

**STAFF REPORT
C20**

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10/18/18
W 27131
J. Toy

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Gary Tobey and Michele Tobey

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Russian River, adjacent to 21800 Moscow Road, near Monte Rio, Sonoma County.

AUTHORIZED USE:

Use and maintenance of existing bank protection not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 18, 2018.

CONSIDERATION:

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.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

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.

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Public Trust and State's Best Interests Analysis:

The Applicant owns the adjoining upland property, which is improved with a single family residence. On August 28, 2017, staff issued a letter of non-objection to the Applicant for a stream bank restoration and protection project to protect against the undermining of the residence from erosion spurred by major winter storm events in February 2017. An inspection by the Sonoma County Permit and Resource Management Department found the residence to be seriously damaged and unsafe. The significant erosion, undercutting, and slumping of the stream bank during extended peak flows led to ongoing catastrophic failure to the residence. Placement of a riprap erosion protection mat and live willow coir lifts was needed by October 2017 to avoid further damage from impending winter storms and to minimize potential impacts to threatened and endangered salmonid species. The Applicant is now applying for a General Lease – Protective Structure Use for use and maintenance of the existing bank protection.

Based on the information known to Commission staff at this time, the existing bank protection does not substantially interfere with Public Trust needs and values at this location at this time. The bank protection maintains and improves the integrity of the Russian River, which helps protect the Public Trust resources of the Russian River for recreational and navigational use by the public. The proposed lease requires the lessee to keep and maintain the protective structure in good order and repair, insure the lease premises, and indemnify the State for any liability incurred as a result of the lessee's activities thereon.

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.

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 bank protection within the lease area is located along the Russian River within a region identified as tidally influenced. The upland property is vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level rise. As noted above, the bank within the lease area that supports the upland residence was recently subject to erosion due to flooding.

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 Russian 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 and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, 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, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. 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 will likely increase scour decreasing bank stability and structure.

The bank protection may need to be reinforced to withstand higher levels of flood exposure. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, staff believes the issuance of this lease does not substantially interfere with Public Trust needs and values at this location at this time, 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,

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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.

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 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, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning October 18, 2018, for a term of 10 years, for the use and maintenance of existing bank protection not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W27131

LAND DESCRIPTION

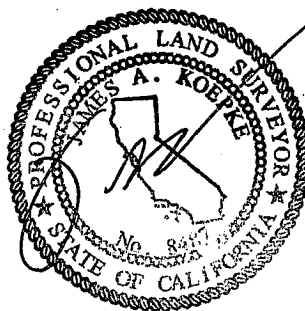
A parcel of tide and submerged land situate in the bed of the Russian River lying adjacent to Mesa Grande Subdivision on the Russian River, as said subdivision is shown on map entitled "Map of Mesa Grande", filed in the Office of the County Recorder in Book 15 of Maps, Page 8, Sonoma County Records, also lying adjacent to that certain parcel of land described in Grant Deed recorded June 24, 2010 as Document Number 2010052443 in Official Records of said County, being more particularly described as follows:

COMMENCING at a one-half inch iron witness pipe as described in said Grant Deed; thence North 29° 58' East, 10 feet, more or less, to the southwesterly bank of the Russian River, also being the POINT OF BEGINNING; thence along the bank of the said Russian River, southeasterly 91 feet to the most northeasterly corner of that parcel of land known as Parcel Two described in said Grant Deed; thence to a point on a line parallel with and 30 feet northeasterly of, measured at right angles, from said bank; thence along said parallel line northwesterly 91 feet; thence southwesterly 30 feet to the POINT OF BEGINNING.

