

Staff Report 37

Amendment of Lease

LESSEE:

Vincent Coburn and Susan Coburn

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land in the Colorado River, adjacent to 1198 Beach Drive, Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of an existing concrete patio with aluminum railing and a fire pit, concrete stairway with aluminum railing and electrical lighting appurtenances, two planter areas with stacked concrete block retaining walls and electrical lighting appurtenances, riprap bankline protection, and the installation, use, and maintenance of a new floating boat dock, floating walkway, and access ramp.

TERM:

10 years, beginning April 23, 2015.

CONSIDERATION:

Two Planter Areas with Stacked Concrete Block Retaining Walls and Electrical Lighting Appurtenances and a Concrete Patio with Aluminum Railing and a Fire Pit: Annual rent in the amount of \$622.20 per year, with an annual Consumer Price Index adjustment.

Concrete Stairway with Aluminum Railing and Electrical Lighting Appurtenances and Riprap Bankline: Public benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interests of the State.

PROPOSED AMENDMENT:

- Amend Section 1, Basic Provisions, Land Use or Purpose, to include authorization for the installation, use and maintenance of a new floating boat dock, floating walkway, and an access ramp.

- Amend Section 1, Basic Provisions, Consideration from \$622.20 to \$767.20 to reflect the addition of the new improvements and expansion of the lease area, effective August 20, 2020, subject to the existing CPI-adjusted rent schedule, effective April 23, 2021.
- Amend Section 2, Special Provisions, to state that the installation authorization provided for in Section 1, Land Use or Purpose, must be completed no later than December 31, 2021, unless otherwise extended by Commission staff.
- Amend lease to remove and replace the current Exhibit B with the new Exhibit B (attached) reflecting the additional area for the dock, walkway, and access ramp.
- Within 60 days of completing the installation of the new authorized improvements, Lessee will provide Lessor with photographs and a set of “as-built” plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor’s Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The revised Exhibits shall be incorporated in this Lease as though fully set forth herein.
- All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On April 23, 2015, the Commission authored the issuance of Lease No. PRC 9210, a General Lease - Recreational and Protective Structure Use, to Vincent and Susan Coburn, for a term of 10 years ([Item 79, April 23, 2015](#)). The lease will expire on April 22, 2025. The Lessee is now applying for an amendment to the lease to authorize the installation, use, and maintenance of a new floating boat dock, floating walkway, and access ramp. The proposed new improvements will require an approximately 450 square foot expansion of the lease area within the Colorado River.

The proposed facilities will be constructed offsite and installed onsite once all approvals are complete. The onsite construction will include manually moving existing rocks as well as manually shoveling holes on the riprap slope in order to install the support poles for the proposed walkway. Previously hand-mixed concrete will be used

to fill the holes and concrete the upright supports. This concrete will be hand poured from wheelbarrows and buckets. Once the supports have been installed, the walkway (built offsite and delivered by boat) will be lifted into place via hydraulic crane from the boat. When the walkway is secured, the floating portion of the project will be installed. The proposed floating dock (built offsite) will also be delivered by boat and steel guide-poles (3.5 inch outside diameter) will be hydraulically pile driven, using a pneumatic pile driver positioned on the boat, into the river bottom to a sufficient depth. Construction activities will take approximately two weeks and be limited to daytime hours.

The new facilities within the Colorado River would be privately owned and maintained. The floating boat dock facilitates recreational boating because it is used for the docking and mooring of recreational boats. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5); and, the proposed placement of the new recreational use facilities is consistent with the Commission's findings of acceptable locations for the placement of recreational facilities, to maximize public access and use of limited beach areas along the Colorado River within the Rio Buena Vista community.

The proposed amendment does not alienate the State's fee simple interest or permanently impair public rights. The Lease also requires the Lessee to maintain insurance for the Lease Premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

CLIMATE CHANGE:

The lease area in the Colorado River is not tidally influenced and therefore, would not be subject to sea-level rise. The water level near the existing improvement is regulated primarily by water released upstream from the Davis Dam. 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, fire, extreme heat, drought, and storms. However, the existing and proposed improvements (floating boat dock, floating walkway, and access ramp) are not likely to be damaged by either storm created flooding or prolonged droughts due to the floating nature of the dock, walkway, and access ramp. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease amendment will not substantially interfere with Public Trust needs at this location, at this time, and for the

foreseeable term of the proposed lease; is consistent with the common law Public Trust doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the lease amendment is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land or a revision of rent, 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 lessee could not install the new proposed improvements. Upon expiration or prior termination of the lease, the lessee 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 State of California's fee ownership of the sovereign land located in the Colorado River at this location was confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991, and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High-Water Mark (OHWM) fixed in the above-mentioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Colorado River adjacent to the fixed OHWM.
4. Pursuant to AD 134, the State of California was granted an easement running parallel to the fixed OHWM. The easement is intended to provide public access to and along the bank of the Colorado River. The easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicant's property. Public access to the easement is from the northern or southern end of the subdivision, or from the Colorado River.
5. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS REQUIRED:

Army Corps of Engineers

Bureau of Reclamation

EXHIBITS:

A. Land Description

B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the installation, use, and maintenance of the new floating boat dock, floating walkway, and access ramp will not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize amendment of Lease No. PRC 9210, a General Lease – Recreational and Protective Structure Use, of sovereign land described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, effective August 20, 2020, for the installation, use, and maintenance of a new floating boat dock, floating walkway, and access ramp; annual rent in the amount of \$767.20 with an annual Consumer Price Index adjustment; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9210

LAND DESCRIPTION

Two parcels of State owned land adjacent to Lot 14 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, lying in the bed of the Colorado River, County of San Bernardino, State of California, described as follows:

PARCEL 1

BEGINNING at the easterly corner of said Lot 14; thence northwesterly along the northeasterly line of said lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 55° 01' 49" W 45.02 feet to the northerly corner of said lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said lot N 33° 18' 50" E 60.00 feet; thence S 55° 01' 49" E 45.02 feet to the intersection with the northeasterly prolongation of the southeasterly line of said lot; thence southwesterly along said northeasterly prolongation S 33° 18' 50' W 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lot 14.

PARCEL 2

COMMENCING at the easterly corner of said Lot 14; thence northwesterly along the northeasterly line of said lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 55° 01' 49" W 11.00 feet to the POINT OF BEGINNING; thence continuing along said line N 55° 01' 49" W 34.02 feet to the northerly corner of said lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said lot N 33° 18' 50" E 102.00 feet; thence leaving said northeasterly prolongation S 55° 01' 49" E 34.02 feet; thence S 33° 18' 50' W 102.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within above described PARCEL 1.

END OF DESCRIPTION

This description is based on Applicant provided design drawings for a proposed floating boat dock, gangway, walkway together with any and all appurtenances pertaining thereto, to build at a later date within the Lease time frame. This description is to be updated once as-built plans are submitted.

Prepared 07/09/2020 by the California State Lands Commission Boundary Unit



NO SCALE

SITE

LEASE PARCEL 2
(PROPOSED GANGWAY WITH RAILING, FLOATING WALKWAY, FLOATING BOAT DOCK AND TWO 9' IMPACT AREAS)

COLORADO RIVER

LEASE PARCEL 1
(EXISTING RIPRAP BANKLINE, FOUR PLANTER AREAS WITH STACKED CONCRETE BLOCK RETAINING WALLS & ELECTRICAL LIGHTING APPURTENANCES, CONCRETE PATIO WITH RAILING & FIRE PIT AND CONCRETE STAIRS WITH ELECTRICAL LIGHTING APPURTENANCES)

APPROXIMATE TOP OF REVETMENT

AGREED BOUNDARY LINE

APPROXIMATE TOE OF REVETMENT

PUBLIC PEDESTRIAN ACCESS EASEMENT

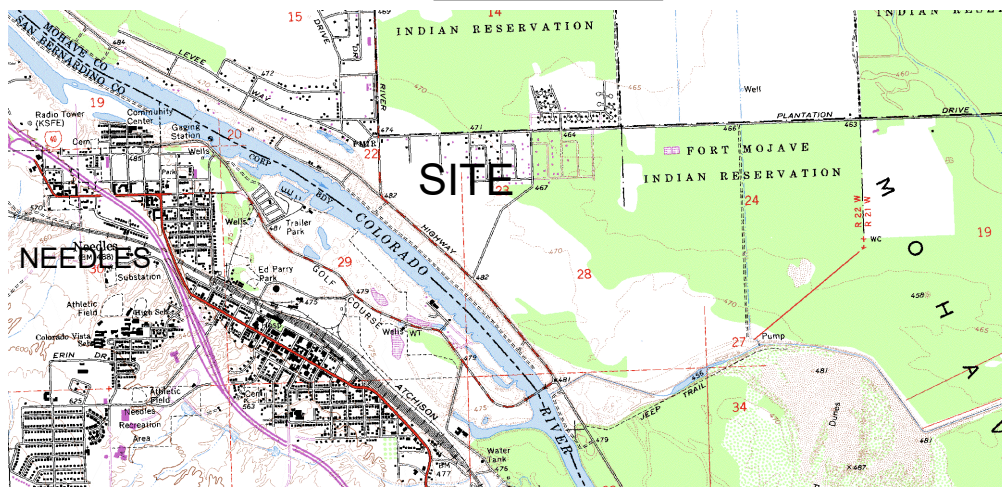
APN 0186-273-13

1198 BEACH DRIVE, NEEDLES



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

PRC 9210
COBURN
APN 0186-273-13
GENERAL LEASE -
RECREATIONAL AND
PROTECTIVE STRUCTURE USE
SAN BERNARDINO COUNTY



TS 07/09/2020