

**CALENDAR ITEM
C10**

A 15, 17, 26

12/05/12
PRC 3934.1
V. Caldwell

S 5, 14

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE
AND ENDORSEMENT OF A SUBLEASE AND SUB-SUBLEASE**

LESSEES:

Charlie Streckfuss, Ruben Roncancio and Cindy Roncancio

APPLICANTS/SUBLESSORS:

Charles E. Streckfuss, as Trustee of the Charles E. Streckfuss Inter Vivos Trust dated November 19, 1988, First Amended August 8, 1990, Second Amended June 30, 2003, and Restated in its entirety on October 20, 2004, and Restated in its Entirety on November 14, 2006; Dale M. Wallis, D.V.M.; and Leonard Hodgson

SUBLEESSEE/SUB-SUBLESSOR:

Outrigger Marina I, LLC

SUB-SUBLEESSEE:

Outrigger Café, LLC

AREA, LAND TYPE, AND LOCATION:

3.87 acres, more or less, of sovereign land located in Three Mile Slough at Sherman Island, adjacent to 17641 Sherman Island East Levee Road, near the city of Rio Vista, Sacramento County.

AUTHORIZED USE:

LEASE: Continued use and maintenance of an existing commercial marina, known as Outrigger Marina, consisting of six covered sheds with approximately 68 berths of various lengths with electrical and water hookups, one uncovered guest dock with approximately 1,000 feet of side-ties, gas dock, with one marine fuel dispenser and hose reel previously authorized by the Commission; and two existing restrooms with showers, laundry room, patio, a portion of a restaurant and bar, and bank protection not previously authorized by the Commission.

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SUBLEASE: Operation and maintenance of a commercial marina.

SUB-SUBLEASE: Operation and maintenance of the restaurant and bar.

LEASE TERM:

20 years, beginning December 5, 2012.

CONSIDERATION:

Marina Facility: \$6,019.65 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Bank Protection: 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 interest.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance of no less than \$1,000,000

Surety:

\$20,000

Other:

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.

OTHER PERTINENT INFORMATION:

1. The Applicants own the upland adjoining the lease premises.
2. On April 25, 1983, the Commission authorized a General Lease – Commercial Use to Nichols Lombardo and Carol L. Reynolds, dba Outrigger Marina, for a term of 30 years. In May 1990, Ronnie Green acquired the marina under Chapter 11 Bankruptcy. On January 6, 1996, Anthony and Nancy McAfee purchased the marina from Mr. Green. Subsequently, on April 17, 2000, Anthony G. and Nancy L. McAfee filed Bankruptcy under Chapter 7 and Michael D. McGranahan was appointed Trustee. On February 5, 2001, the Commission authorized an assignment from Michael D. McGranahan, Trustee for the estate of Anthony G. and Nancy L. McAfee to Ronnie Green, contingent upon final approval from

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the Bankruptcy Court. On August 8, 2005, the Commission authorized an assignment from Ronnie Green to Charlie Streckfuss and Ruben and Cindy Roncancio, effective April 30, 2006. The lease will expire on April 24, 2013.

3. On May 21, 2007, staff received a copy of an interim final arbitration award from the Superior Court of California in favor of Charles E. Streckfuss which stated, "Ruben and Cindy Roncancio have no right, title or interest in the marina." On August 9, 2007, Ruben Roncancio and Cindy Roncancio quitclaimed to Charles E. Streckfuss their right, title and interest in the upland and marina facilities. After 2007, Mr. Streckfuss transferred an interest in the upland to the other Applicants. Finally, on September 19, 2012, Mr. Streckfuss deeded his interest in the upland to Charles E. Streckfuss, as Trustee of the Charles E. Streckfuss Inter Vivos Trust dated November 19, 1988, First Amended August 8, 1990, Second Amended June 30, 2003, and Restated in its Entirety on October 20, 2004, and Restated in its Entirety on November 14, 2006. Based on the above court action and transfers, Charles Streckfuss has agreed to an early termination of the existing lease and Mr. Streckfuss and the other Applicants have applied for a new General Lease – Commercial Use.
4. The Applicants have delegated the operation of the marina through a lease to Outrigger Marina I, LLC (Outrigger) and are requesting an endorsement of the sublease for the day-to-day operation of the marina. In addition, Outrigger Marina I, LLC has delegated the day-to-day operation of the restaurant and bar through a lease to Outrigger Café, LLC of which a portion of the restaurant and bar are located on the Lease Premises. Staff has reviewed the two operating agreements and recommends Commission endorsement of the sublease and sub-sublease agreement between the parties.
5. The two existing restrooms with showers, laundry room, patio, restaurant and bar, and bank protection have existed on site for many years but were not previously authorized by the Commission. Staff recommends bringing those facilities under lease.
6. Outrigger Marina is a large 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

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recommending that no more than six navigable vessels be used for security purposes. These vessels will be located in strategically designated slips subject to the approval of Commission staff. The security vessel 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 maintain an annual log to be made available to Commission staff upon request.

