

**STAFF REPORT
C27**

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04/05/19
PRC 4221.1
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**RESCISSION OF APPROVAL AND REAUTHORIZATION
OF A GENERAL LEASE – RIGHT-OF-WAY USE**

RESCINDING APPLICANT:

Lincoln Chan Farms, LLC

APPLICANT:

Douglas Chan and Carla Chan, Trustees of the Chan Family Trust, dated April 14, 2014.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Hensley Slough (Assessor's Parcel Number (APN), 132-0190-049), adjacent to 11488 State Highway 160, Courtland, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing road for ingress and egress to 11488 State Highway 160 from State Highway 160.

LEASE TERM:

10 years, beginning March 1, 2018, and ending February 29, 2028.

CONSIDERATION:

Annual rent in the amount of \$460, subject to an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability coverage in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

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Public Trust and State's Best Interests Analysis:

On October 18, 2018, the Commission authorized a 10-year lease to Lincoln Chan Farms, LLC ([Item C47, October 18, 2018](#)), for a General Lease – Right-Of-Way Use beginning March 1, 2018. After the Commission's approval, but before the lease could be executed, the Applicant informed staff that ownership of the adjacent uplands transferred to a trust on March 7, 2018. The parties are now seeking to rescind the previous lease authorization in favor of authorizing a lease to Douglas Chan and Carla Chan, Trustees of the Chan Family Trust, dated April 14, 2014.

The proposed lease is for the continued use and maintenance of an existing road crossing Hensley Slough that provides the only means of ingress and egress from the Applicant's adjacent farm (APN 132-0190-050) to State Highway 160. The road provides access from the highway to the upland farm, primarily used for cultivating cherry and pear orchards. The farm is surrounded by privately owned parcels to the north, east, and west. The southerly end of the parcel is adjacent to Hensley Slough and State Highway 160.

Hensley Slough is generally a dry slough and, therefore, there are no currently foreseeable impacts to navigation, fishing, and waterborne commerce at this location. The access road has existed for many years and the continued use of the road will not interfere with Public Trust needs and values at this time and for the foreseeable lease term.

The proposed lease is limited to a 10-year term and does not alienate the State's fee simple interest or grant the lessee exclusive rights to the lease premises, nor does it permanently impair any public rights. The proposed lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved; and requires the lessee to indemnify the State for any liability incurred as a result of lessee's activities thereon.

Climate Change:

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. The lease premises and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the use of the lease premises (a road across a dry slough) during the proposed lease term.

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Conclusion:

For the reasons stated above, staff believes rescission of the previous lease authorization and reauthorization of the lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values 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. This activity is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Rescinding the lease authorization and reauthorizing a General Lease – Right-of-Way Use 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 rescission and reauthorization of the proposed lease will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the rescission of the Commission's October 18, 2018 authorization of a General Lease – Right-of-Way Use to Lincoln Chan Farms, LLC; and
2. Authorize issuance of a General Lease – Right of Way Use to Douglas Chan and Carla Chan, Trustees of the Chan Family

STAFF REPORT NO. **C27** (CONT'D)

Trust, dated April 14, 2014, beginning March 1, 2018, for a term of 10 years, for an existing road crossing Hensley Slough adjacent to 11488 State Highway 160, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$460, with an annual Consumer Price Index adjustment; and liability insurance coverage in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4221.1

LAND DESCRIPTION

A strip of tide and submerged land 40 feet wide lying in the bed of the Hensley Slough in Section 28, T. 6 N., R. 4 E., MDM, County of Sacramento, State of California and more particularly described as follows:

BEGINNING at a point located 19.50 feet, measured at right angles, from the centerline of State Highway No. 11, said point also being located N 57° 30' 40" E 986.90 feet from a ¼ inch iron pipe monument located at the easterly terminus of the course "S 57° 54' W 124.63' ", as said course is shown on the Record of Survey entitled "Property of Chester B. Callaway, Located on Randall Island", recorded in the office of the Recorder of Sacramento County in Book 24 of Surveys, page 16; thence from said point of beginning N 26° 34' W to a point of the north bank of Hensley Slough.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said slough.

