

Staff Report 46

Termination and Issuance of a General Lease – Commercial Use, and
Authorization to Record a Record of Survey

LESSEE:

San Bernardino County

APPLICANT:

Turtle Cove Marina, LLC dba Pirate Cove Resort and Marina, LLC

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Colorado River, near Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of an existing regional park for public recreation which includes various access roads, an off-highway vehicle (OHV) park, 25 peninsula campgrounds with a total of 112 recreational vehicle (RV) sites with electrical, sewer, and water hook-ups, a water distribution system, a sewage/wastewater collection system, eight peninsula restrooms each with 4,000-gallon holding tanks, a peninsula over-flow and boat trailer parking lot, two 42-inch-diameter HDPE culvert pipes and energy dissipation pad, a launch ramp RV campground with 45 sites (34 sites with full hook-ups and 11 with electric and water hook-ups) and an unimproved launch ramp, a seven-lane concrete boat launch with two floating boat docks, a day-use parking lot for vehicles and boat trailers, a tent camping area with 46 campsites, a large shelter/pavilion, a rectangular shade structure, 27 umbrella/shade structures, a water safety center, an irrigation water pump and reservoir, two coin-operated shower and restroom buildings, a children's water play park, a 225-slip marina with six floating boat docks each with a gangway, a floating covered fuel dock with gangway, a restaurant and bar, a beach bar and service kitchen, a beach fire pit, four beachfront cabin short-term rental units, a water taxi service and five taxi shelter/huts, a non-operational zip line with landmark tower, and a non-operational reverse osmosis water filtration facility with an abandoned water well and appurtenant water lines; construction, use,

and maintenance of the Pirate Cove Peninsula Master Development Plan Improvements (Plan Improvements) to be constructed over 30 years consisting of six phases of development identified as:

Phase 1 – South Peninsula Improvements: Remove 72 existing RV sites and appurtenant utilities; grade 33,000 cubic yards of material on South Peninsula; construct new road with water and sewer lines and electrical utilities; construct 160 individual, fully finished, RV or cabin spaces on the river side of the road with water, electric, and sewer hook-ups; rough grade 122 individual spaces on the inland side of the road with stubbed utilities.

Phase 2 – North Peninsula Improvements: Remove 40 existing RV sites and appurtenant utilities, grade 46,000 cubic yards of material on North Peninsula; construct new road with water and sewer lines and electrical utilities; construct 107 individual, fully finished, RV or cabin spaces on the river side of the road with water, electric, and sewer hook-ups; and rough grade 105 individual spaces on the inland side of the road with stubbed utilities.

Phase 3 – South Peninsula Improvements: Grade 103,000 cubic yards of material on South Peninsula; construct new loop road with water and sewer lines and electrical utilities connecting to road rebuilt in Phase 1; construct 94 individual, fully finished, RV or cabin spaces on both sides of new road with water, electric, and sewer utilities; and rough grade 79 RV or cabin sites on both sides of new road with stubbed utilities.

Phase 4 – South Peninsula Improvements: Construct 79 RV or cabin spaces on rough graded sites prepared in Phase 3.

Phase 5 – South Peninsula Inland Improvements: Complete utility connections and complete 122 individual RV or cabin spaces on rough graded sites prepared in Phase 1.

Phase 6 – North Peninsula Inland Improvements: Complete utility connections and complete 105 individual RV or cabin spaces on rough graded sites prepared in Phase 2.

TERM:

40 years, beginning July 2, 2020.

CONSIDERATION:

Base Rent in the amount of \$262,952 per year, with an annual Consumer Price Index adjustment, or 7 percent of Gross Income, whichever is higher; and \$0.02 per gallon of fuel sold; subject to modification by the Commission as specified in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$5,000,000 per occurrence.
- Surety bond or other security in an amount of \$1,000,000.
- The lease includes provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and the Commission's "Best Management Practices for Guest Dock Users and Boaters," including additional Best Management Practices (BMPs) that Commission staff subsequently deems appropriate for either of the above categories.
- The lease includes a provision for the Lessee to prepare plans to: a) remove all zip line improvements, other than the zip line main tower; b), maintain the zip line main tower; and c) remove the non-functional reverse osmosis water filtration facility, water well, and appurtenant water distribution pipelines. The zip line main tower plan shall include provisions to either secure the tower from all public access or remove the tower should current safety measures prove to be inadequate to effectively exclude the public. Lessee shall submit an application to Lessor for review and approval of these plans on or before July 1, 2022 and shall implement said plans within 2 years of securing such approval. Lessor's review and approval of the Lessee's application will be subject to the requirements of the California Environmental Quality Act (CEQA); these requirements may increase Lessee's application processing time and costs.

