

Staff Report 36

LESSEE/ASSIGNOR:

Alan Zimmer and Diana Zimmer

APPLICANT/ASSIGNEE:

SOTW Group, LLC

PROPOSED ACTION:

Assignment of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in the Colorado River, adjacent to 1240 Beach Drive, Needles, San Bernardino County.

AUTHORIZED USE:

Continued use and maintenance of an existing concrete stairway with rock retaining wall, raised planter area with concrete retaining wall, and riprap bankline protection.

TERM:

10 years, beginning August 23, 2018.

CONSIDERATION:

\$125 per year, with an annual Consumer Price Index adjustment.

SPECIFIC PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

BACKGROUND:

The State of California's fee ownership of the sovereign land located in the Colorado River at this location was confirmed in 1991 by 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 (Agreement). Projects, including new development or maintenance of existing facilities, extending waterward of the ordinary high-water mark (OHWM) fixed in the Agreement 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.

Pursuant to the Agreement, 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 through 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.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On August 23, 2018, the Commission authorized Lease No. PRC 9503.1, a General Lease – Recreational and Protective Structure Use, for an existing concrete stairway with rock retaining wall, raised planter area with concrete retaining wall, and riprap bankline protection, to Alan Zimmer and Diana Zimmer ([Item C93, August 23, 2018](#)). The lease will expire on August 22, 2028. On September 10, 2020, ownership interest in the upland property was transferred to the SOTW Group, LLC (Applicant). The Applicant is now applying for an assignment of the remaining lease term.

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. 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 lease is a 10-year General Lease – Recreational and Protective Structure Use that began on August 23, 2018 and may be subject to the climate change effects provided above. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2028 if an application is submitted for a new lease and would be based on climate change data at that time.

CONCLUSION:

Assignment of this lease will not result in a change in the use of or impacts to Public Trust resources. Staff believes approval of this assignment will not substantially interfere 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 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. 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 1.2 to provide that the current and future management of ungranted sovereign lands and resources and granted lands, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning.

3. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the Lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable remaining term of the lease; and is in the best interest of the State.

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 9503, a 10-year General Lease – Recreational and Protective Structure Use, of sovereign land located in the Colorado River, as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, from Alan and Diana Zimmer to Applicant; effective September 10, 2020.

EXHIBIT A

PRC 9503

LAND DESCRIPTION

A parcel of State owned land adjacent to Lot 2 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, more particularly described as follows:

BEGINNING at the easterly corner of said Lot 2; 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 60° 42' 46" W 45.07 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 32° 26' 33" E 40.00 feet; thence S 60° 42' 46" E 45.07 feet to the intersection with the northeasterly prolongation of the southeasterly line of said Lot; thence southwesterly along said northeasterly prolongation S 32° 26' 33' W 40.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lot 2.

