

CALENDAR ITEM

C54

A 15, 17, 26

10/19/12

PRC 4080.1

S 5, 14

V. Caldwell

**CONSIDER RATIFICATION OF ASSIGNMENTS,
ACCEPTANCE OF A QUITCLAIM DEED,
ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE
AND ENDORSEMENT OF A SUBLEASE**

LESSEES:

Darrell B. Hannan and Florence M. Hannan

APPLICANTS/SUBLESSORS

John C. McGuinness and Kathleen A. McGuinness, as Co-Trustees of the
John C. McGuinness and Kathleen A. McGuinness Revocable Living Trust dated
October 20, 2008

SUBLESSEE

Turner - Cut Resort, Inc.

AREA, LAND TYPE, AND LOCATION:

3.66 acres, more or less, of sovereign land located in Whiskey Slough and
Turner Cut, on Roberts Island, adjacent to 12864 Neugebauer Road, near the
city of Stockton, San Joaquin County.

AUTHORIZED USE:

LEASE: Operation, use, and maintenance of an existing commercial marina,
known as Turner - Cut Resort, consisting of three covered docks
with approximately 130 berths of various lengths with electrical and
water hookups; two uncovered docks; two floating boathouses; five
walkways; guest dock with finger; accommodation dock; gas dock
with two marine fuel dispensers and hose reels; launch ramp;
temporary use of four floating cabins with sewer, electric and water
utility outlets; swim area; and three restrooms with showers
previously authorized by the Commission, and two existing
transient occupancy use rental cabins not previously authorized by
the Commission.

SUBLEASE: Operation and maintenance of a commercial marina.

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LEASE TERM:

20 years, beginning October 19, 2012.

CONSIDERATION:

\$9,201 per year, with the rent adjusted annually using the Consumer Price Index (CPI) established by the California Department of Industrial Relations' "California Consumer Price Index (1955-2011) All Items 1982-1984 = 100"; and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance of no less than \$2,000,000

Bond:

\$25,000

Other:

1. This lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders / Boaters" including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. The Lessee shall provide the Commission, on the first anniversary of the lease and on every third anniversary thereafter, a report on compliance with all BMPs.
2. This lease also contains a provision for a transition plan for the removal of four floating cabins from the Lease Premises within five years of the effective date of the lease.

OTHER PERTINENT INFORMATION:

1. The Applicants own the upland adjoining the lease premises.
2. On November 30, 1977, the Commission authorized a General Lease – Commercial Use to Darrell B. Hannan and Clyde F. Hoggs for a term of 40 years, beginning February 27, 1977. On December 19, 1985, the Commission authorized the assignment of lease to Darrell B. Hannan and Florence M. Hannan. Subsequently, the lease was placed into the Hannan Family Trust UTD and upon the death of Darrell B. Hannan and Florence M. Hannan, and subsequent transfers, the property was last deeded to John C. McGuinness and Kathleen A. McGuinness, as Co-Trustees of the John C. McGuinness and Kathleen A. McGuinness

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Revocable Living Trust dated October 20, 2008. Since the 1985 authorized assignment of lease, the Commission has not authorized the later assignments of this lease to the above parties. Staff is now recommending ratification of the unauthorized assignments of lease and acceptance of a quitclaim deed from the Applicants in order to bring the Applicants under a new long term lease as the exiting lease will expire on February 28, 2017.

3. The Applicants have delegated the day-to-day operation of the Marina through a lease to the Turner - Cut Resort, Inc. Staff has reviewed the operating agreement between John C. McGuinness and Kathleen A. McGuinness and Turner - Cut Resort, Inc., and recommends approval of a sublease.
4. Turner Cut Resort is a large commercial marina covering nearly four acres. The marina is vulnerable to theft and property destruction and has experienced vandalism, accidents, fires, and other on-the-water problems, requiring immediate action for the overall safety and security of the facility and the public. These factors support a limited and controlled presence of one or more navigable vessels to be occupied on a 24-hour basis for security purposes. Taking into account the size and design of the marina, staff is recommending that no more than five navigable vessel be used for security purposes. These vessels will be located in strategically designated slips subject to the approval of Commission staff. The security vessels will be required to leave the marina waters at least once every 90-days for a minimum of six hours and the Applicants are required to submit an annual log to Commission staff demonstrating compliance.
5. **Ratification of Assignments, Acceptance of Lease Quitclaim Deed, and Endorsement of a Sublease:** The staff recommends that the Commission find that the subject ratification of assignments, acceptance of lease quitclaim, and endorsement of a sublease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

6. **Issuance of New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1,

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Existing Facilities; Title 2, California Code of Regulations, section 2905, subdivision (a)(2).