BACKGROUND:

On June 21, 2018, the Commission authorized the issuance of Lease No. PRC 3321 , a General Lease – Public Agency Use, to the County of San Bernardino (County) ([Item 59, June 21, 2018](#)) for an existing regional park for public recreation. The lease commenced on July 2, 2018 and runs for 23 years, expiring on July 1, 2039. The County has notified Commission staff it wishes to terminate the lease and allow the Commission to lease directly with the Applicant.

Pirate Cove Resort Sales and Management, LLC, is a single member entity consisting of Turtle Cove Marina, LLC dba Pirate Cove Resort & Marina (Pirate Cove). Pirate Cove has operated and managed Moabi Regional Park (Park) since 2007 as a concessionaire to the County. Since the County has expressed its preference to terminate its lease, Pirate Cove desires to become the Lessee under Lease 3321 and

has applied for a new lease for the use and maintenance of existing Park improvements, and the construction, use, and maintenance of the proposed Plan Improvements.

The Park occupies both sovereign land and land owned by the Bureau of Reclamation (BOR); the Bureau of Land Management (BLM) manages the BOR's interests in the Park. The County is also a party to a lease with the BOR and BLM for the adjoining upland property. While processing the lease for the County, staff discovered a discrepancy between the location of the State's lease boundary and that of the adjoining BOR/BLM lease. After numerous meetings and communications between BOR, BLM, and Commission staff regarding the boundary dispute, it became apparent that any permanent resolution would almost certainly require substantial time and effort with no guarantee of success.

As a solution to the dispute, staff recommends the lease premises boundary line follow the 1961 Meanders of the Right Bank of the Colorado River (River) as shown on Bureau of Land Management Dependent Resurvey of Section 6, Township 7 North, Range 24 East, S.B.M., filed in 2014, for lease administrative purposes only. Issuance of a long-term lease by the Commission would not be a waiver or limitation of the State of California's right, title, or interest in any of the disputed lands or an admission of the adequacy of the boundary as described between state and federal lands at this location. Additionally, in the event the boundary dispute is resolved in the State's favor, the lease would require the Lessee to apply for a lease amendment to revise the lease area accordingly, and to verify all improvements and uses are Public Trust consistent and in the State's best interests. Staff completed a field survey and has located monuments set on the Meander Line and recommends authorization to file and record a record of survey with the County.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6106, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Park is a destination recreation facility with a history exceeding 55 years. Boating, camping, and access to the River are the primary attractions and uses. The Park is 1,027 acres in size and encompasses approximately 696 acres of BOR upland and 331 acres of State sovereign land under the jurisdiction of the Commission. The Moabi Channel (Channel) connects to the River through a control structure and runs 3,750

feet through the middle of the Park, eventually opening to the River. The Channel offers boat parking and beach use on both banks.

The seven-lane boat launch ramp with two floating boat docks were improved through grants obtained by the County from the California Department of Boating and Waterways (now Department of Parks and Recreation, Division of Boating and Waterways). The County Sheriff's Department seasonally staffs the Water Safety Center and provides water safety instruction and law enforcement activities at the Park and on the River during peak visitation periods.

The Park offers 25 peninsula campgrounds providing sewer, water, and electrical hook-ups to 112 campsites. The RV campground near the boat launch includes 45 campsites, and the tent campground offers 46 dry (no utility hook-ups) campsites. Restrooms are conveniently situated throughout the Park with some offering coin-operated showers. The Park's 225-slip marina has six boat docks and a floating fuel dock, each with a gangway. Amenities at the Park also include a full-service bar and restaurant with an adjacent floating boat dock providing direct access to visitors arriving by boat. The Park offers visitor-serving cabin rentals with four beachfront units on sovereign land and 10 marina cabins on lands under BOR jurisdiction. The above-ground fuel storage tanks, boutique, and general store are located on land under BOR jurisdiction. Infrastructure to support the above-described facilities include parking lots, paved access roads, and a water distribution and sewer collection system.

The Plan Improvements are proposed to be constructed in six phases over the course of 30 years. The Plan Improvements, described in detail above, will enhance the amenities at the Park and improve the visitor experience by upgrading facilities constructed many years ago. A 40-year lease term will allow Pirate Cove an additional 10 years after the Plan Improvements have been completed to achieve a reasonable return on its investment. In addition to the Plan Improvements, within the first 3 years following lease authorization Pirate Cove plans to initiate deferred maintenance for water and sewer system upgrades and repairs, road and parking lot resurfacing, and electrical service upgrades.

