

Staff Report 05

LESSEE/ASSIGNOR:

Cliff's River Marina, Inc.

APPLICANT/ASSIGNEE:

Selena Ray and Billy Ray

PROPOSED ACTION:

Assignment of a General Lease – Commercial Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 8651 River Road, near Freeport, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of a commercial marina consisting of 126 covered and uncovered berths, debris barrier, harbor master's office, gas pump, sewage pumpout facility, boat launch, storage shed, and access bridge.

TERM:

25 years, beginning June 1, 2004.

CONSIDERATION:

Minimum rent of \$6,800 per year with percentage of gross rent at 5 percent of gross income from berthing, 25 percent of all coin operated vending and game machines, 10 percent of gross income from all other sources, and \$0.015 per gallon of fuel sold to a maximum of 100,000 gallons and \$0.02 per gallon thereafter.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence.

- Surety bond or other security in an amount no less than \$20,000.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 7, 2004, the Commission authorized a 25-year General Lease – Commercial Use to Cliff's River Marina ([Item C15, June 7, 2004](#)). On April 5, 2019, the Commission authorized a continuation of rent at \$6,800 per year ([EO Report, April 5, 2019](#)). That lease will expire on May 31, 2029.

The Lessee and the Applicant are now requesting an assignment of the lease. The Applicant agrees to perform and be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, June 28, 2019.

As required by provisions in the lease, from 2019 to 2021, the Applicant removed three floating homes (known as liveaboards) and is in the process of removing two more from the lease premises. The Applicant has more than 20 years of experience in business operations, including transportation, restaurant, packaging, and the wine industry, and intends to operate the marina in the same manner as it is currently being operated.

The subject marina directly promotes Public Trust needs by accommodating, promoting, and fostering the public's need for boating services, helping increase public access to the waterway, and facilitating the public's enjoyment of the State's adjacent waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment is in the best interests of the State.

CLIMATE CHANGE:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities are located on the Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events could increase inundation levels within the lease area over the term of the lease. In addition, 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, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The 126 covered and uncovered berths with electrical conduits, debris barrier, gas pump, sewage pump-out facility, boat launch, storage shed, access bridge, and other ancillary facilities are 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 may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The electrical conduits must remain functional during and after storm seasons, so they do not become a public safety hazard or a danger for navigation within the Sacramento River. The gas pump and sewage pumpout facility also need to continue to function during and after storm seasons, so they do not cause public health and environmental impacts by leaking into the Sacramento River.

The combination of these projected conditions could increase the likelihood of damage and affect the fixed features like the Harbor Master's Office, and pilings within the lease premises may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events.

Since dredging is part of the lease, more frequent maintenance dredging may be needed to remove sediments accumulated from more frequent and stronger future storms in the area.

The vegetated bank (not under lease) provides some stability and reduces the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system; but remains at risk of accelerated deterioration from currents and floods.

The lease is a 25-year General Lease – Commercial Use that began on June 1, 2004, and may be subject to the climate change effects of the projected sea-level rise scenario provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the current lease expires and an application for a new lease is considered in 2029 and would be based on projected sea-level rise scenarios at that time.

CONCLUSION:

For these reasons, staff believes the lease assignment will not substantially interfere with Public Trust needs 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 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.

2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Assignment of a 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 remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number PRC 3264, a General Lease – Commercial Use, of sovereign land, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map, (for reference purposes only) attached and by this reference made a part hereof, from Lessee, to Applicant, effective June 28, 2019.

EXHIBIT A

PRC 3264

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Surveys 152, patented January 23, 1874 and 168, patented January 29, 1874, County of Sacramento, State of California and more particularly described as follows:

BEGINNING at the southwest corner of Swamp and Overflowed Land Surveys 168; thence along the westerly boundary of said survey N 0° 45' E 843.00 feet (this course shown as "N 0° 13' 24" W" on that Record of Survey recorded on May 10, 1968 in Book 26 of Surveys, Page 15 in the Office of County Recorder of said County); thence leaving said boundary the following eight courses:

1. N 88° 02' 31" W 79.00 feet;
2. S 46° 57' 29" W 130.00 feet;
3. S 10° 17' 18" E 55.14 feet;
4. S 01° 57' 29" W 701.00 feet;
5. S 60° 08' 55" W 92.96 feet;
6. S 01° 49' 15" W 97.06 feet;
7. S 16° 01' 12" W 536.00 feet;
8. S 74° 03' 04" E 232.66 feet to a point on the westerly boundary of Swamp and Overflowed Land Surveys 152;

thence along said boundary N 21° 45' 00" E 270.00 feet; thence N 10° 15' 00" E 477.18 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Sacramento River.

