

Staff Report 66

APPLICANT:

Joseph R. Ryniak and Cynthia M. Ryniak

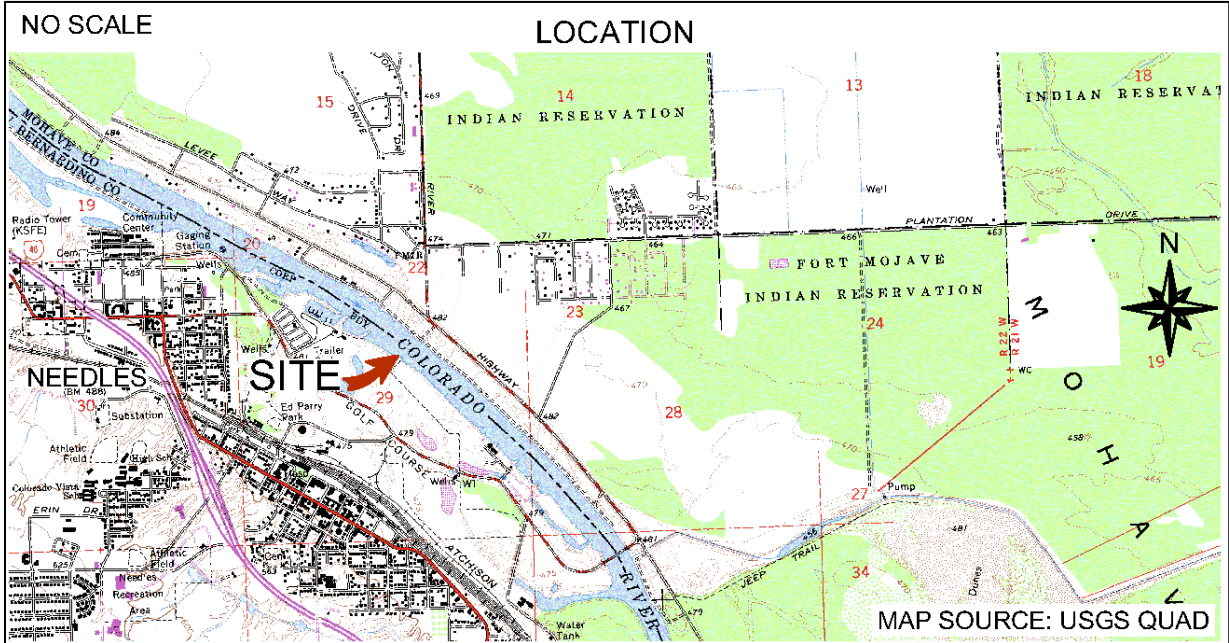
PROPOSED ACTION:

Issuance of a General Lease – Recreational and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1226 Beach Drive, Needles, San Bernardino County (as shown on Figure 1).

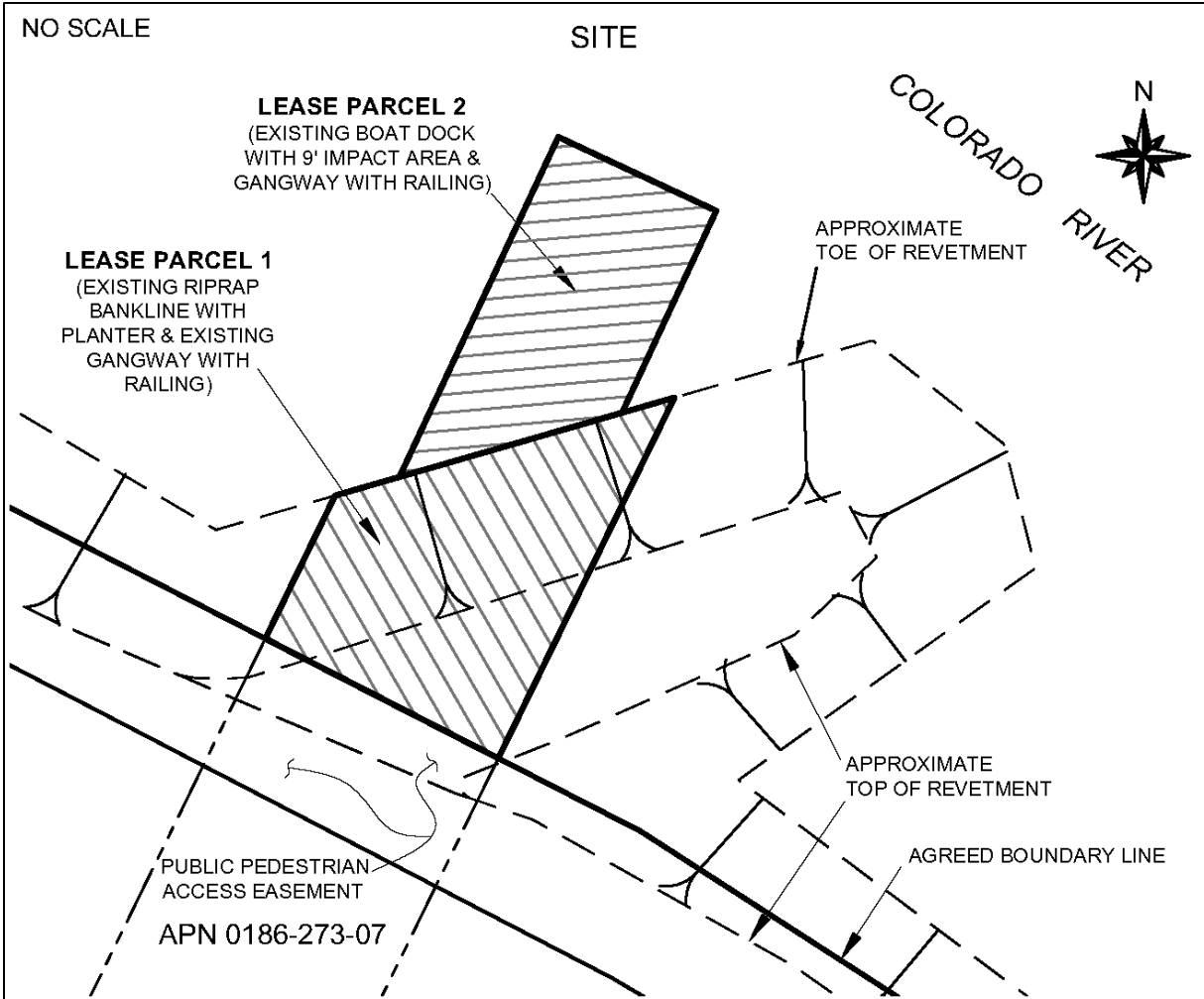
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing boat dock and gangway with railing, planter area, stairway with railing, and riprap bankline protection (as shown on Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

