

Staff Report 51

APPLICANT:

Tonia S. Wright, as Trustee of the Tonia S. Wright Revocable Trust dated April 20, 2011

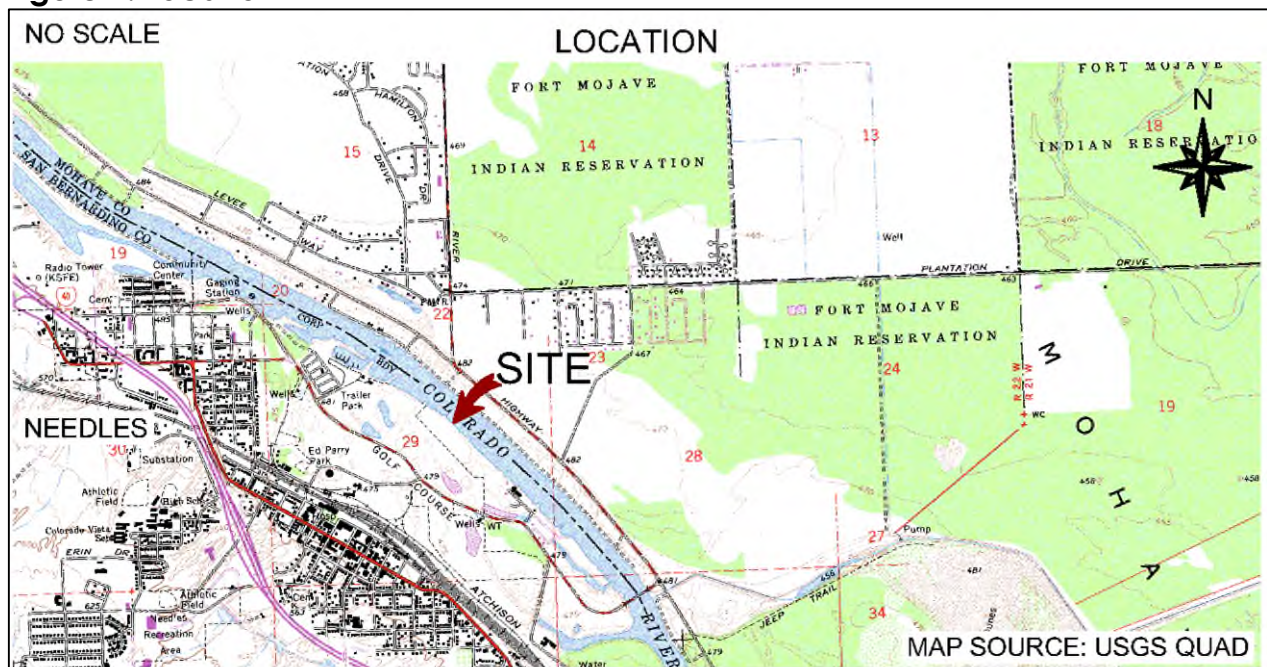
PROPOSED ACTION:

Issuance of a General Lease – Recreational and Protective Structure Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1172 Beach Drive, Needles, San Bernardino County (as shown in Figure 1).

