

Staff Report 71

APPLICANT:

LC Development, LLC

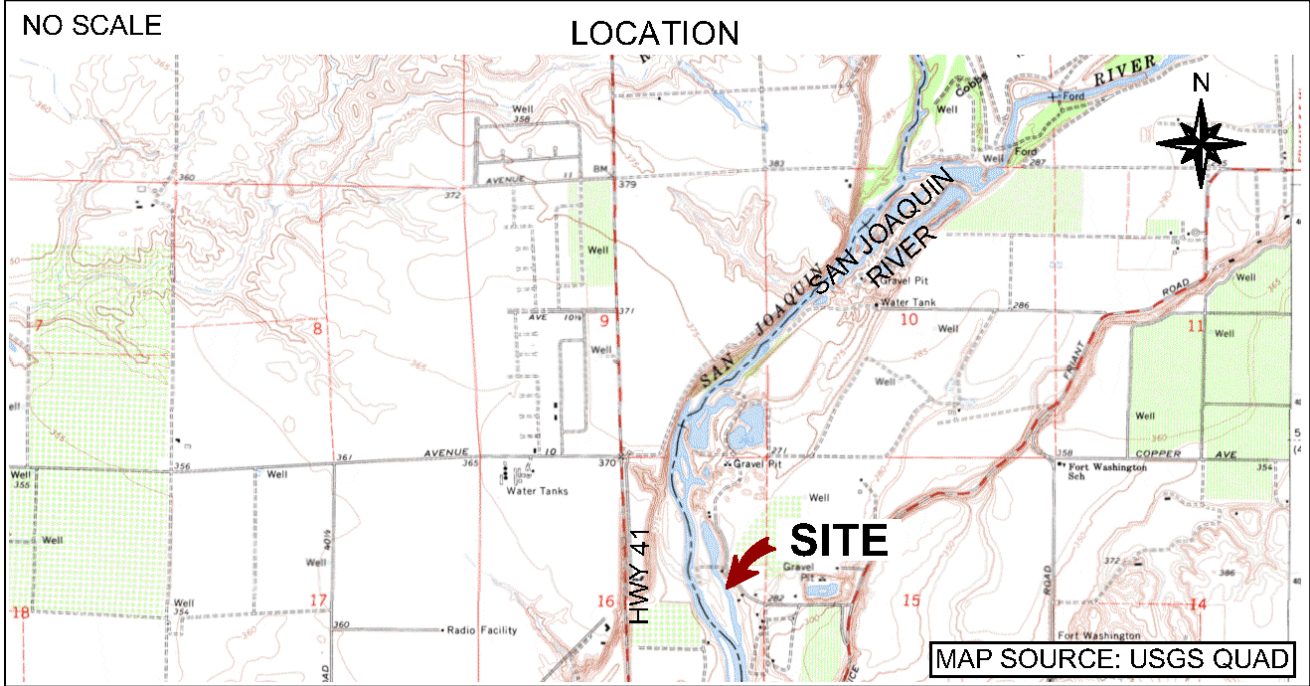
PROPOSED ACTION:

Issuance of a General Lease – Commercial Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the historic bed of the San Joaquin River, adjacent to 10705 N Lanes Road, Fresno, Fresno County (as shown in Figure 1).