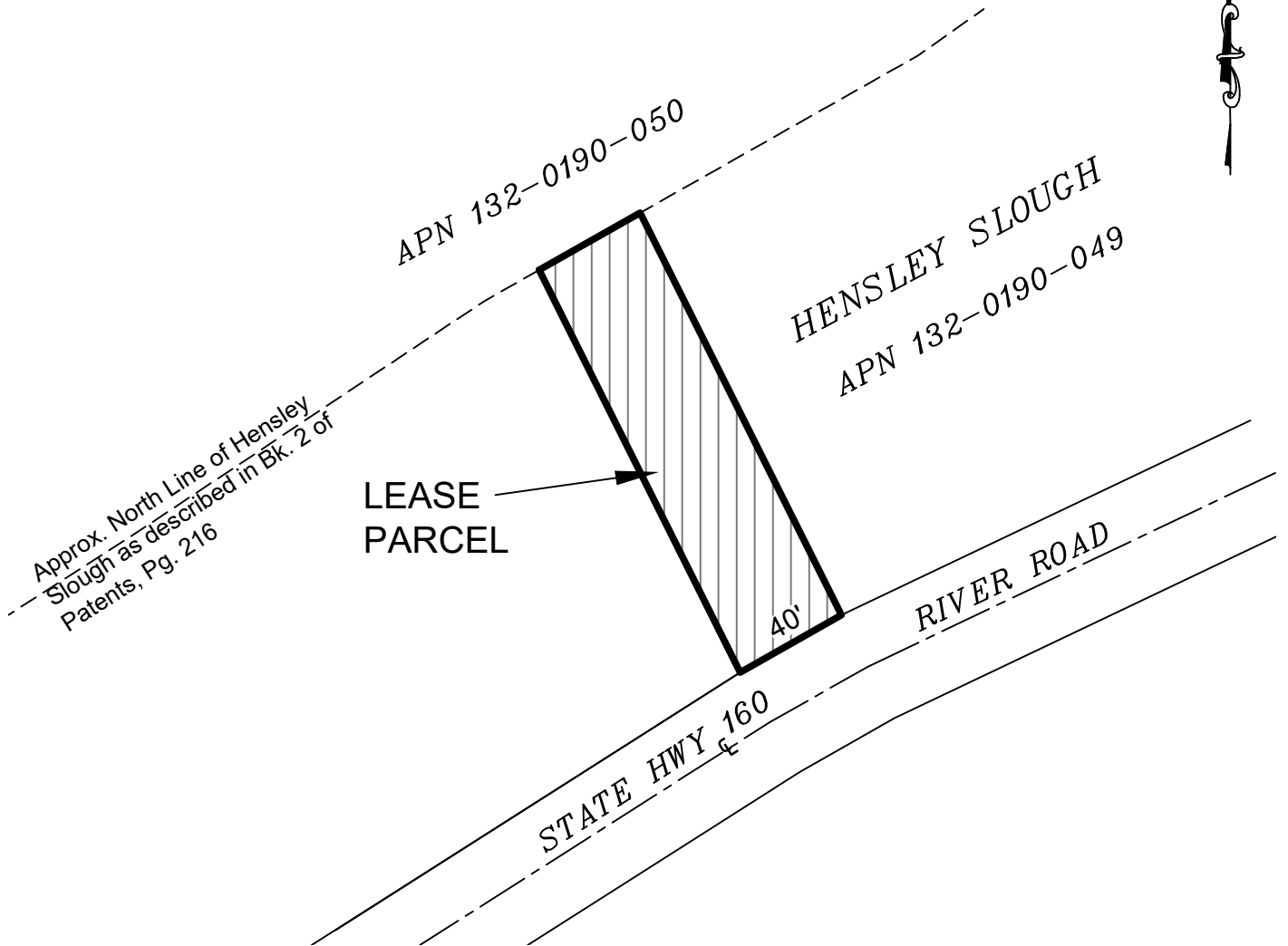
END OF DESCRIPTION

The above description revised by California State Lands Commission Boundary Unit on July 31, 2018. Original description prepared by California State Lands Commission on March 1, 1969 as found in PRC 4221 file, Calendar Item 7.



NO SCALE

SITE



RIVER RD. (STATE HWY 160), COURTLAND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4221.1
 CHAN FAMILY TRUST
 APNs 132-0190-049 & -050
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 SACRAMENTO COUNTY



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.