The proposed lease includes certain lease provisions protecting the public use of the proposed lease area. In addition, the Applicant is required to insure the lease premises, indemnify the State for any liability incurred as a result of the lessee's activities thereon, and post a surety bond or other security to ensure restoration of the lease premises.

The lease also requires the payment of annual rent to compensate the State for the occupation of the State land involved. The lease does not alienate the State's fee simple interest or permanently impair public rights. Upon termination of the lease, the

lessee may be required to remove any improvements and restore the lease premises to their original condition.

Generally, the proposed lease directly promotes Public Trust needs and values by supporting recreational boating, fishing, and public access to the State's sovereign land. The authorized uses promote water-related public use of Public Trust land and provide a variety of visitor-serving amenities to help the public access and enjoy these lands. The restaurant, bar, and four beachfront short-term rental cabins are generally consistent with the Public Trust Doctrine in that they provide public-serving needs and do not substantially interfere with trust values.

CLIMATE CHANGE:

The lease area in the River is not tidally influenced and therefore would not be subject to sea-level rise. The water level at this location is regulated primarily by water released upstream from the Davis Dam. 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. The existing and proposed improvements could be damaged from both storm-created debris and prolonged droughts. 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 runoff by likely increasing scour and decreasing bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises from floods or droughts over the 40-year lease term. The floating structures in the water would be adaptable to variable water levels, allowing them to rise and fall with storms and droughts, and increasing their resiliency to some climate change impacts, but they may require more frequent maintenance to ensure continued functionality, during and after storm seasons and to avoid dislodgement of facilities. The fixed structures may need reinforcement to withstand higher levels of flood exposure or drought. The electrical units, restrooms, sewage/wastewater collection system, and floating covered fuel dock should always be maintained and operated in compliance with all health codes because mismanagement can cause serious public health impacts for the site and downstream from the River. Regular maintenance and implementation of Best Management Practices, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement.

ENVIRONMENTAL JUSTICE:

Staff reviewed environmental justice data for the vicinity that indicated significant existing pollution burdens related to groundwater and hazardous waste including a very high asthma health factor. Staff believes that the lease for the existing regional park and the construction, use, and maintenance of Pirate Cove Peninsula Master Development Plan will not exacerbate these existing conditions. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in San Bernardino County providing notification of the proposed lease. The letter sent to several environmental justice organizations included a brief description of the lease and named a staff person as a point of contact. No comments on the proposed lease were received as a result of the outreach.

CONCLUSION:

Based on the information above, staff believes that the proposed lease will not substantially interfere with the 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.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the request by the County to terminate its lease and the application from Pirate Cove for a new lease are discretionary actions 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 County's request and Pirate Cove's application, the County would continue as the Lessee with Pirate Cove as the sublessee. 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. Termination of the lease is not a project as defined by CEQA because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. **Existing Park Improvements:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities, California Code of Regulations, title 2, section 2905, subdivision (a).

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

5. **Construction of Plan Improvements:** A Mitigated Negative Declaration, State Clearinghouse No. 2012121047, was prepared by San Bernardino County and adopted on April 23, 2013, for this project. Staff has reviewed such document.

A. Mitigation Monitoring Program was adopted by San Bernardino County.

6. The Professional Land Surveyors' Act provides, in pertinent part, that a record of survey be filed after completion of a field survey which discloses among other matters, the "establishment... of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey." (Cal. Bus. & Prof. Code, § 8762, subd. (b)(4).
7. 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.

APPROVAL OBTAINED:

San Bernardino County

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Best Management Practices for Marina Owners / Operators
- E. Best Management Practices for Berth Holders / Guest Dock Users / Boaters

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Park Improvements: 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a).