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

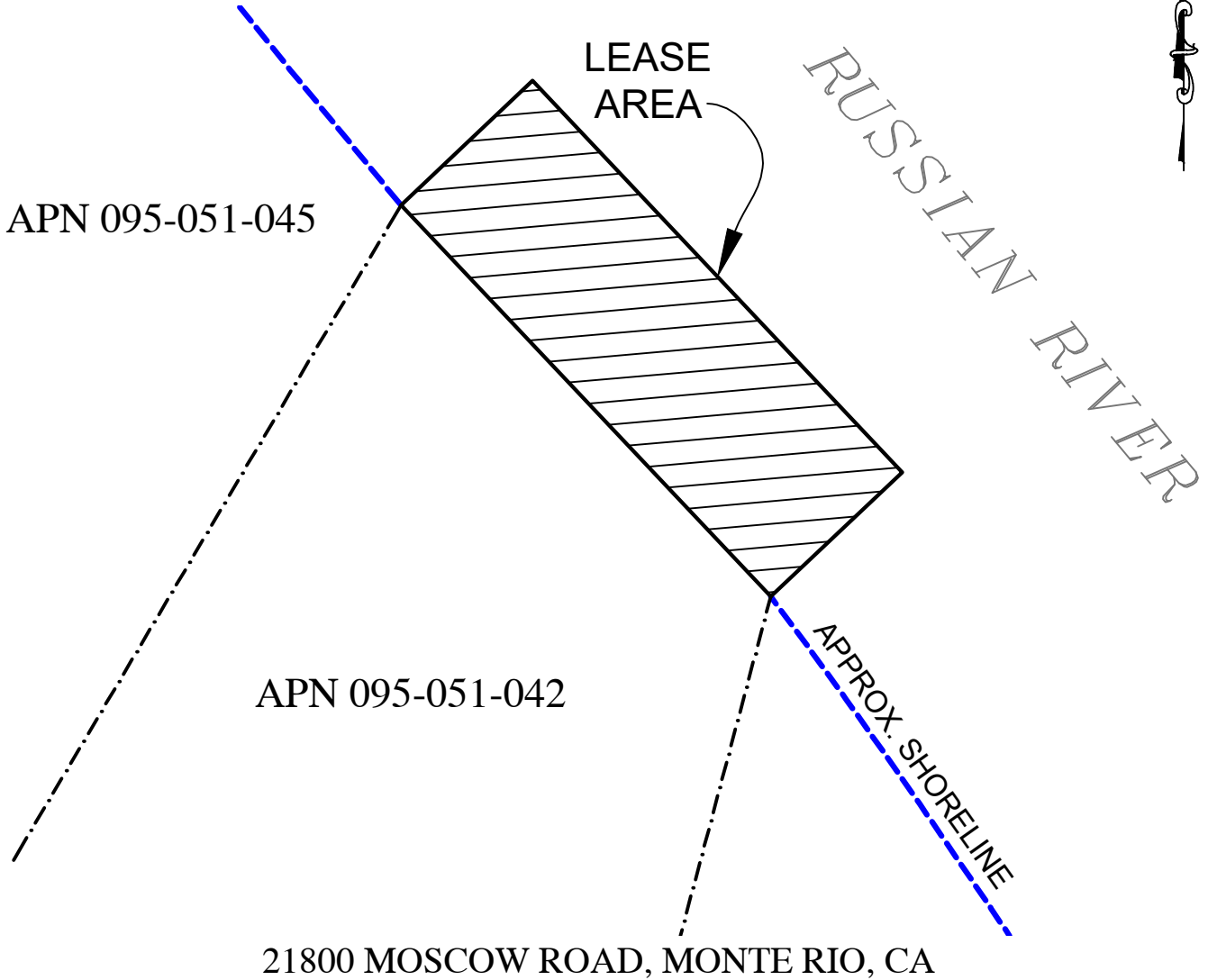
END OF DESCRIPTION

Prepared 08/17/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

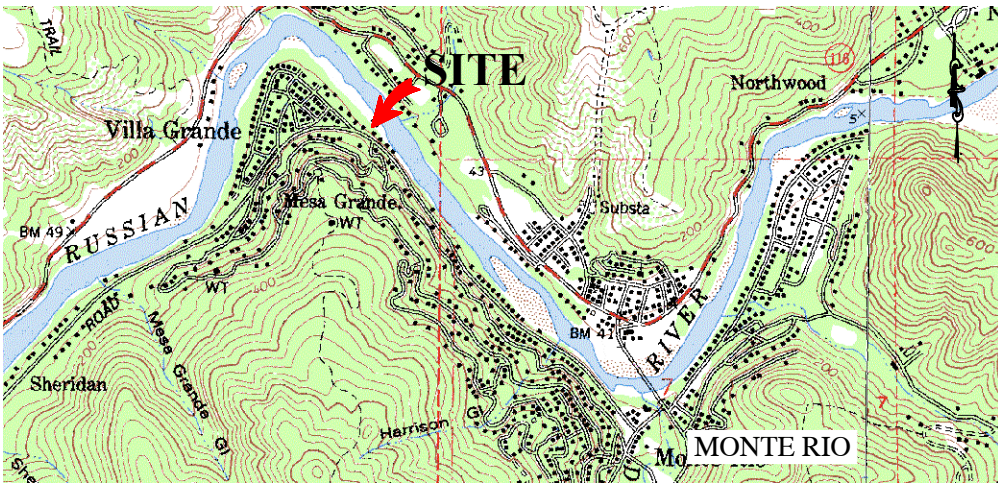
SITE



21800 MOSCOW ROAD, MONTE RIO, CA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 27131
 TOBEY
 APN 095-051-042
 GENERAL LEASE -
 PROTECTIVE STRUCTURE
 SONOMA 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.