

**CALENDAR ITEM
C75**

A 33
S 16

04/23/15
PRC 9282.1
R. Collins

AMENDMENT OF LEASE

LESSEES:

Jesse A. Berber and Elizabeth A. Berber, as Trustees or any Successor Trustee of the Jesse A. Berber and Elizabeth A. Berber Family Trust Dated July 6, 2001

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Colorado River, adjacent to 1138 Beach Road, City of Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of two existing planter areas with rock retaining walls and electrical appurtenances, two concrete stairways with rock walls, concrete patio area, and riprap bankline.

LEASE TERM:

10 years, beginning April 23, 2014.

CONSIDERATION:

Two Planter Areas with Rock Retaining Walls and Electrical Appurtenances and Concrete Patio Area: Annual rent in the amount of \$438 per year, subject to modification by Lessor as specified in Paragraph 3(b) of Section 3, General Provisions.

Two Concrete Stairways with Rock Walls and Riprap Bankline: Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interests of the State.

PROPOSED AMENDMENT:

Amend the Lease to:

1. Allow for the construction of an aluminum gangway with railing and a floating boat dock; and,

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2. Revise the annual rent from \$438 per year to \$534 per year, effective April 23, 2015, to include the new improvements; and,
3. Include Special Provisions related to the construction of the improvements; and,
4. Replace Exhibit A, Land Description, and Exhibit B, Site and Location Map.

All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On April 23, 2014, the Commission authorized a General Lease – Recreational and Protective Structure Use to Jesse A. Berber and Elizabeth A. Berber, as Trustees or any Successor Trustee of the Jesse A. Berber and Elizabeth A. Berber Family Trust Dated July 6, 2001, for two existing planter areas with rock retaining walls and electrical appurtenances, two concrete stairways with rock walls, concrete patio area, and riprap bankline.
3. The Lessees are now applying to amend the lease to add an aluminum gangway with railing and a floating boat dock. On December 5, 2012, the Commission authorized staff to resume processing applications for boat docks in the Rio Buena Vista community on a case-by-case basis consistent with the Commission’s practices on leasing on inland waterways and the public trust needs in the area. Commission staff has evaluated the proposed improvements, finds that they are consistent with the Commission’s direction and recommends approval. To accommodate these improvements, the lease area will be expanded to include an area identified as “Parcel 2” within Exhibits A and B.
4. The 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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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

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5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Bureau of Reclamation

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9282.1, a General Lease - Recreational and Protective Structure Use, of sovereign land as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, to revise the annual rent from \$438 per year to \$534 per year, effective April 23, 2015; allow for the construction of an aluminum gangway with railing and a floating boat dock; and include special provisions related to the construction of boat docks; and replace Exhibit A, Land Description, and Exhibit B, Site and Location

CALENDAR ITEM NO. **C75** (CONT'D)

Map; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9282.1

LAND DESCRIPTION

Two parcels of State owned land adjacent to Lot 30 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, lying in the bed of the Colorado River, County of San Bernardino, State of California, more particularly described as follows:

PARCEL 1

BEGINNING at the easterly corner of said Lot 30; thence northwesterly along the northeasterly line of said Lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 42° 08' 05" W 45.00 feet to the northerly corner of said Lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said Lot N 47° 51' 55" E 90.00 feet; thence S 42° 08' 05" E 45.00 feet to the intersection with the northeasterly prolongation of the southeasterly line of said Lot; thence southwesterly along said northeasterly prolongation S 47° 51' 55" W 90.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said Lot 30.

PARCEL 2

BEGINNING at the point on the northeasterly line of Lot 30 which bears N 42° 08' 05" W 15.00 feet from the easterly corner of said Lot; thence northwesterly along said northeasterly line of said Lot, said line also being the Agreed Boundary Line as described in Exhibit A of Document Number 92-333250, recorded on August 11, 1992, Official Records of said County, N 42° 08' 05" W 30.00 feet to the northerly corner of said Lot; thence leaving said northeasterly line and said Agreed Boundary Line, along the northeasterly prolongation of the northwesterly line of said Lot N 47° 51' 55" E 100.00 feet; thence S 42° 08' 05" E 30.00 feet to the line parallel with the northeasterly prolongation of the southeasterly line of said Lot; thence southwesterly along said line

S 47° 51' 55" W 100.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within above described PARCEL 1.

END OF DESCRIPTION

This description is based on Applicant provided design drawings for a proposed floating boat dock, gangway together with any and all appurtenances pertaining thereto, to build at a later date within the Lease time frame. This description is to be updated once as-built plans are submitted.