Construction of Plan Improvements: Find that a Mitigated Negative Declaration, State Clearinghouse No. 2012121047, and a Mitigation Monitoring Program were prepared by San Bernardino County and adopted on April 23, 2013, 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.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the continuing use and maintenance of the existing improvements commonly associated with water-dependent recreational uses, visitor-serving amenities, and the construction, use, and maintenance of the Pirate Cove Peninsula Master Development Plan Improvements will not substantially interfere with Public Trust needs and values at this location for the approved term and are consistent with the common law Public Trust Doctrine; and
2. Find that the continuing use and maintenance of the existing restaurant, bar, and four beachfront short-term rental cabins are generally consistent with the Public

Trust Doctrine, and that even if the use were to be found inconsistent it does not substantially interfere with the trust at this time or at this location; and

3. Find that issuing the proposed lease 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:

1. Authorize termination, effective July 1, 2020, of Lease No. PRC 3321, a General Lease – Commercial Use, issued to San Bernardino County.
2. Authorize staff to file and record a Record of Survey as described herein.
3. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning July 2, 2020, for a term of 40 years, for use and maintenance of an existing regional park for public recreation, and for construction, use, and maintenance of the Pirate Cove Peninsula Master Development Plan Improvements; as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; Base Rent in the amount of \$262,952 per year, with an annual Consumer Price Index adjustment, or 7 percent of Gross Income, whichever is higher, and \$0.02 per gallon of fuel sold; subject to modification by the Commission as specified in the lease; liability insurance in an amount no less than \$5,000,000 per occurrence; and a surety bond or other security in the amount of \$1,000,000.

EXHIBIT A

LEASE 3321

LAND DESCRIPTION

All that sovereign land lying in the historic bed of the Colorado River, adjacent to Sections 5 and 6, Township 7 North, Range 24 East S.B.M. and Section 36, Township 8 North, Range 23 East, S.B.M. and Section 1, Township 7 North, Range 23 East, S.B.M., County of San Bernardino, State of California, more particularly described as follows:

BEGINNING at a point on the historic Low Water of the right bank of the Colorado River, said point lying N 47°30'00" W 2296.07 feet from a U.S.C. & G.S. Disk stamped "REFUGE 1964" (PID EU0763) having CCS83, Zone 5 (2002.0) coordinates of North (Y) = 2,104,000.371 feet, East (X) = 7,615,201.271 feet; thence along said historic Low Water the following nine (9) courses:

- 1) S 79°22'28" W 184.57 feet;
- 2) S 68°45'53" W 174.96 feet;
- 3) S 48°23'39" W 252.76 feet;
- 4) N 72°31'52" W 154.06 feet;
- 5) S 38°01'20" W 89.46 feet;
- 6) S 84°40'19" W 111.54 feet;
- 7) N 28°11'50" W 141.03 feet;
- 8) S 85°47'45" W 284.80 feet;
- 9) S 70°08'04" W 340.14 feet;

thence leaving said Low Water S 2°15'04" E 22.47 feet to a Bureau of Land Management brass cap stamped "MC S6 T7N R24E 2014", said brass cap being the northeast corner of said Section 6 and a point on the 1961 meanders of the right bank of the Colorado River; thence along said 1961 meanders, as surveyed by the California State Lands Commission in May, 2017, S 83°49'45" W 911.57 feet to a Bureau of Land Management brass cap stamped "AP3 S6 T7N R24E 2014"; thence N 80°39'19" W 690.18 feet; thence N 73°16'18" W 2664.21 feet to a Bureau of Land Management brass cap stamped "AP1 T7N R24E S6 2014"; thence N 72°23'40" W 1170.22 feet to a Bureau of Land Management brass cap stamped "MC 1 6 T7N R24E 2014", said brass cap marking the northwest corner of said Section 6; thence leaving said meanders, and along the west line of said Section 6 S 2°21'54" E 15.42 feet to a point on the historic Low Water of the right bank of the Colorado River; thence along said historic Low Water the following twenty seven (27) courses:

- 1) S 88°59'31" W 276.69 feet;
- 2) N 33°47'44" W 1094.16 feet;
- 3) N 86°55'33" W 140.41 feet;

- 4) N 35°14'17" W 352.79 feet;
- 5) N 16°01'42" E 387.23 feet;
- 6) N 71°44'26" W 300.42 feet;
- 7) N 17°27'57" W 54.33 feet;
- 8) N 69°04'03" E 184.43 feet;
- 9) N 42°54'05" W 205.59 feet;
- 10) S 49°31'10" W 84.92 feet;
- 11) N 6°50'19" W 327.74 feet;
- 12) N 10°04'24" E 200.25 feet;
- 13) N 66°29'35" E 124.74 feet;
- 14) N 8°50'11" E 280.33 feet;
- 15) N 34°10'51" W 91.02 feet;
- 16) S 64°34'52" W 122.18 feet;
- 17) N 3°59'59" E 270.33 feet;
- 18) N 27°22'45" E 216.55 feet;
- 19) N 7°44'22" W 109.92 feet;
- 20) N 55°11'47" W 75.39 feet;
- 21) N 5°05'53" E 197.97 feet;
- 22) N 59°03'22" E 125.52 feet;
- 23) N 8°29'39" W 419.39 feet;
- 24) N 19°09'05" W 381.49 feet;
- 25) N 17°40'46" W 249.17 feet;
- 26) N 24°54'30" W 371.21 feet;
- 27) N 33°10'20" W 278.34 feet;

thence leaving said historic Low Water the following eleven (11) courses:

