

Staff Report 62

APPLICANT:

Merle D. Mathews

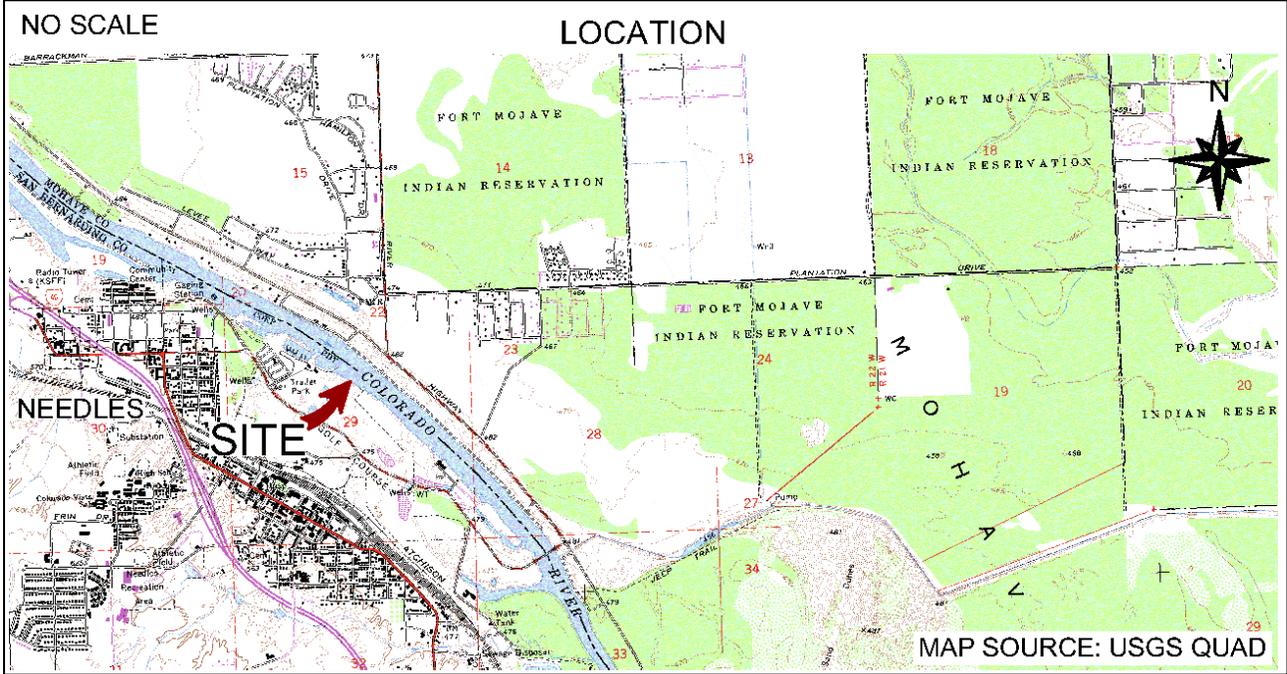
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1242 Beach Drive, Needles, San Bernardino County (as shown in Figure 1).