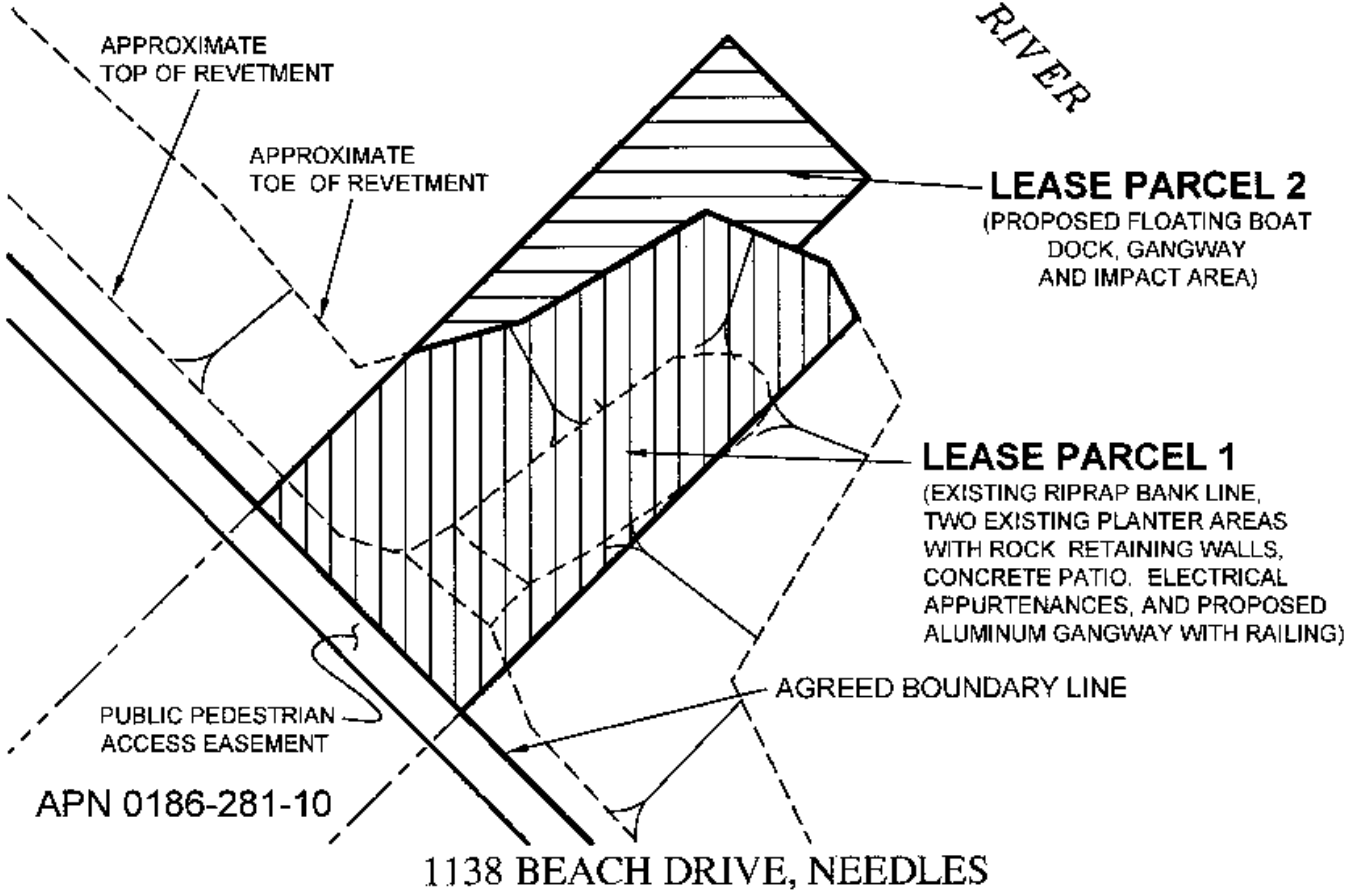
Prepared 03/04/15 by the California State Lands Commission Boundary Unit



NO SCALE

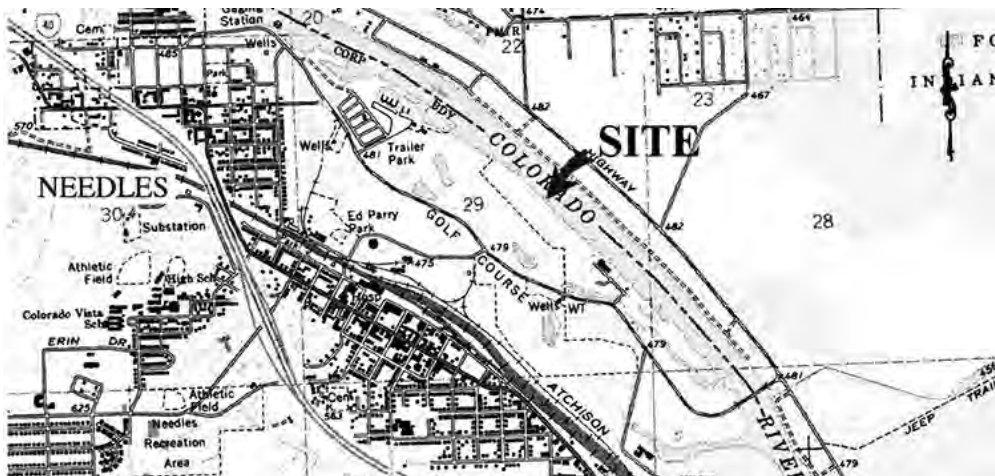
SITE

COLORADO RIVER



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9282.1
 BERBER TRUSTEES
 APN 0186-281-10
 GENERAL LEASE -
 RECREATIONAL AND
 PROTECTIVE STRUCTURE USE
 SAN BERNARDINO COUNTY



TS 03/04/15

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.