END OF DESCRIPTION

The above description is based on that original description revised by CSLC Boundary and Title Unit on August 30, 1984 as found in PRC 3264 file, Calendar Item C38.

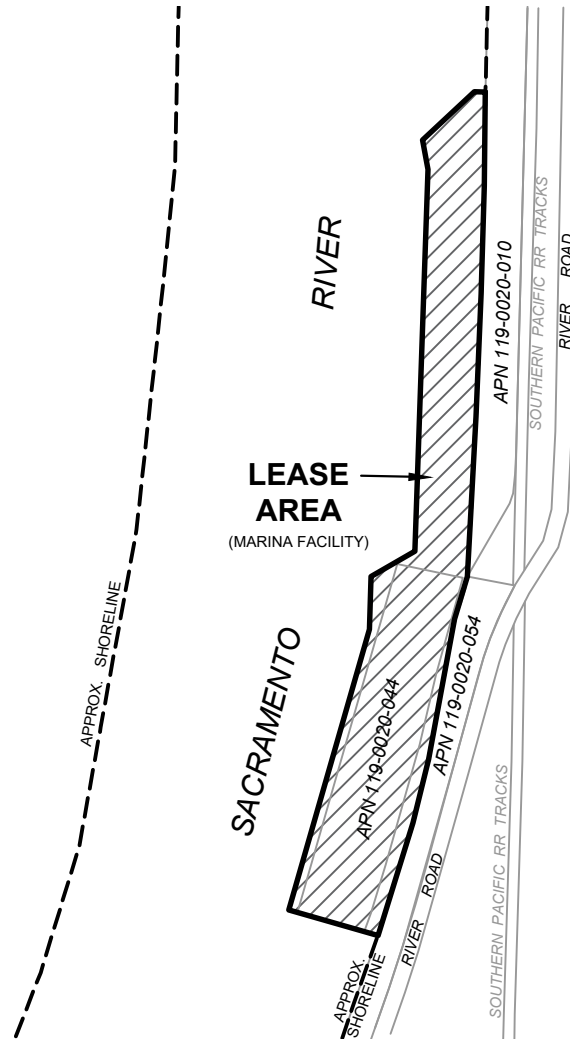
Revised 09/03/2021 by the California
State Lands Commission Boundary Unit.



NO SCALE



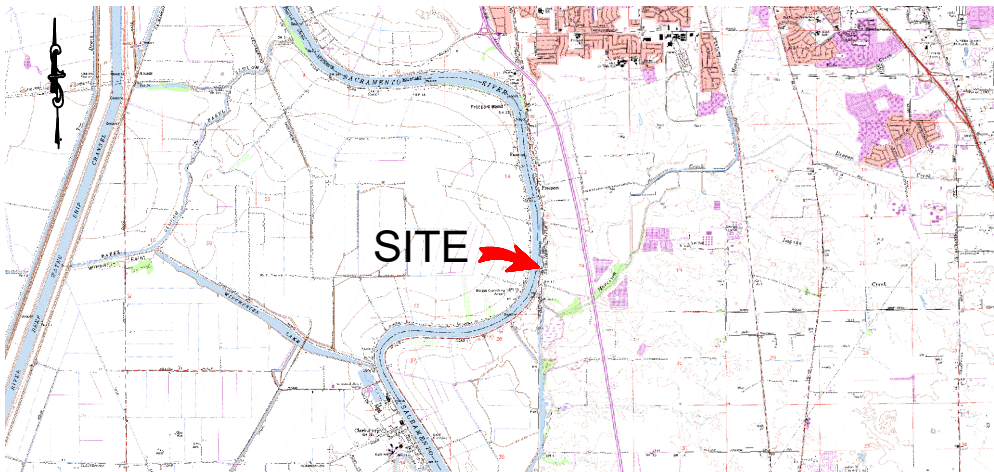
SITE



8651 RIVER ROAD, NEAR THE TOWN OF FREEPORT

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 3264

RAY

APNs 119-0020-010, -044 & -054

GENERAL LEASE-

COMMERCIAL USE

SACRAMENTO COUNTY



TS 09/03/2021