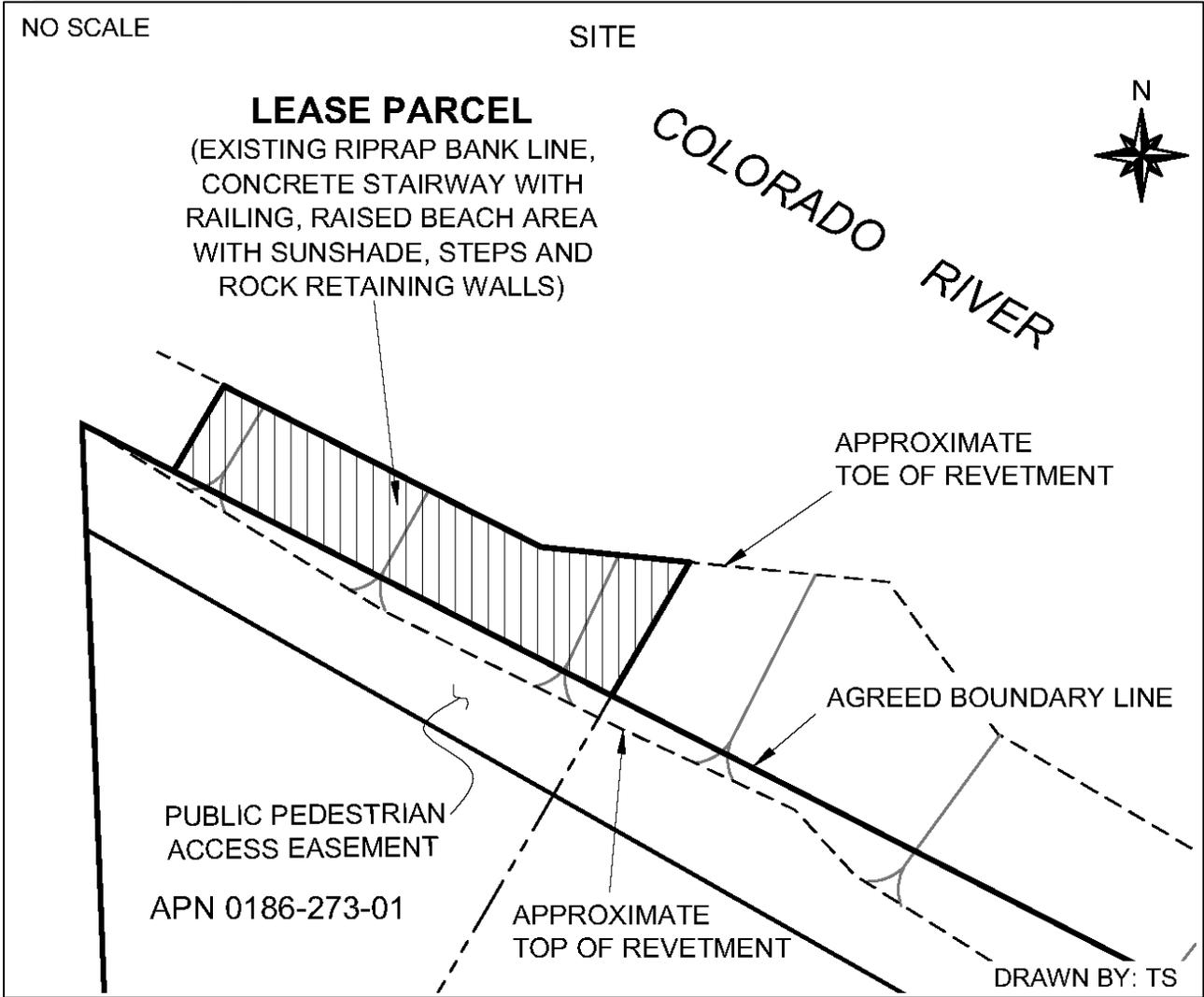
Figure 1. Location



AUTHORIZED USE:

Use of a raised beach area with sunshade, stone steps, and rock retaining walls, concrete stairway with railing, 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 October 16, 2025.

CONSIDERATION:

\$1,128 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.
- The Public Pedestrian Access Easement located on portions of Lessee's fee-owned upland property shall remain open to the public and 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 shall not place signs or advocate in any other manner to prevent or discourage public use of the Public Pedestrian Access Easement or the stairway.
- 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.
- Lessee assumes responsibility for the maintenance of the riprap bankline within the Lease Premises.

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), 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 (RBV) 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.

The Public Trust needs and uses in the Rio Buena Vista (RBV) community are unique due to the density and nature of the RBV development along the Colorado River, the physical configuration of the river at this location, including the wingdams and riprap structures, beach access, and the existence of the public access easement along the community. The riprap bankline exists to provide bank stabilization, but overall, the bankline is steep and the only access to the river is via various stairs installed by the upland owners. Two recognized sandy beaches exist within the stretch of river fronting the RBV community. These two beaches are used extensively throughout the year by both riverfront and inland residents of the community as well as members of the public. A publicly-owned beach exists immediately adjacent to the RBV community; however, the quality of that beach is questionable, and, unlike the RBV beaches, there is little evidence of regular use.

In a 2012 report ([Item 85, December 5, 2012](#)) following receipt of numerous concerns from the public regarding public access, and extensive public outreach by staff within the RBV community, the Commission directed staff to review RBV lease applications on a case-by-case basis when considering recommendations to issue leases to water-front property owners. Staff must take into account local resident concerns, including limitations on siting new boat docks so as not to interfere with the two sandy beaches described previously. Since 2012, staff has recommended, and the Commission has approved, RBV leases on a case-by-case basis to waterfront property owners, resulting in the preservation for public use of the two sandy beaches, the public access easement, and various stairway access points from the easement to the beaches and river.

All RBV leases include a 10-year term; as these leases have expired or are expiring, lessees are requesting new leases. As directed by the Commission in 2012, staff is reviewing each new lease application on a case-by-case basis to ensure that Public Trust resources will continue to be available for the public's use within the RBV community.

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 October 16, 2015, the Commission authorized the issuance of a General Lease – Recreational and Protective Structure Use to Royce L. Mathews and Merle D. Mathews, for the use and maintenance of an existing raised beach area with stone steps and rock retaining walls, concrete stairway with railing, and riprap bankline, adjacent to 1242 Beach Drive, Needles, San Bernardino County ([Item 44, October 16, 2015](#)). The lease expired on October 15, 2025.

The Applicant is now applying for a General Lease – Recreational and Protective Structure Use for the use of an existing raised beach area with sunshade, stone steps, and rock retaining walls, concrete stairway with railing, and riprap bankline, in the Colorado River, adjacent to 1242 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 existing concrete stairway on the lease premises serves to provide safe access to the river for both the lessee and the public. This improvement provides a benefit to the public and **doesn't** 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 raised beach area with sunshade, stone steps, and rock retaining walls serve as an extension of the upland property and represents a private use of public land which is generally not consistent with the Public Trust. However, the Commission has

issued leases on a limited basis for existing facilities that are not generally consistent with the Public Trust when such facilities do not significantly interfere with Public Trust needs and values. The existing raised beach area with sunshade, stone steps, and rock retaining walls on the lease premises meet this qualification, as they do not significantly interfere with Public Trust needs and values at this location, and public access to the river is preserved by the easement detailed above. Additionally, to further ensure that the uses and improvements authorized by the proposed lease do not impair public access, the lease includes provisions protecting access to Public Trust resources within the lease area, including a provision that the lessee cannot post signs prohibiting the public passage on the stairway, and other provisions to ensure non-interference with public access to and within the easement and the stairways that provide safe access to the river.

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 Change 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 (both floating and submerged) load. 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.

All the existing features on the lease premises are fixed and may need to be redesigned, relocated, or reinforced in the future to withstand higher levels of flood exposure. Any future construction or activities on State land would require a separate authorization from the Commission.

RECOMMENDATIONS:

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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

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 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the existing and, for a limited period, continuing use of the existing concrete stairway will not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine.
2. Find the existing and, for a limited period, continuing use of the raised beach area with sunshade, stone steps, and rock retaining walls, and riprap bankline are generally not consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the Public Trust.
3. 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 October 16, 2025, for a term of 10 years, for the use of an existing raised beach area with sunshade, stone steps, and rock retaining walls, concrete stairway with railing and riprap bankline; annual rent in the amount of \$1,128, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.