

STAFF REPORT

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06/23/20

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Lease 7171.1

J. Toy

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

Humboldt Redwood Company, LLC, a Delaware Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Eel River, adjacent to Assessor's Parcel Numbers 205-061-002 and 205-351-030, near Scotia, Humboldt County.

AUTHORIZED USE:

Annual placement, use, and removal of a seasonal bridge crossing over the Eel River. 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:

6 years, 4 months, and 6 days, beginning June 1, 2019.

CONSIDERATION:

\$505 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 June 23, 2011, the Commission authorized a General Lease – Right-of-Way Use for the annual placement and use of a seasonal bridge crossing over the Eel River constructed from log stringers or a railroad flat car adjacent to Assessor's Parcel Numbers 205-061-002 and 205-351-018 to the Humboldt Redwood Company, LLC, a Delaware Limited Liability Company ([Item C31, June 23, 2011](#)). On June 29, 2015, the Commission authorized a revision of rent from \$100 to \$450 per year ([Item C26, June 29, 2015](#)). In 2018, the town of Scotia sold its parcels to private entities that resulted in multiple parcel divisions and combinations. The general area once identified as APN 205-351-018 is now APN 205-351-030 and is owned by the Humboldt Sawmill Company, LLC (an entity related to the Applicant). The lease expired on May 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 Commission approve a new lease beginning on June 1, 2019, and ending on October 6, 2025, to align with the expiration of the gravel mining Reclamation Plan approved by the County of Humboldt, the California Environmental Quality Act (CEQA) analysis for which included evaluation of the impacts associated with this seasonal bridge crossing.

The eastern side of the lease premises borders the Applicant's South Scotia Tree Farm and various lumber stockpile areas (APN 205-351-030). The western side consists of heavily forested timberlands owned by the Applicant (APN 205-061-002); no private residences, buildings, or public roads are nearby. The seasonal bridge is installed as needed between the Truck Shop Bars mainly to transport logs to the Scotia Mill from the network of logging access roads on the opposite side of the river. However, it may be used for gravel operations if the furthest downstream bar is selected for extraction. Regardless of the use, it will be placed after June 30 and removed before October 15 each year.

The location, construction, and removal of the seasonal bridge is designed in accordance with approved U.S. Army Corps of Engineers, North Coast Regional Water Quality Control Board, and California Department of Fish and Wildlife permits. The seasonal bridge is constructed of two railroad flat cars that are 8.5 feet by 89 feet each and consist of open flat decks made of 0.5-inch steel supported by a center beam and lateral supports built with 0.5-inch and 1-inch steel. The Applicant has been using this bridge since 2011.

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The bridge is normally installed with a 4-foot clearance above the surface of the water with a minimum 3-foot clearance, and low-bridge warning signs will be posted when the bridge is in place. Passage for canoes, kayaks, and other water-related activities on 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. 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 6-year, 4-month, and 6-day 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 would 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,

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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 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. A Negative Declaration, State Clearinghouse No. 1996042012, was prepared by the County of Humboldt and adopted on May 23, 1996, for the Reclamation Plan associated with gravel mining operations on the Eel River. On September 6, 2012, the County of Humboldt adopted an Addendum to the Negative Declaration. The Reclamation Plan includes and evaluates impacts associated with this seasonal bridge crossing (Project). Staff has reviewed these documents and believes the scope of activities to be carried out under the proposed lease have been adequately analyzed.
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 participation from the agency nominating such lands through the CEQA review and permitting process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

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

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EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Negative Declaration, State Clearinghouse No. 1996042012, was prepared by the County of Humboldt and adopted on May 23, 1996, and that an Addendum to the Negative Declaration was prepared by the County of Humboldt and adopted on September 6, 2012, for this Project, and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

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 June 1, 2019, for a term of 6 years, 4 months, and 6 days, 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 \$505, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$3,000,000 per occurrence.

EXHIBIT A

LEASE 7171.1

LAND DESCRIPTION

A strip of submerged land 500 feet in length and 50 feet in width lying in the bed of the Eel River situate adjacent to Section 17, Township 1 North, Range 1 East, HBM., as shown on U.S. Government Township Plat approved February 4, 1871, County of Humboldt, State of California, the location of said strip is to be within the following described lands:

Said strip lying adjacent to and northeasterly of Government Lot 2 also being Lot 2 of said Section 17 as described in Exhibit A of that Grant Deed from Scotia Pacific Company, LLC, to Humboldt Redwood Company, LLC, recorded as Document No. 2008-18466-122 Official Records of said County, said strip also lying adjacent to and southwesterly of said Section 17 as described in Exhibit A of that Easement Agreement between Town of Scotia Company, LLC, and Humboldt Redwood Company, LLC, recorded as Document No. 2008-18473-16 Official Records of said County.

EXCEPTING THEREFROM any portion of said strip lying landward of the ordinary low water mark of the Eel River.

