

**CALENDAR ITEM
C22**

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12/06/16
PRC 6726.1
G. Asimakopoulos

**TERMINATION AND ISSUANCE OF A
GENERAL LEASE – COMMERCIAL USE**

LESSEE:

New Hope Landing Mobile Home Park, LLC, a Wyoming limited liability company

APPLICANT:

New Hope Landing RV Park and Marina, LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Mokelumne River, adjacent to 13945 West Walnut Grove Road, near Thornton, San Joaquin County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing commercial marina, known as New Hope Landing RV Park and Marina, consisting of two floating boat docks with individual berths, two gangways, landing, pilings, dolphin, boat launch ramp, electric and water hookups, and bulkhead.

LEASE TERM:

20 years, beginning March 23, 2016.

CONSIDERATION:

Marina Facility: \$2,903 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

Bulkhead: The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

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SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$2,000,000 per occurrence.

Bond: \$20,000

Other: The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On December 2, 2013, the Commission authorized a 20-year General Lease – Commercial Use to New Hope Landing Mobile Home Park, LLC, a Wyoming limited liability company, for the continued operation, use, and maintenance of an existing commercial marina known as New Hope Landing ([Calendar Item C67, December 2, 2013](#)). The lease will expire on June 30, 2033. On March 23, 2016, the upland parcel was deeded to New Hope Landing RV Park and Marina, LLC, a California limited liability company. The Applicant is applying for termination of the existing lease, and issuance of a new lease.

The subject commercial marina facilities accommodate, promote, and foster recreational boating and provide access to the adjacent State waterways. Recreational boating is a water-dependent use that 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 land (Public Resources Code section 6503.5). The adjacent upland is privately owned and developed as a recreational vehicle park, and is available for use by the general public.

The bulkhead protection is consistent with the common law Public Trust Doctrine because it will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for

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recreational and navigational purposes by the public. The bulkhead protection also confers benefits to the upland owner by ensuring sufficient sublateral support to the adjoining properties.

Sea Level Rise Analysis

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities within the proposed lease area are located on the Mokelumne River, at a tidally-influenced site vulnerable to flooding at current sea levels that will be at higher risk of flood exposure given future projection scenarios of sea-level rise. The facilities associated with the New Hope Landing RV Park and Marina include two floating docks, pilings, gangways, a boat launch ramp, and a bulkhead along the river bank. Sea-level rise coupled with other dynamic coastal processes and events such as scour, erosion, extreme tides and storm surge could pose increased flooding risks to the lease area.

By 2030, the coastal region could see up to one foot of sea-level rise (from year 2000 levels), two feet by 2050, and more than five feet by 2100 (NRC 2012). These changes in sea level could lead to changes in the regular inundation levels within the lease area. Rising sea levels can lead to more frequent flooding in low lying areas and more dynamic tidal events. As stated in Safeguarding California (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). In rivers and tidally-influenced waterways, 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 and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate.

The combined impacts of these projected conditions raise the risk of damage to structures within the lease area. The floating docks and attached gangways are able to rise and fall with tides, storm surges, and droughts to some extent, but may require more frequent maintenance to ensure continued function during and after storm seasons to avoid

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dislodgement of dock structures. The pilings appear to be at sufficient heights to withstand projected changes in water levels, but additional fortification may be needed, especially for those pilings which anchor power lines and light fixtures, as damage to these pilings could lead to serious public safety hazards. Prolonged drought could reduce river flow to the point where submerged portions of the docks and pilings are exposed, potentially resulting in a loss of function and impacts to public safety. The bulkhead may also need to be heightened to protect the upland parking areas from future flooding conditions. Any refuse or oil disposal containers should be reinforced or relocated further inland to avoid potential exposure or contamination resulting from flooding, particularly those located near the boat launch ramp, as the ramp could act as a channel for flood water to reach upland areas. Power and water hookups, both in the lease area and inland, could become public safety hazards if exposed to flooding or are damaged. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years, and a non-exclusive use provision. The marina and appurtenant facilities have existed for many years at this location; they do not significantly alter the land; they do not permanently alienate the State's fee simple interest in the underlying land; and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the marina facilities will not substantially interfere with Public Trust needs, at this location, at this time, and for the foreseeable term of the proposed lease.

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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. This action 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, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) 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).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 15300 and California Code of Regulations, title 2, section 2905.

4. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a

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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:

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

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:

1. Authorize termination of Lease No. PRC 6726.1, a General Lease – Commercial Use, effective March 22, 2016, issued to New Hope Landing Mobile Home Park, LLC, a Wyoming limited liability company.
2. Authorize issuance of a General Lease – Commercial Use to New Hope Landing RV Park and Marina, LLC, a California limited liability company, beginning March 23, 2016, for a term of 20 years, for the continued use, maintenance, and operation of an existing commercial marina known as New Hope Landing RV Park and Marina, consisting of two floating boat docks with individual berths, two gangways, landing, pilings, dolphin, boat launch ramp, electric and water hookups, and bulkhead, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the marina facilities: annual rent in the amount of \$2,903 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; consideration for the bulkhead: the public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$20,000.