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

7. 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Ratification of Assignments, Acceptance of Lease Quitclaim Deed, and Endorsement of a Sublease: Find that the subject ratification of assignments, acceptance of lease quitclaim and the endorsement of a sublease are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of New Lease: 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).

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.

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AUTHORIZATION:

1. Ratify the prior unauthorized assignments of Lease No. PRC 4080.1, effective October 18, 2012.
2. Authorize acceptance of lease quitclaim deed for Lease No. PRC 4080.1, effective October 18, 2012.
3. Authorize issuance of a General Lease – Commercial Use to John C. McGuinness and Kathleen A. McGuinness, as Co-Trustees of the John C. McGuinness and Kathleen A. McGuinness Revocable Living Trust dated October 20, 2008, beginning October 19, 2012, for a term of 20 years, for the operation, use, and maintenance, of an existing commercial marina facility known as Turner Cut Resort consisting of three covered docks with approximately 130 berths of various lengths with electrical and water hookups, one uncovered dock with floating garage, five walkways, guest dock with finger, accommodation dock, gas dock, two marine fuel dispensers and hose reels under awning, launch ramp, four floating cabins with sewer, electric and water utility outlets, attached uncovered dock, covered shed, swim area, boathouse, and three restrooms with showers previously authorized by the Commission, and two transient occupancy use rental cabins not previously authorized by the Commission as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$9,201, adjusted annually using the Consumer Price Index, as provided in the lease; liability insurance with coverage of no less than \$2,000,000; and a surety in the amount of \$25,000.
4. Approve by endorsement a sublease from John C. McGuinness and Kathleen A. McGuinness, as Co-Trustees of the John C. McGuinness and Kathleen A. McGuinness Revocable Living Trust dated October 20, 2008, to Turner–Cut Resort, Inc., with an expiration date of July 31, 2013 and an option to renew for another five year period.

EXHIBIT A

PRC 4080.1

LAND DESCRIPTION

A parcel of tide and submerged land in the beds of Whiskey Slough and Turner Cut (AKA Branch Slough), situate adjacent to that land as described as Parcel 1, Parcel 2, and Parcel 3 in that certain Grant Deed recorded in Book 3163, Page 456, San Joaquin County Official Records, located in San Joaquin County, State of California, and being more particularly described as follows:

BEGINNING at a point having CCS83, Zone 3 coordinates: Northing (y) = 2181293.20 feet and Easting (x) = 6280954.46 feet which bears North 00°42'43" East 2125.43 feet from NGS monument PID AE9887 point having CCS83, Zone 3 coordinates: Northing (y) = 2179167.93 feet and Easting (x) = 6280928.05 feet;

thence from said point of beginning the following thirteen (13) courses:

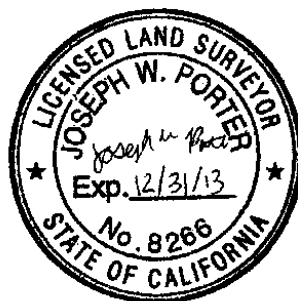
- (1) North 21°23'32" West 226.32 feet,
- (2) North 42°01'07" East 311.99 feet,
- (3) North 57°26'54" East 878.27 feet,
- (4) South 23°52'04" East 203.11 feet,
- (5) South 69°54'18" West 215.60 feet,
- (6) South 51°54'55" West 272.07 feet,
- (7) South 63°45'59" West 245.03 feet,
- (8) South 25°56'25" West 93.70 feet,
- (9) South 05°24'42" East 75.75 feet,
- (10) South 18°37'33" East 196.59 feet,
- (11) South 02°44'26" East 116.31 feet,
- (12) North 88°03'50" West 203.27 feet, and
- (13) North 62°04'49" West 162.63 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Marks of the Whiskey Slough.

ALSO EXCEPTING THEREFROM any portion lying landward of the Low Water Marks of Turner Cut (AKA Branch Slough).