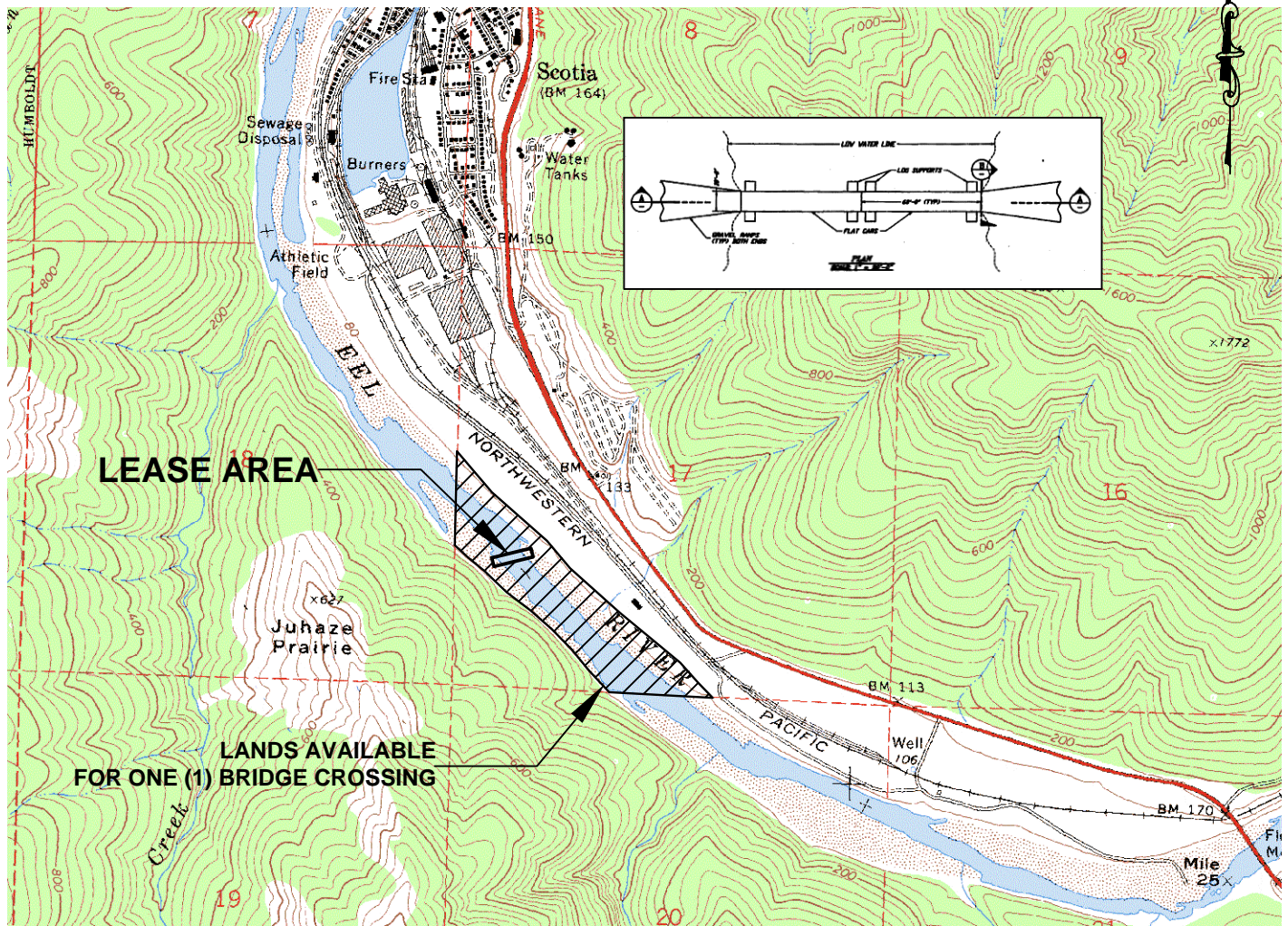
END OF DESCRIPTION

Prepared 12/27/2019 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



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

NO SCALE

LOCATION

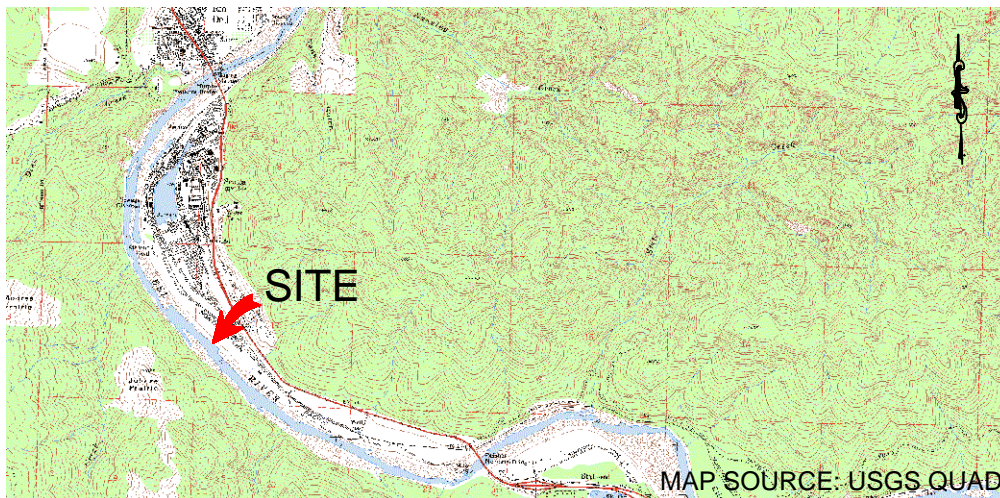


EXHIBIT B

LEASE 7171.1
HUMBOLDT REDWOOD CO.
APN 205-351-030, 205-061-002
GENERAL LEASE -
RIGHT-OF-WAY USE
HUMBOLDT COUNTY



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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.