- 1) N 49°27'35" E 443.86 feet;
- 2) S 39°14'36" E 1053.94 feet;
- 3) S 30°11'10" E 847.14 feet;
- 4) S 38°28'11" E 1085.73 feet;
- 5) S 43°50'04" E 1003.43 feet;
- 6) S 50°32'58" E 1080.53 feet;
- 7) S 61°48'45" E 1308.60 feet;
- 8) S 68°34'36" E 1918.10 feet;
- 9) S 69°03'05" E 985.11 feet;
- 10) S 62°37'51" E 971.61 feet;
- 11) S 38°18'30" E 454.45 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM that portion leased to the U.S. Bureau of Reclamation under PRC 9239.9, described in Exhibit A of Calendar Item C39 dated 10/13/16, on file at the Sacramento Office of the California State Lands Commission.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1983, Zone 5 (2002.0). All distances are grid.

END OF DESCRIPTION



Prepared 6/11/2020 by the California State Lands Commission Boundary Unit.

SITE



LOCATION



EXHIBIT B

DJP 7/13/2020

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
MOABI REGIONAL PARK – LEASE OF STATE LANDS
(PRC 3321, State Clearinghouse No. 2012121047)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Moabi Regional Park – Lease of State Lands (Project). The CEQA lead agency for the Project is San Bernardino County.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency adopted an MND, State Clearinghouse No. 2012121047, adopted an MMP for the whole of the Project, and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)
Impacts to Mojave Desert Wash / Riparian Habitat; Wetlands and Desert Drainages	MM BIO-1. No construction or land disturbance shall occur within areas identified as Desert Wash/Riparian as shown on Figure 3 of the Biological Resources Assessment for Moabi Regional Park OHV Area Reopening dated March 2012.
Disturbance to Wildlife Nursery Sites	MM BIO-2. If construction is conducted during the migratory bird nesting season (April 1 through September 1), a pre-construction survey by a qualified biologist for nests will be conducted within areas proposed for disturbance and a 300-foot buffer area created if an active nest is identified.
Impacts to Habitat from Reservoir Construction and Detention Basin Construction	MM BIO-1. (See above.) MM BIO-2. (See above.)
Insufficiency of Park Water Supplies	<p>MM UTL-1. Additional wells with a total capacity of 150 gallons per minute (gpm) and related storage and conveyance system are required as follows:</p> <ul style="list-style-type: none"> • Prior to completion and occupancy of Phase 1: New well with a minimum pumping capacity of 50 gpm. • Prior to completion and occupancy of Phase 3: New well with a minimum pumping capacity of 50 gpm unless a well with a minimum pumping capacity of 50 gpm is provided in Phase 1. In addition, a reservoir with a storage capacity of 250,000 gallons is required. • Prior to completion and occupancy of Phase 5: New well with a minimum pumping capacity of 50 gpm unless a well(s) with a minimum pumping capacity of 100 gpm combined are provided in Phase 1 and/or Phase 3. <p>All water supply wells must be designed and constructed to the County of San Bernardino Special District Department standards and must produce water in compliance with California State Water Resources Control Board Division of Drinking Water requirements, and the state and federal Safe Drinking Water Acts.</p>
Unanticipated Discovery of Cultural Resources	<p>APM-1. In the event archaeological and/or historical resources are uncovered during earthmoving activities, all work in that area shall cease immediately and a qualified archeologist shall be retained to access the findings, and if necessary, provide appropriate disposition of the resources. Earthmoving shall be diverted temporarily around the deposits until they have been evaluated, recorded, excavated, and/or recovered as necessary. Earthmoving shall be allowed to proceed on the site when the archaeologist, in consultation with the appropriate Native American Tribe(s) and the County of San Bernardino Museum, determines the resources are recovered to their satisfaction.</p> <p>Commission staff shall be notified of any significant cultural resources or paleontological specimens if they are discovered on</p>

Potential Impact	Mitigation Measure (MM)
	lands under the Commission's jurisdiction. The final disposition of archaeological and historical resources and paleontological specimens from lands under the Commission's jurisdiction must be approved by the Commission.
Accidental discovery or recognition of human remains	APM-2. California State Health and Safety Code Section 7050.5 dictates that no further disturbances shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to CEQA regulation and Public Resources Code Section 5097.98.