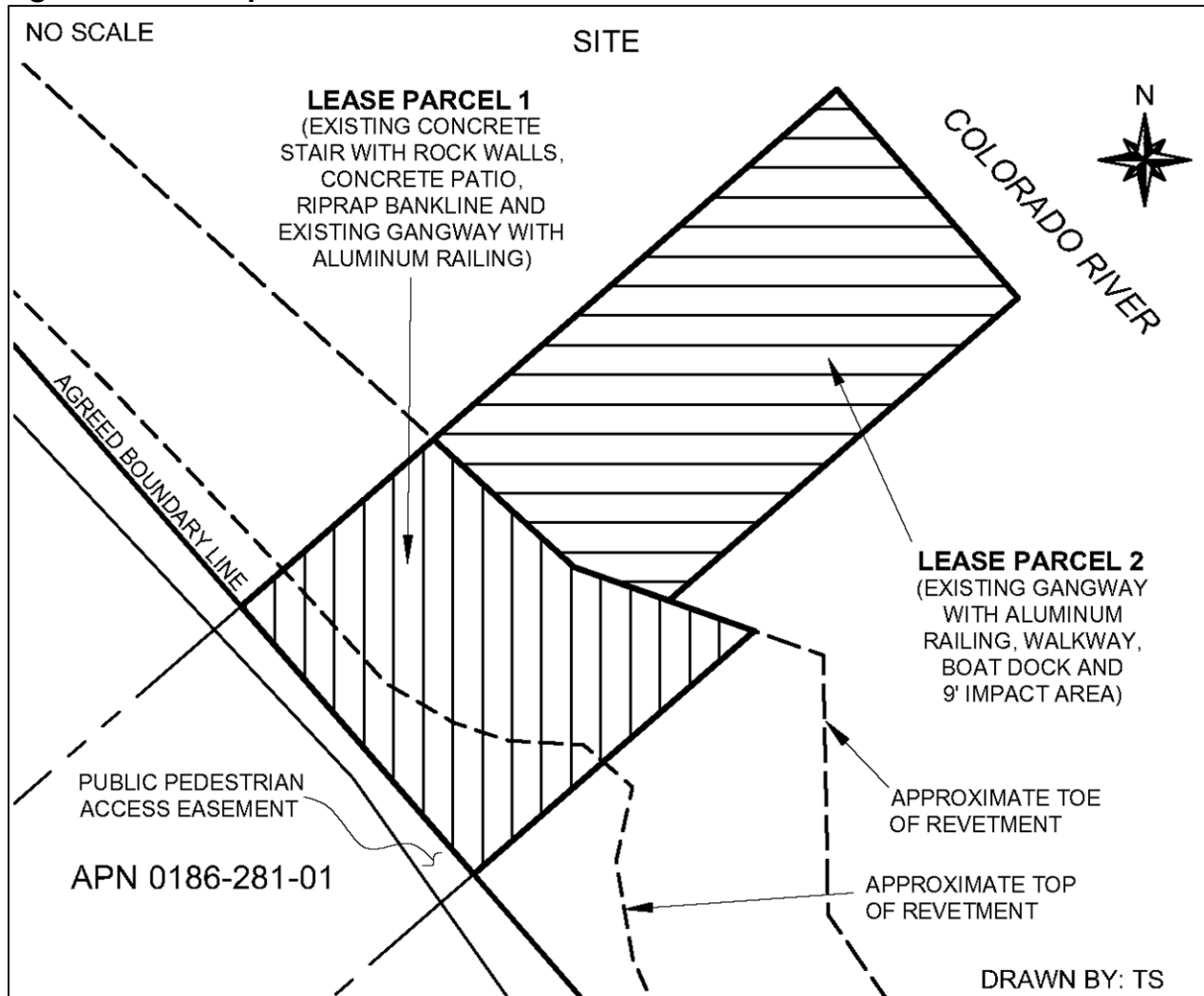
Figure 1. Location



AUTHORIZED USE:

Use of an existing boat dock, floating walkway, gangway with railing, concrete stairway with rock walls, concrete patio, and riprap bankline (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 20, 2025.

CONSIDERATION:

\$971 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.
- Lessee acknowledges that the Public Pedestrian Access Easement located on portions of Lessee's fee-owned upland property shall remain open to the public and that no structures or improvements shall be erected, nor any personal property placed, that would obstruct or prevent public access in and along the Easement.
- Lessee assumes responsibility for the maintenance of the riprap bankline within the Lease Premises.
- Lessee and the public shall have equal rights to access the stairs on the lease premises and Lessee shall not exclude the public from use of the stairs, install any structures to prevent public use of the stairs, nor post signage or advocate in any manner against public use of the stairs.

BACKGROUND:

On December 12, 1990 ([Item 08, 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), as 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. These inspections 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 February 20, 2015, the Commission authorized the issuance of a General Lease – Recreational and Protective Structure Use to Tonia S. Wright, as Trustee of the Tonia S. Wright Revocable Trust dated April 20, 2011, for the use and maintenance of an existing concrete stairway with rock walls, concrete patio, and riprap bankline, in the Colorado River, adjacent to 1172 Beach Drive, Needles, San Bernardino County ([Item 69, February 20, 2015](#)). On October 16, 2015, the Commission authorized an amendment of lease to allow for the construction of an aluminum gangway with railing, a floating walkway and boat dock ([Item 48, October 16, 2015](#)). This lease expired on February 19, 2025.

The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use of a boat dock, floating walkway, gangway with railing, concrete stairway with rock walls, concrete patio, and riprap bankline, in the Colorado River, adjacent to 1172 Beach Drive, Needles, San Bernardino County.

The Applicant owns the uplands adjoining the lease premises, and the subject facilities are located directly waterward of the upland property. The boat dock, walkway, and gangway on the lease premises occupy a relatively small area and facilitate recreational boating. 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 existing stairway on the lease premises serves to provide safe access to the river for both the Lessee and the public. As such, these improvements provide a benefit to the public and do not negatively impact Public Trust uses in this location. To ensure that the stairway remains available for public use, the proposed lease includes provisions protecting the public's right to access these improvements.

