

Staff Report 28

LESSEE:

Willard C. Collins

PROPOSED ACTION:

Termination of General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Middle River, adjacent to Assessor's Parcel Number 129-060-03, near Stockton, San Joaquin County.

AUTHORIZED USE:

Use and maintenance of a dock, landing, covered platform, water ski jump, 22-buoy slalom course, and appurtenant facilities.

TERM:

10 years, beginning October 5, 2015.

CONSIDERATION:

\$1,865 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- \$5,000 Bond

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 October 16, 2015, the Commission authorized a 10-year General Lease – Recreational Use to the Lessee ([Item C33, October 16, 2015](#)). In 2015, the Lessee, Willard Collins, ran the USA Water Ski Club that was a private members-only club that promoted water skiing and other recreational boating activities to its members, their families, and guests. Access to the facility was by boat only. No public events or tournaments were held at this location.

On July 23, 2016, Mr. Collins died. Staff was not notified of his death, but his widow, Laverne Collins, mistakenly believing that was she obligated to pay rent, continued to pay the annual rent for 2016, 2017, and 2018, in the total amount of \$5,923.37. On November 18, 2020, staff received the 2019 and 2020 invoices back from Mrs. Collins with a copy of the death certificate and a note requesting to terminate the lease due to her inability to pay the outstanding rent in the amount of \$4,418.01.

Willard Collins had applied for and accepted the lease in his name only. Mrs. Collins was not a party to Lease 7189. She did not desire to maintain or assume the lease and received no benefit from the lease. Furthermore, because the lease could be assigned only with the Commission's consent, the lease likely terminated upon Mr. Collins's death. Regarding the improvements, staff's research and discussions with Mrs. Collins indicate that the improvements have been removed from the State's lands. Staff recommends terminating the lease as of Mr. Collins's death to avoid uncertainty and clearly conclude this matter. This will also clearly indicate that the previously authorized use as a water ski club may not continue on these Public Trust lands. The public may use the area formerly under lease for boating, fishing, and navigation, consistent with the common law Public Trust Doctrine, unimpeded by the former use.

Due to the circumstances, staff recommends terminating Lease 7189 as of the date of Mr. Collins's death, refunding \$5,923.37 in rent to Mrs. Laverne Collins, and cancelling any outstanding rent invoices.

CONCLUSION:

Staff believes the termination of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

2. Termination 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 termination of the lease, refunding rent payments, and canceling rent invoices is consistent with the common law Public Trust Doctrine and in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective July 23, 2016, of Lease 7189, a General Lease – Recreational Use.
2. Authorize a refund to Laverne Collins in the amount of \$5,923.37.
3. Authorize cancellation of any outstanding rent invoices associated with Lease 7189.

EXHIBIT A

LEASE 7189

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the historic channel of Middle River, situate adjacent to Swamp and Overflowed Lands Survey 1127 patented April 2nd, 1866, San Joaquin County, State of California, and being more particularly described as follows:

COMMENCING at a $\frac{3}{4}$ inch iron pin at the southwesterly terminus of that course between points "2" and "3" as shown on that map titled "Record of Survey Map – of those certain berms adjacent to property owned by Allied Properties on Lower Jones Tract which were separated from the tract proper by course changes of the water ways. Being portions of Reclamation District No. 2038 in San Joaquin County, California." and filed in Book 15 of Surveys, Page 48 of said county; thence North 03°56'12" West 900 feet more or less to the approximate intersection of the right bank of the historic channel of said river with the dredger cut known as "Empire Cut, said point also being the POINT OF BEGINNING; thence leaving said bank and along the following four (4) courses:

- (1) South 02°39'42" East 634.25 feet,
- (2) South 68°25'21" West 1463.36 feet,
- (3) North 02°39'42" West 634.25 feet,
- (4) North 68°25'21" East 1463.36 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the historic channel of Middle River.