EXHIBIT D

BEST MANAGEMENT PRACTICES FOR MARINA OWNERS / OPERATORS

Petroleum Management

Instruct staff not to use detergents or emulsifiers on a fuel or oil spill.

Post emergency telephone numbers to report oil or chemical spills in prominent locations at the marina.

Recommend the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.

Provide a collection site for used oily pads and used oil or provide information on how and where to dispose of them.

Hazardous Wastes

Have a marina policy to manage hazardous wastes and hazardous materials.

Post a prohibition on the disposal of used oil, antifreeze, paint, solvents, varnishes, and batteries into the dumpster or general collection waste receptacles.

If you provide for hazardous waste collection, manage the wastes in a proper fashion through the use of structurally sound, non-leaking containers, in accordance with all local, state, and federal laws.

In the event of a spill or leak, clean up and dispose of materials promptly and properly and report the spill to all appropriate entities.

If operating a collection facility is not feasible, provide information to your tenants on how and where to dispose their wastes.

Encourage the use of alternative products to hazardous household chemicals. There are many non-toxic or less-toxic products that can be used as alternatives.

Emergencies

Have an updated map of important shut off valves and make sure all employees know the locations.

Keep your list of Emergency Phone Numbers and contact persons updated.

Be sure that all employees are trained in emergency procedures and that they know their responsibilities for each situation as designed in an Emergency Response Plan.

Underwater Boat Hull Cleaning

Require the use of legal hull paints to reduce the possibility of contamination when performing hull cleaning.

Boat Sewage Discharge

If your marina operates a pumpout facility, install adequate signs to identify the station, its location, and hours of operation.

Provide the service at convenient times and at a reasonable cost.

Make the pumpout station user friendly.

Develop and adhere to a regular inspection and maintenance schedule for the pumpout station.

Provide educational information about the pumpout station to boaters.

Inform berth holders of existing local, state, and federal regulations pertaining to the use of Marine Sanitation Devices and the illegal discharge of boat sewage.

Post a list of local pumpout locations in a conspicuous location such as the entrances to the docks.

Solid Waste

Keep litter picked up.

Place trash receptacles and dumpsters in convenient locations for boaters and guests.

Use covered dumpsters and trashcans so they do not fill up with rainwater and do not blow away in heavy winds.

Keep trash enclosures clean and free of debris.

Keep cleanup equipment and materials available.

Inspect trash storage areas regularly.

Dispose of all solid wastes in accordance with local, state, and federal laws and regulations.

Liquid Waste

Train marina employees in oil spill response procedures.

Keep adequate spill response equipment and materials in strategic locations.

Storm Water Runoff

Maintain a Storm Water Pollution Prevention Plan.

Report spills that have entered or have a potential to enter a water body to appropriate agencies.

Provide signage adjacent to any storm drain inlet to discourage illegal dumping of pollutants.

Provide signs adjacent to parking lots that prohibit littering, dumping, and vehicle servicing or washing.

Develop and implement a regular sweeping / cleaning program for hard surface areas.

Reduce or eliminate landscaping and irrigation runoff into the waterway.

EXHIBIT E

BEST MANAGEMENT PRACTICES FOR BERTH HOLDERS / GUEST DOCK USERS / BOATERS

Bilge Water Management

Keep bilge area as dry as possible.

Regularly check fittings, fluid lines, engine seals, and gaskets.

Fix all oil and fuel leaks in a timely manner.

Do not drain oil into the bilge.

Fit a drain pan, if feasible, underneath the engine to collect drips and leaks.

Consider the use of oil-absorbent pads, even in small boats.

If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pumpout service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.

Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.

Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.

Avoid overfilling fuel tanks and attend the fuel nozzle at all times.

Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.

Use petroleum absorption pads while fueling to catch splash back and any drops when the nozzle is transferred back from the boat to the fuel dock.

Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris, and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints, and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent; check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

Schedule regular hull cleaning and maintenance to reduce the build up of hard marine growth and eliminate the need for hard scrubbing.

Regularly scheduled gentle cleaning will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles, and other approved containers to dispose of garbage and other waste.