10 years, beginning August 23, 2023

CONSIDERATION:

\$616 per year, with an annual Consumer Price index adjustment.

SPECIFIC LEASE PROVISIONS:

- Insurance: Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Applicant acknowledges that the public pedestrian access easement shall remain open to the public and that no structures or improvements shall be

erected, and no personal property placed so as to obstruct or prevent public access in and along the easement. Such improvements include, but are not limited to, fences, walls, railings, or landscaping. Applicant further acknowledges that they shall not place signs or advocate in any other manner in such a way as to prevent or discourage public use of the public pedestrian access easement.

BACKGROUND:

On December 12, 1990 ([Item 8, December 12, 1990](#)), the Commission authorized a Boundary Line Agreement and Compromise Settlement (AD 134) which confirmed the State's fee ownership of sovereign land located in the Colorado River at this location. Pursuant to Public Resources Code section 6501.1, projects in this location, including new development or maintenance of existing facilities, extending waterward of the ordinary high-water mark (OHWM) fixed by AD 134 require a lease from the Commission. The Applicant's upland property is located along the Colorado River adjacent to the fixed OHWM.

Pursuant to AD 134, the State of California was granted a Public Pedestrian Access Easement (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. The Easement provides access to the Colorado River and can be accessed by the public from the northern or southern end of the subdivision or from the Colorado River.

The U.S. Department of the Interior, Bureau of Reclamation (Reclamation) conducted a review by boat of the riprap bankline on March 27, 2002, and conducted a site visit on April 10, 2002. The inspection revealed that the bankline was cleared of vegetation and that the federally constructed riprap and jetties were undisturbed and in good condition.

By letter dated April 23, 2002, Reclamation declared that it would not place additional riprap on the bankline because of interference from the upland residential development. Reclamation stated that the upland homeowners would be responsible for maintaining protection of their own bankline in the future, subject to the homeowner's seeking approval and permitting of their riprap or bankline construction work from the U.S. Army Corps of Engineers.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On September 20, 2013, the Commission authorized a General Lease – Recreational and Protective Structure Use to Joseph R. Ryniak and Cynthia M. Ryniak, for the construction, use, and maintenance of a stairway with aluminum railing, gangway with aluminum railing, boat dock, and the use and maintenance of an existing planter area and riprap bankline protection, for a term of 10 years ([Item C90, September 20, 2013](#)). That lease will expire on August 22, 2023. The Applicant has applied for a new lease for the existing facilities.

The existing facilities within the lease area consist of a boat dock and gangway with railing, planter area, stairway with railing, and riprap bankline protection. The Improvements are privately owned and maintained and have existed at this location for many years.

The boat dock and gangway with railing and stairway with railing facilitate recreational boating because they are used for the docking and mooring of recreational boats. Recreational boating is water-dependent 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).

The upland area containing the planter area is generally not a Public Trust consistent use, but the Commission has issued leases on a limited basis for existing non-water dependent uses that encroach onto sovereign land where such encroachments do not significantly interfere with Public Trust needs and values. The riprap bankline protection will protect the upland property and maintain and improve the integrity of the river channel from high-flow events and water run-up, which will help protect the Public Trust resources for recreational and navigational use by the public. Furthermore, the riprap bankline protection is maintained by the lessee, at no cost to the public.

Staff believes that the Public Trust needs, values, and uses of the two identified nearby public beach areas along the Colorado River will not be impacted by the proposed lease and continued use of the lease facilities. As an additional measure

to ensure that the proposed use does not impair public access, the lease includes provisions protecting public use of the proposed lease area.

The proposed lease does not alienate the State's fee simple interest in the underlying land, nor will it permanently impair public rights. The proposed lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and protects public access to the Colorado River. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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, drought, and storms. The boat dock and gangway would be able to move up and down as the water levels change during the next 10 years of the lease. The stairway, riprap bankline, and pilings would not be able to move up and down as the water levels change.

Due to these potential changes, existing facilities could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as required by the terms of the proposed lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of a lease is 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. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the premises to their original condition. The lessee has no right to a new lease or to a renewal of any previous lease.

2. This action is consistent with the "Leading Climate Activism" and the "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the existing and, for a limited period, continuing use of the existing boat dock and gangway with railing, planter area, stairway with railing, and riprap bankline protection will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and
2. Find that the existing and, for a limited period, continuing use of the planter area and stairway with railing are not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the Trust; and
3. Find that issuance of the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorized issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning August 23, 2023, for a term of 10 years, for the use of an existing boat dock and gangway with railing, planter area, stairway with railing, and riprap bankline protection; annual rent in the amount of \$616, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.