END OF DESCRIPTION

Prepared 11/18/2020 by the California State Lands Commission Boundary Unit



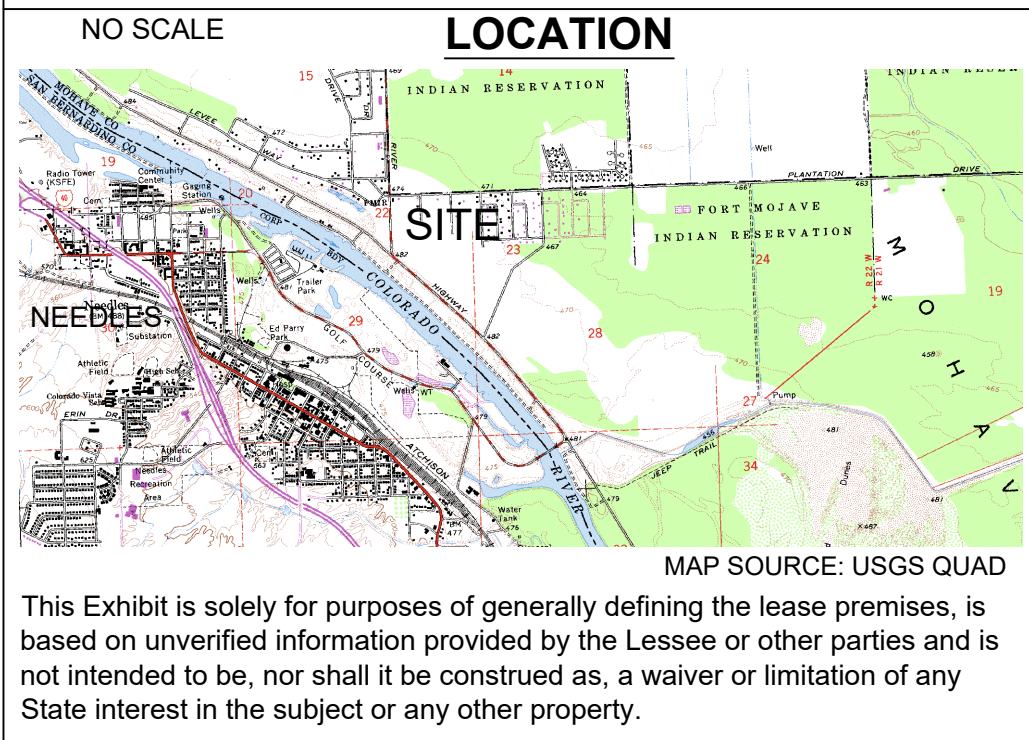
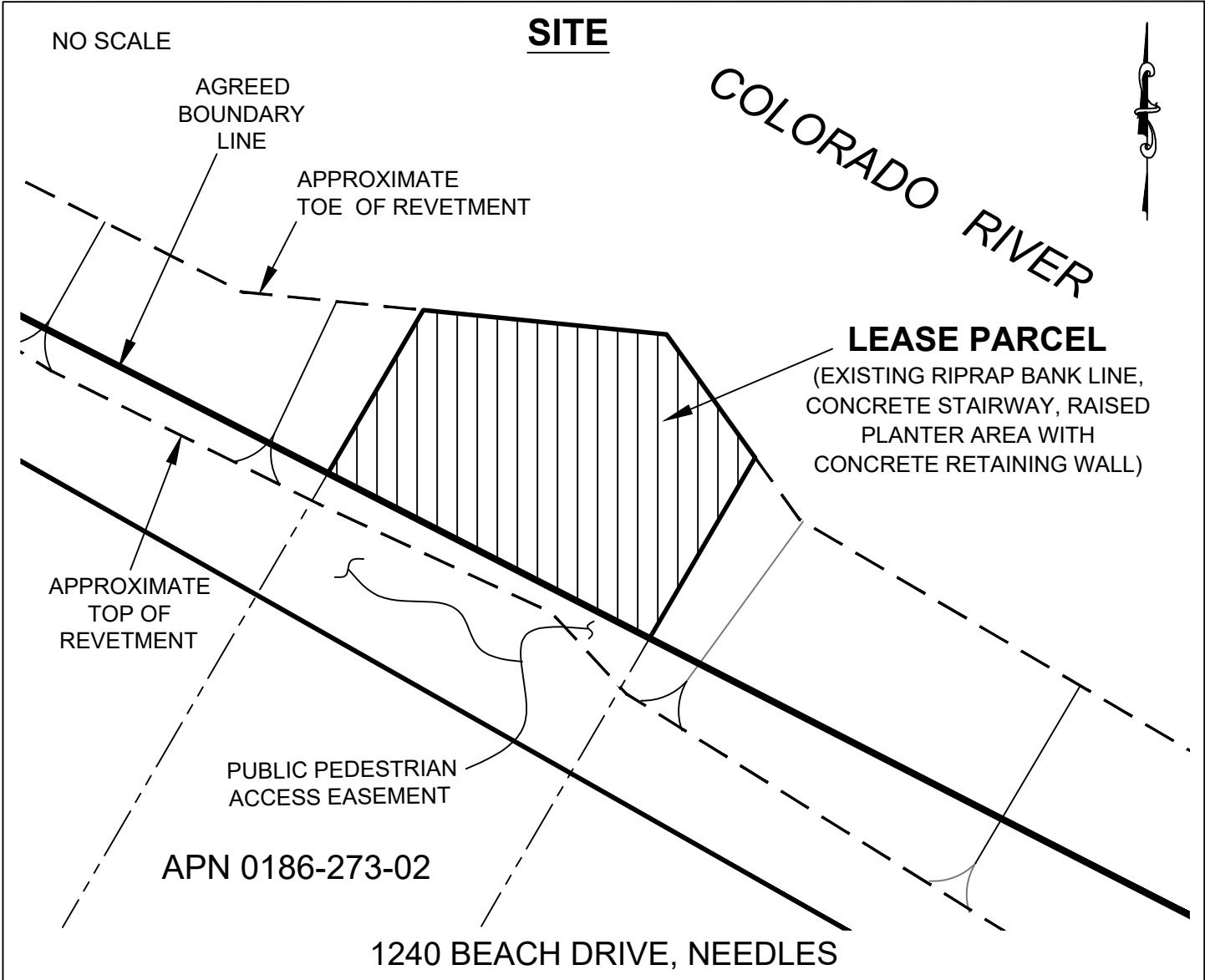


Exhibit B

PRC 9503
SOTW GROUP, LLC
APN 0186-273-02
GENERAL LEASE -
RECREATIONAL AND
PROTECTIVE STRUCTURE USE
SAN BERNARDINO COUNTY

SITE

TS 11/18/2020