EXHIBIT A

PRC 6726.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Mokelumne River, San Joaquin County, State of California and more particularly described as follows:

BEGINNING at a point that bears South 89° 58' 00" West 66.00 feet from the 2 inch iron pipe as shown on the Plat of Survey Portion of Section 1 T.4 N., R.4 E., M.D.B. & M., filed on February 9, 1955 in Book of Surveys Volume 10 at Page 56 San Joaquin County Records; thence along the northwesterly line as shown on said Plat of Survey South 41° 58' 00" West 436.15 feet; thence leaving said line South 41° 58' 00" West 58.85 feet; thence North 48° 02' 00" West 63.00 feet; thence North 39° 46' 12" East 275.36 feet; thence North 37° 41' 19" East 220.46 feet; thence South 48° 02' 00" East 90.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Mokelumne River.

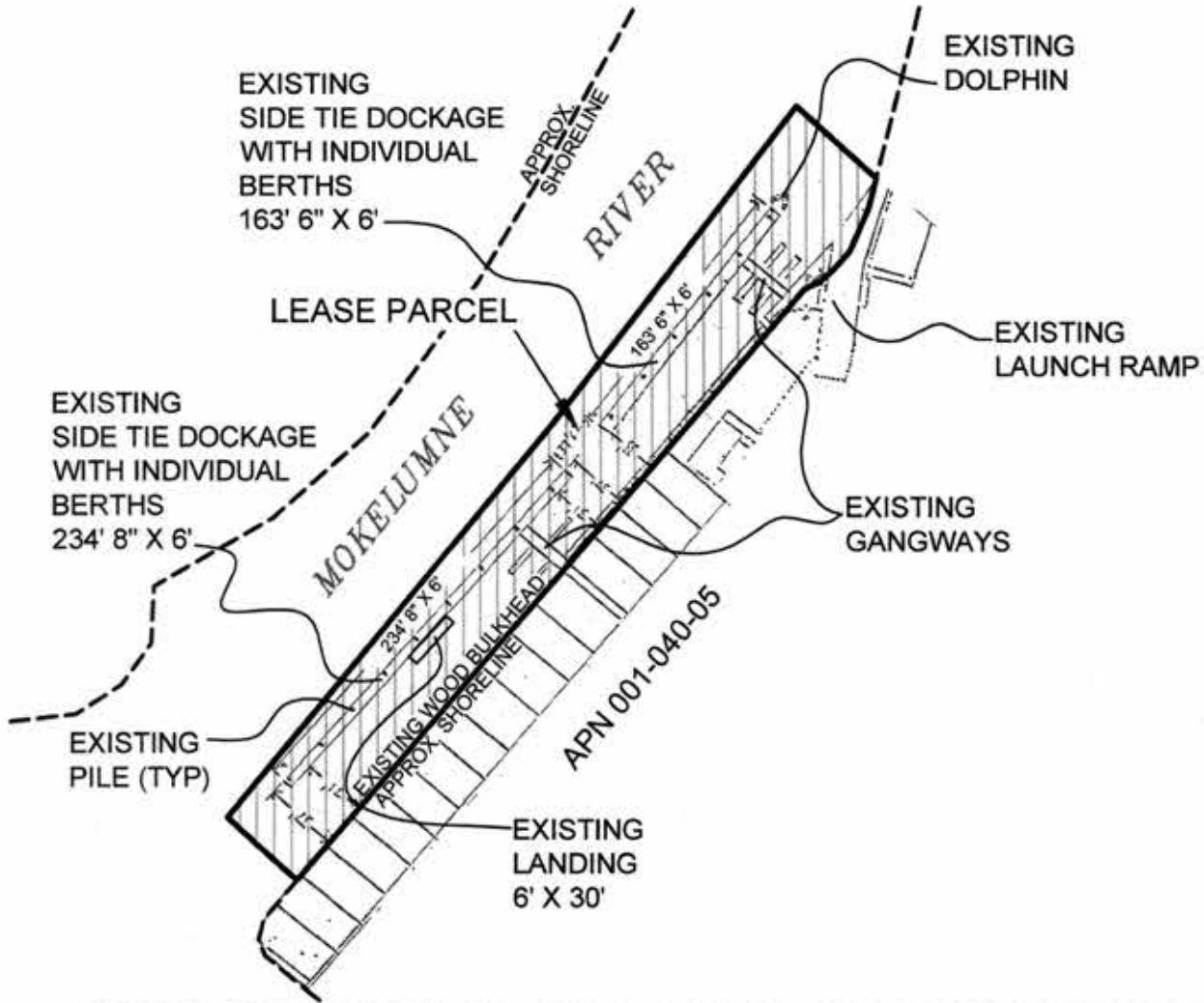
END OF DESCRIPTION

Prepared 08/07/13 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



13945 WEST WALNUT GROVE ROAD, NEAR TOWN OF THORNTON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6726.1

NEW HOPE LANDING RV PARK
AND MARINA, LLC
APN 001-040-05
GENERAL LEASE -
COMMERCIAL USE
SAN JOAQUIN COUNTY



SITE

TS 10/11/16

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.