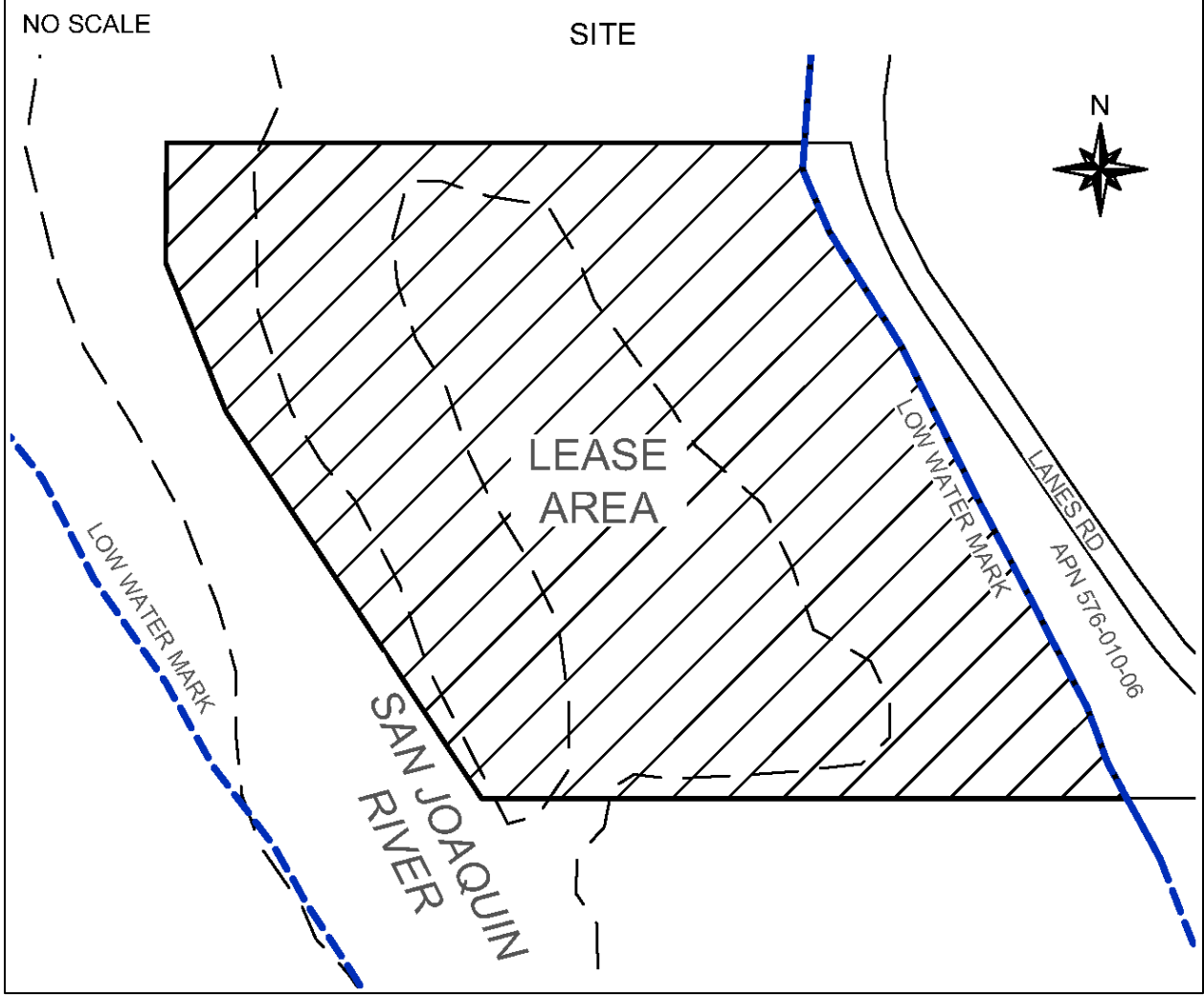
Figure 1. Location



AUTHORIZED USE:

Use of an existing unimproved recreational park, unimproved boat launch, public campground, and appurtenant facilities, and installation and use of a seasonal swim float (as shown in 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 February 26, 2024.

CONSIDERATION:

\$671 per year, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee is authorized to place portable toilets on premises that must be serviced once a week from April through August and on an as-needed basis during the remaining part of the year.
- Lessee is authorized to place garbage receptacles on the premises that must be emptied daily from April through August and on an as-needed basis during the remaining part of the year.
- Lessee is authorized to place picnic tables and fire pits on the Lease Premises.
- Lessor may modify the method, amount, or rate of consideration effective on the third anniversary of the beginning date of this Lease to a method including but not limited to percentage of gross income derived from use of the Lease Premises.
- Lessee shall provide Lessor with financial statements and all other documents necessary to determine the relevant basis for income.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Lease Premises have been used as a recreational area with appurtenant facilities, including the unimproved recreational park and boat launch, known as the Fort Washington Beach Campground, since the late 1970s. On May 31, 1978, the Commission authorized a General Lease – Commercial Use to Charles E. Finch, et al. ([Item 12, May 31, 1978](#)) for a recreational vehicle park. The lease was for a 25-year term, including two renewal options of two successive 10-year periods, and began on September 1, 1977. The lease expired on July 31, 2002.

On August 20, 1987, the Commission authorized an amendment of the lease, deleted Co-Lessees, Ward J. Finch and Joy T. Finch, from the lease, reduced the surety deposit from the previously required \$2,000 to \$500, and approved the Continuation of Rent at \$225 per annum. In 1988, the Lessee failed to make the annual rental payment of \$225 and did not make any additional rental payments until the lease expired in 2002.

