

CALENDAR ITEM

**C59**

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06/22/17

PRC 7055.1

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**GENERAL LEASE – PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Eagle Creek Pacific LLC, a Delaware Limited Liability Company

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land located in the Salinas River adjacent to Molera Ranch, near Castroville, Monterey County.

*AUTHORIZED USE:*

Continued use and maintenance of existing rock riprap bank protection.

*LEASE TERM:*

10 years, beginning March 1, 2017.

*CONSIDERATION:*

Annual rent in the amount of \$125, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

Liability insurance in an amount no less than \$1,000,000 per occurrence.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

On May 10, 2007, the Commission authorized a 10-year General lease – Protective Structure Use to Bud Antle, Inc., for the continued use and maintenance of existing bank protection in the Salinas River (River) adjacent to Molera Ranch ([Calendar Item C28, May 10, 2007](#)). That lease expired on February 28, 2017.

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On March 11, 2009, the adjacent upland property was sold to Eagle Creek Pacific LLC (Applicant). The Applicant is now applying for a new General Lease - Protective Structure Use.

The proposed lease is for the continued use and maintenance of existing rock riprap bank protection at three sites along the River adjacent to Molera Ranch. The privately-owned uplands are used for agricultural cultivation. There is no public access through the upland to the River at this location. The River is navigable, but recreational use of the River appears to be negligible at this site. Therefore, impacts to public access and navigation appear to be minimal.

Because the River at this location is tidally influenced, the bank protection serves to protect the upland from erosion as a result of that influence. The bank protection at this location is mutually beneficial to both the public and the upland property owner because the bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes at no cost to the public, while also protecting the upland property. Although the subject facilities are a private use of public lands, the limited water-related recreational use of this area and the relatively small portion of the existing private use encroaching onto State-owned lands show that the continuation of the lease for the riprap bank protection would not substantially interfere with Public Trust needs and values at this location at this time.

The existing improvements do not significantly alter the land, and the lease would not alienate the State's fee simple interest. The proposed lease is limited to a 10-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land and the proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

**Climate Change:**

Climate change impacts including sea-level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures within the proposed lease area are located along the River within a region identified as tidally influenced. The riprap protection is vulnerable to flooding at current sea levels and are at a higher risk of flood exposure given future projected scenarios of sea-level rise.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100

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(National Research Council 2012). This effect could increase the River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability. In addition, 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).

The combination of these projected conditions could increase the likelihood of damage to the protective structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the bank protection to higher flood risks and cause bank protection to be damaged or dislodged. While the bank protection and vegetation provide stability and reduce the amount of erosion and scour pressure, the bank protection remains at risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement and will allow the riprap to continue to be a protective barrier between the River and the agricultural fields.

**Conclusion:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time and for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**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.
2. 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).

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

3. 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. Location and Site 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 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 interfere with the Public Trust needs and values at this location, at this time and for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the State's best interests.

**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 issuance of Lease No. PRC 7055.1, a General Lease - Protective Structure Use, to Eagle Creek Pacific LLC, a Delaware Limited Liability Company, effective March 1, 2017, for a term of 10 years, for the continued use and maintenance of existing riprap bank protection 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

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amount of \$125, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7055.1**

**LAND DESCRIPTION**

Two parcels of tide and submerged land situate in the bed of the Salinas River, Monterey County, State of California, and being more particularly described as follows:

**Parcel 1**

Said land bounded downstream by the following described line: COMMENCING at the most westerly corner of Lot 4A as shown on Volume 30, Page 1 of Surveys, Records of Monterey County; thence along the northwesterly line of said Lot 4A, North 56°23'20" East 2082.87 feet; thence leaving said line, North 51°53'23" West 4492.96 feet to the POINT OF BEGINNING; thence North 17°49'42" East 750.00 feet to the terminus of said line; said land bounded upstream at the following described line: COMMENCING at the most westerly corner of said Lot 4A; thence along the northwesterly line of said Lot 4A, North 56°23'20" East 2082.87 feet; thence leaving said line, North 22°12'01" West 3231.64 feet to the POINT OF BEGINNING; thence North 42°32'39" East 600.00 feet to the terminus of said line; said land being bounded northerly by the ordinary high water mark on the right bank of the Salinas River; said land bounded southerly by a line lying parallel with and 10 feet southerly from the ordinary high water mark on the right bank of the Salinas River.

**Parcel 2**

Said land bounded downstream by the following described line: COMMENCING at the most westerly corner of said Lot 4A; thence along the northwesterly line of said Lot 4A, North 56°23'20" East 2082.87 feet; thence leaving said line, North 01°51'54" West 2234.11 feet to the POINT OF BEGINNING; thence North 48°42'37" East 500.00 feet to the terminus of said line; said land bounded upstream at the following described line: COMMENCING at the most westerly corner of said Lot 4A; thence along the northwesterly line of said Lot 4A, North 56°23'20" East 2082.87 feet; thence leaving said line, North 34°48'06" East 230.28 feet to the POINT OF BEGINNING; thence South 81°55'16" East 400.00 feet to the terminus of said line; said land being bounded northeasterly by the ordinary high water mark on the right bank of the Salinas River; said land bounded southwesterly by a line lying parallel with and 20 feet southwesterly from the ordinary high water mark on the right bank of the Salinas River.

**END OF DESCRIPTION**

Prepared 04/06/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

# SITE

APN  
135-101-016

LEASE  
PARCEL 1  
EXISTING  
RIP RAP  
AREA

APPROXIMATE  
SHORELINE  
SALINAS  
RIVER  
APPROXIMATE  
SHORELINE

APN  
135-101-015

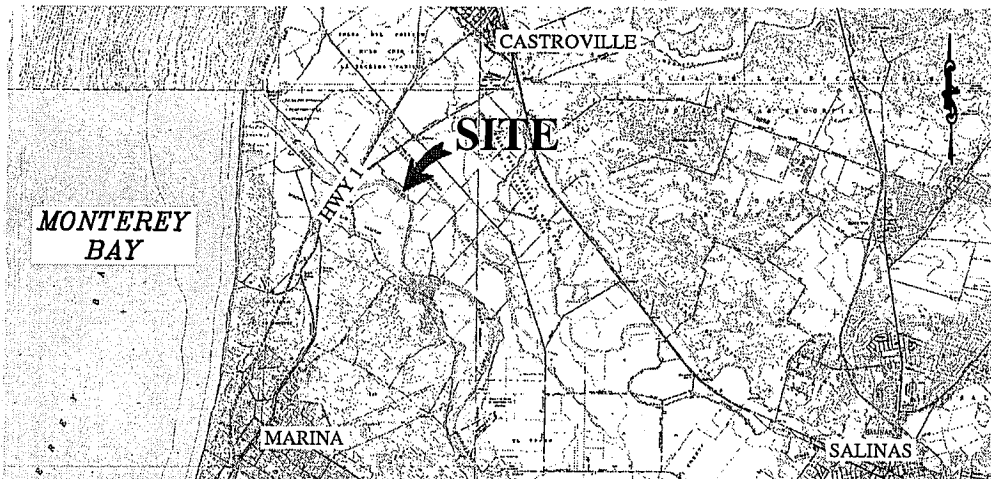
EXISTING  
EROSION  
FENCE

LEASE  
PARCEL 2  
EXISTING  
RIP RAP  
AREA

MOLERA RANCH, NEAR CASTROVILLE

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 7055.1  
 EAGLE CREEK  
 PACIFIC, LLC  
 APNs 135-101-015 & 016  
 GENERAL LEASE -  
 PROTECTIVE STRUCTURE USE  
 MONTEREY 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.

JWP 4/06/17