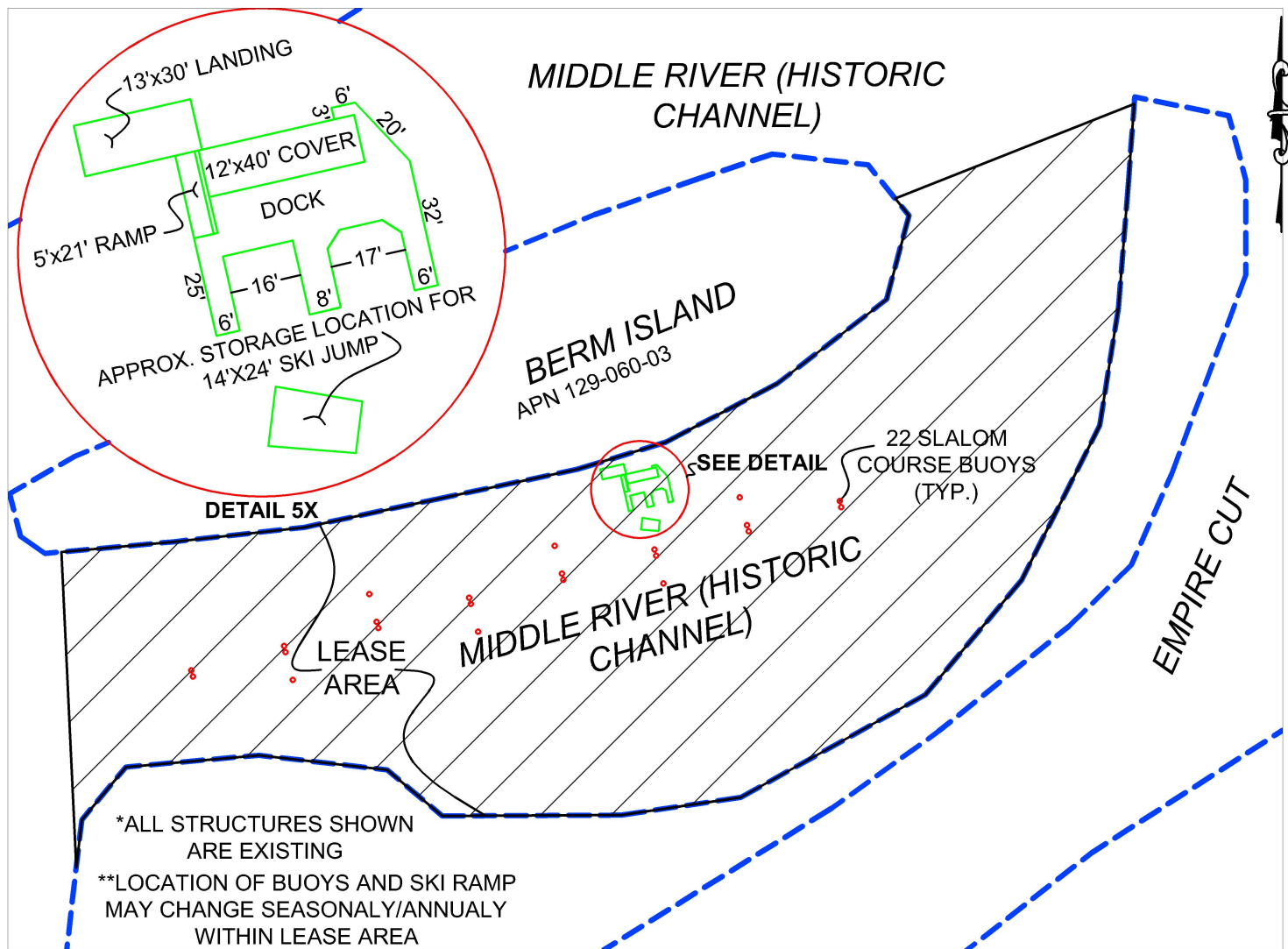
END OF DESCRIPTION

Prepared 1/21/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

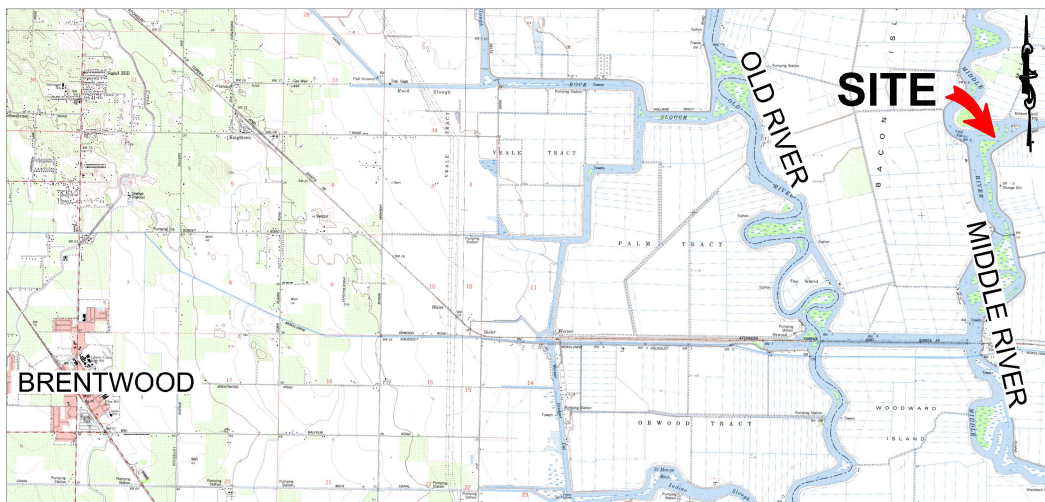
SITE



Berm Island, Middle River

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

LEASE 7189
COLLINS
APN 129-060-03
TERMINATION OF LEASE
SAN JOAQUIN COUNTY



MJF 1/21/2021