental document, which expires on December 31, 2024.

The seasonal bridge crossing is installed during the low-flow summer months, if necessary, for the transportation of up to 150,000 cubic yards of sand and gravel annually from the gravel bars adjacent to the channel of the Eel River. The Applicant has not needed a crossing from 2015 to the time of this application but may require its use in the future. The Hauck Bar has been mined for sand and gravel on an ongoing basis since the 1950s and by the Applicant since 1981. The lease premises are between River Miles 13 and 14, approximately 4 miles upstream of current tidal influence, and just below the confluence of the Eel and Van Duzen Rivers.

The location of the bridge will vary depending on the Eel River's morphology and annual avoidance plans developed by the reviewing resource agencies. The bridge consists of a railroad flat car supported on precast concrete block abutments and is placed no earlier than June 30 and removed no later than October 15 each year. All fill material will be removed from the river and abutment areas will be restored to their original condition when the bridge is removed. The channel of the river will go through a natural reclamation process during the high flow events of the following winter.

The bridge 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 bridge is in place. Passage for canoes, kayaks, and other water related activities in the Eel River will, therefore, remain available throughout the year. While the bridge does not facilitate water-dependent activities, it does not interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease.

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The bridge does 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 crossing 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

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law. If the Commission denies the application, the Applicant may be required to cease placement of the bridge and leave 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. 1-15-0204-A2 for this seasonal bridge installation and removal project (Project) on November 14, 2019.

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
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. 1-15-0204-A2 (the environmental document), prepared for this Project and adopted on November 14, 2019, 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 annual placement, use, and removal of a seasonal bridge crossing, 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 \$510, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

LEASE 7988.1

LAND DESCRIPTION

A 75 foot wide by 150 foot long, more or less, strip of submerged lands lying in the bed of the Eel River situate adjacent to Sections 14, 15, 22, and 23 Township 2 North, Range 1 West, Humboldt Base and Meridian, County of Humboldt, State of California, the location of said strip to be within the following described lands:

Said strip lying within those lands bounded on the west by the ordinary low water mark of the left bank of the Eel River, bounded on the east by the ordinary low water mark of the right bank of the Eel River, bounded on the north by the northerly line of the south half of Sections 14 and 15, and bounded on the south by the southerly line of the north half of Sections 22 and 23.

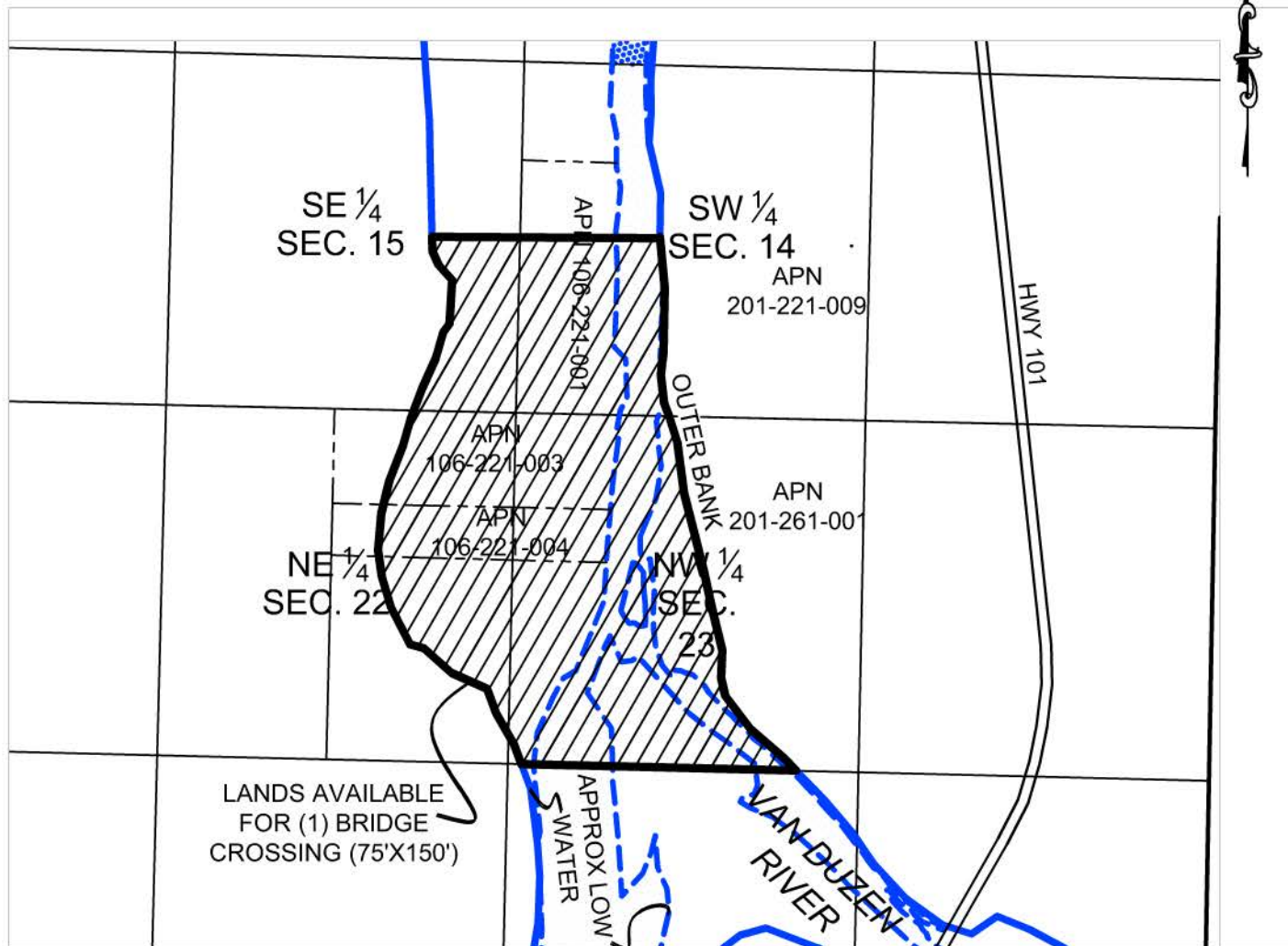
END OF DESCRIPTION

PREPARED 3/03/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE



INSTALLATION & REMOVAL OF A SEASONAL BRIDGE ON THE EEL RIVER, NEAR FORTUNA

NO SCALE

LOCATION



EXHIBIT B

LEASE 7988.1
 EUREKA READY MIX
 CONCRETE CO., INC.
 APN 106-221-001, 003, 004 & 005
 201-221-009, 201-261-001
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 HUMBOLDT COUNTY



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.

MJF 6/04/2020