The riprap bankline on the lease premises is maintained by the Applicant and serves to stabilize the bank and support the integrity of both the river and the upland property. Loss or degradation of this structure could result in property damage and adverse impacts to Public Trust resources in the lease area and the surrounding waterway. As such, this improvement provides a benefit to both the public and the upland owner and does not negatively impact Public Trust uses in this location.

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 all improvements from State land and restore the lease premises to their original condition.

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:

INTRODUCTION:

Climate change is intensifying drought, wildfire, extreme precipitation events and heatwaves in California and throughout the southwestern United States ([Fifth National Climate Assessment: Southwest Region](#), 2023). In the Colorado River basin, climate change impacts are projected to result in significant variability in weather and year-to-year precipitation. The water levels are regulated primarily by water released from upstream dams. Lower water levels and greater variability in streamflow in the upper Colorado River could result in reduced water levels downstream in the lower Colorado River. Megadroughts, or periods of drought that

last ten years or more, could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Increased stress to vegetation and drier soils from higher temperatures and rates of evapotranspiration (the direct loss of water from water bodies and/or soil and loss through plants) could lead to lower bank stability and increased erosion in the Colorado River. Warmer water temperatures reduce the available dissolved oxygen which may increase the likelihood of low oxygen events such as algal blooms which pose health risks to both wildlife and river users.

DATA & PROJECTIONS:

Precipitation for the region has historically (circa 1950-2005) averaged approximately five inches per year (low average: 1.5 inches; high average: 10.75 inches). Future climate projections indicate an increase in year-to-year variability, with reductions in minimum annual precipitation of up to 50 percent and increases in maximum annual precipitation of 40 to 65 percent by the end of the century ([California's Fourth Climate Change Assessment: Inland Deserts Region Report, 2018](#)). With this variability, more extreme droughts and extreme wet events are expected. Higher temperatures increase the risk of megadroughts, and the Southwest has already been experiencing a “megadrought period” since 2000, which has been identified as the driest 22-year period in the past 1200 years (Fifth National Climate Assessment: Southwest Region, 2023). Increasing evapotranspiration is also projected to reduce Colorado River flows by 20 to 30 percent at mid-century, and 35 to 55 percent at end-of-century. Higher seasonal temperatures have also caused changes in release-timing and volume of water from snowpacks resulting in earlier flooding than normal. In addition, atmospheric river systems are expected to intensify and increase flooding risks. The combination of dry soil and extreme wet events will make incidents of flash floods more common.

ANALYSIS:

Structures located on the Colorado River will likely experience both prolonged periods of low water levels where they are exposed to extreme heat and wind and high-water levels due to extreme flooding. Flood events create hazardous conditions due to higher water pressure and increased sediment and debris load (both floating and submerged). Bank stability may be compromised due to increased channel erosion and undercutting from more intense precipitation and floods. Rapid sedimentation following flood events could also result in the formation

of navigational hazards like sand and gravel bars. The combination of these projected conditions could reduce the structural integrity of or increase the likelihood of damage to structures within the lease premises from floods or droughts during the term of the lease.

The aluminum gangway with railing and floating walkway and boat dock are more adaptable to changing water levels, as floating structures are designed to move vertically up and down. However, the concrete stairway with rock walls, concrete patio, and riprap bankline will not be able to shift in response to changing water levels and may need relocation or reinforcement in the future to withstand higher levels of flood exposure or drought. Relocation or reinforcement activities may require a separate authorization from the Commission. During a severe drought, the boat dock may not be able to function due to low water levels in the river and could be damaged.

RECOMMENDATION:

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Nature-based strategies such as planting or restoring vegetation (e.g., shrubs, trees, grass) along the river can provide flood and erosion risk management benefits. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believe approval of this lease will not substantially interfere with Public Trust needs at this location, at this time, nor for the 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. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the lease 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” and “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 15061 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, floating walkway, and gangway with railing is consistent with the common law Public Trust Doctrine.
2. Find that the existing and, for a limited period, continuing use of the existing concrete stairway with rock walls and riprap bankline will not substantially interfere with Public Trust needs and values at this location.
3. Find the existing and, for a limited period, continuing use of the concrete patio is generally not consistent with the Public Trust Doctrine, but that this use does not substantially interfere with the Trust.
4. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning February 20, 2025, for a term of 10 years, for the use of an existing boat dock, floating walkway, gangway with railing, concrete stairway with rock walls, concrete patio, and riprap bankline; annual rent in the amount of \$971, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.