On April 30, 2013, staff was informed that Charles E. Finch had passed away. Judith A. Finch, the widow of Charles E. Finch, subsequently applied for a new lease. On April 23, 2014, the Commission authorized a General Lease – Commercial Use to Judith A. Finch ([Item 45, April 23, 2014](#)) for an unimproved recreational vehicle park and unimproved boat launch. The lease expires on April 22, 2024. On September 13, 2017, the Lessee passed away. The Commission was not notified of her death until April 2022, by a neighboring property owner. Additionally, the neighbor indicated that someone, purporting to be the Lessee's grandson, was operating the premises. Staff was also contacted by the same neighboring property owner and the City of Fresno regarding the conduct of the grandson and concerns regarding his use of State property. Staff met with City staff on August 9, 2022, and City staff expressed their concerns that some of the recent activities on the lease premises were a public nuisance.

Based on the facts presented to staff and a review of the Lease file, staff identified numerous breaches of the lease. On August 10, 2022, staff mailed a Notice of Default and Recommendation of Termination to the upland property and the Lessee's daughter, who appears to be Lessee's next of kin. On August 23, 2022, the Commission authorized the termination of the lease ([Item 27, August 23, 2022](#)).

On January 20, 2023, the ownership of the upland property was deeded to Steven and Lacey Clark. The upland property was subsequently transferred to LC Development, LLC, the Applicant. The prior lease defaults were resolved by clarifying the Applicant's ownership and control of the property. The Applicant is now applying for a new General Lease – Commercial Use for the use and maintenance of an unimproved recreational park, unimproved boat launch, campground, seasonal swim float, and appurtenant facilities.

The Applicant owns the upland adjoining the lease premises, and the unimproved recreational park and boat launch, campground, and appurtenant facilities have existed at this location for many years. The Applicant proposes the installation of a seasonal swim float in an adjoining pond of the San Joaquin River. The swim float will be installed by anchoring to the upland area during the summer months

between May and September. The subject facilities are used for recreational activities in the San Joaquin River, including swimming, fishing, kayaking, and boating.

The proposed lease enhances access to Public Trust resources by improving and maintaining facilities used for fishing and boating in the San Joaquin River, and walking, camping, and enjoyment of nature and scenic views along the waterway. This area has been historically used for public access and is one of the few locations for public access along this stretch of the San Joaquin River. A new lease at this location will promote better public access and is in the best interests of the state. Recreational facilities that encourage and promote public access, use, and enjoyment of the State's waterways are generally consistent with the common law Public Trust Doctrine.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove any 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 project area is not tidally influenced and therefore, would not be subject to sea level rise. However, as stated in the [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. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged 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; flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, the facilities under lease could need reinforcement in the future to withstand higher levels of flood exposure and more

frequent storm events. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement of already unimproved structures. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change.

ENVIRONMENTAL JUSTICE:

Consistent with the Commission’s Environmental Justice Policy, staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in health impacts such as asthma, cardiovascular disease, and low birth rate. In addition, the same data showed high burdens related to groundwater threats, drinking water, pesticides, and solid waste. Furthermore, the data revealed that the neighboring communities are disadvantaged. As part of an environmental justice outreach and engagement effort, staff reached out to environmental justice organizations in Fresno County, providing notification of the proposed lease and requesting input. Staff provided a brief description of the proposed lease and conveyed a desire to learn from the perspectives of the local community. Commission staff made follow up phone calls to the environmental justice organizations; however, staff did not receive any feedback from the organizations it reached out to.

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 term of the proposed lease; is consistent 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. If the Commission denies the application, the Applicant may be required to remove any improvements and return the premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with the “Leading Climate Activism”, “Prioritizing Social, Economic, and Environmental Justice” and “Meeting Evolving Public Trust Needs” Strategic Focus Areas of the Commission’s 2021- 2025 Strategic Plan.
3. **Recreational Park and Boat Launch:** 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)

Campground and Swim Float: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084, 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 through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2); and Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to the Applicant beginning February 26, 2024, for a term of 10 years, for the use of an unimproved

recreational park, unimproved boat launch, campground, and appurtenant facilities, and the installation and use of a seasonal swim float; annual rent in the amount of \$671, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.