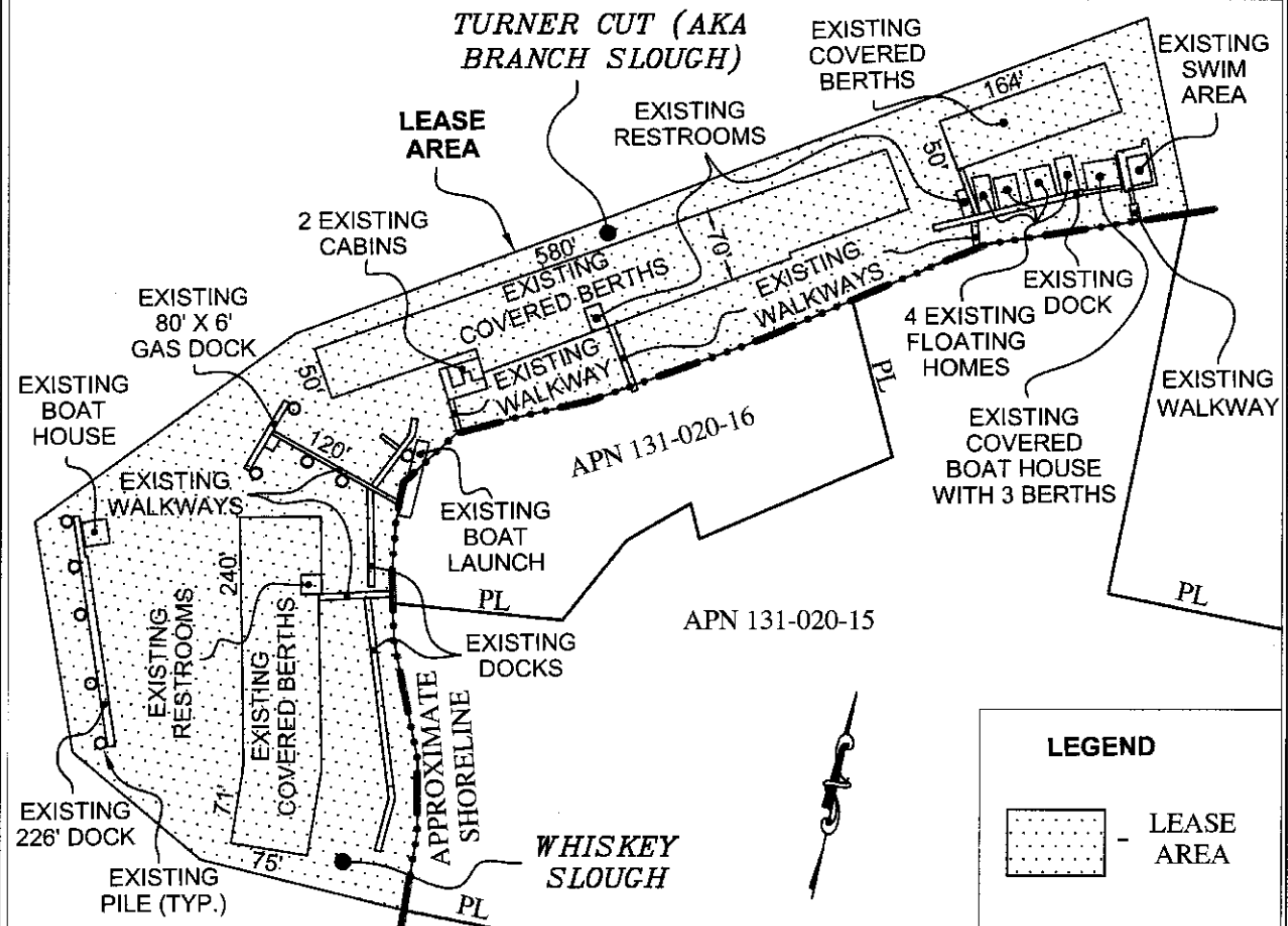
END OF DESCRIPTION

Prepared 08/14/2012 by the California State Lands Commission Boundary Unit.



NO SCALE

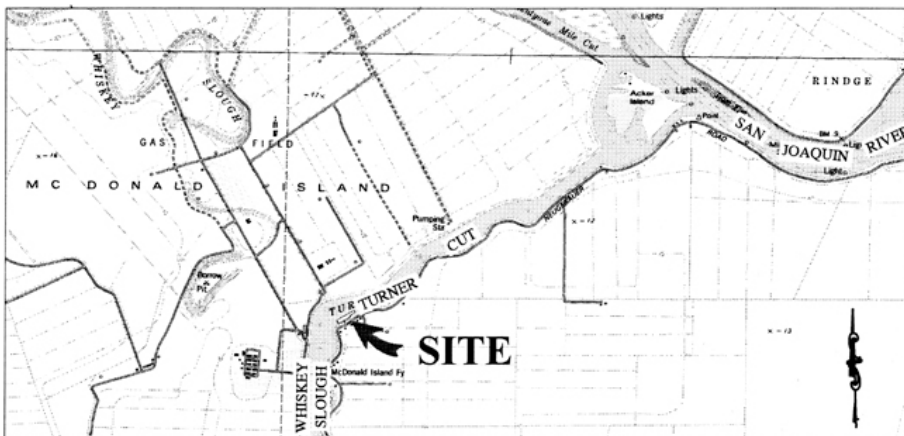
SITE



12860 & 12864 NEUGEBAUER ROAD, STOCKTON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 4080.1
MCGUINNESS TRUST
APNs 131-020-15 & 131-020-16
GENERAL LEASE -
COMMERCIAL USE
SAN JOAQUIN COUNTY



JWP 10/11/12