7. **Termination of Lease and Approval of Sublease and Sub-Sublease:** The staff recommends that the Commission find that the subjects termination of lease and approval of sublease and sub-sublease do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not projects 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.

8. **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, 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.

9. 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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Lease and Approval of Sublease and Sub-Sublease:

Find that the subject termination of lease and approval of sublease and sub-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 activities are not projects 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.

AUTHORIZATION:

1. Authorize termination of Lease No. 3934.1, a General Lease – Commercial Use, effective December 4, 2012, issued to Charlie Streckfuss, Ruben Roncancio and Cindy Roncancio.

2. Authorize issuance of a General Lease – Commercial Use to Charles E. Streckfuss, as Trustee of the Charles E. Streckfuss Inter Vivos Trust dated November 19, 1988, First Amended August 8, 1990, Second Amended June 30, 2003, and Restated in its entirety on October 20, 2004, and Restated in its Entirety On November 14, 2006; Dale M. Wallis, D.V.M.; and Leonard Hodgson, beginning December 5, 2012, for a term of 20 years, for the continued use and maintenance of an existing commercial marina facility known as Outrigger Marina consisting of six covered sheds with approximately 68 berths of various lengths with electrical and water hookups, one uncovered guest dock with approximately 1,000 feet of side-ties, gas dock, with one marine fuel dispenser and hose reel previously authorized by the Commission; and two existing restrooms with showers, laundry room, patio, a portion of a

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restaurant and bar, and bank protection 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; consideration for the marina facilities: annual rent in the amount of \$6,019.65 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for the bank protection: 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 interest; liability insurance with coverage of no less than \$1,000,000; and surety in the amount of \$20,000.

3. Approve by endorsement a sublease between Charles E. Streckfuss, as Trustee of the Charles E. Streckfuss Inter Vivos Trust dated November 19, 1988, First Amended August 8, 1990, Second Amended June 30, 2003 and Restated in its entirety on October 20, 2004, and Restated in its Entirety On November 14, 2006, Dale M. Wallis, D.V.M. and Leonard Hodgson; and Outrigger Marina I, LLC, beginning October 1, 2012 and terminating on September 30, 2014, with the option to extend the lease for an additional five, two-year terms; for the operation and maintenance of the marina.
4. Approve by endorsement a sub-sublease between Outrigger Marina I, LLC and Outrigger Café, LLC, beginning October 1, 2012, and terminating on September 30, 2014, with the option to extend the lease for an additional five, two-year terms; for operation and maintenance of the restaurant and bar.

EXHIBIT A

PRC 3934.1

LAND DESCRIPTION

A parcel of tide and submerged land lying in Three Mile Slough, adjacent to Sherman Island, Sacramento County, State of California, being more particularly described as follows:

COMMENCING at the southwest corner of that certain parcel of land described in that Administrator Deed from R.L. Upham to Louis Patrick, filed on September 7, 1948, in Book 1541, Page 513, Official Records of Sacramento County; thence N 36°16'04" E, 4792.36 feet to the POINT OF BEGINNING; thence along the following fourteen (14) courses:

- 1) N 01°31'57" W 95.39 feet;
- 2) S 78°59'20" E 134.88 feet;
- 3) S 29°43'27" E 217.44 feet;
- 4) S 04°12'59" E 149.40 feet;
- 5) S 05°10'15" W 136.33 feet;
- 6) S 85°40'46" E 40.93 feet;
- 7) S 04°15'22" W 132.52 feet;
- 8) S 85°17'31" E 35.50 feet;
- 9) S 04°42'04" W 436.77 feet;
- 10) N 85°37'05" W 193.91 feet;
- 11) N 04°22'53" E 111.74 feet;
- 12) N 05°56'59" E 557.25 feet;
- 13) N 00°46'59" E 70.00 feet;
- 14) N 31°49'01" W 267.13 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said slough.

END OF DESCRIPTION

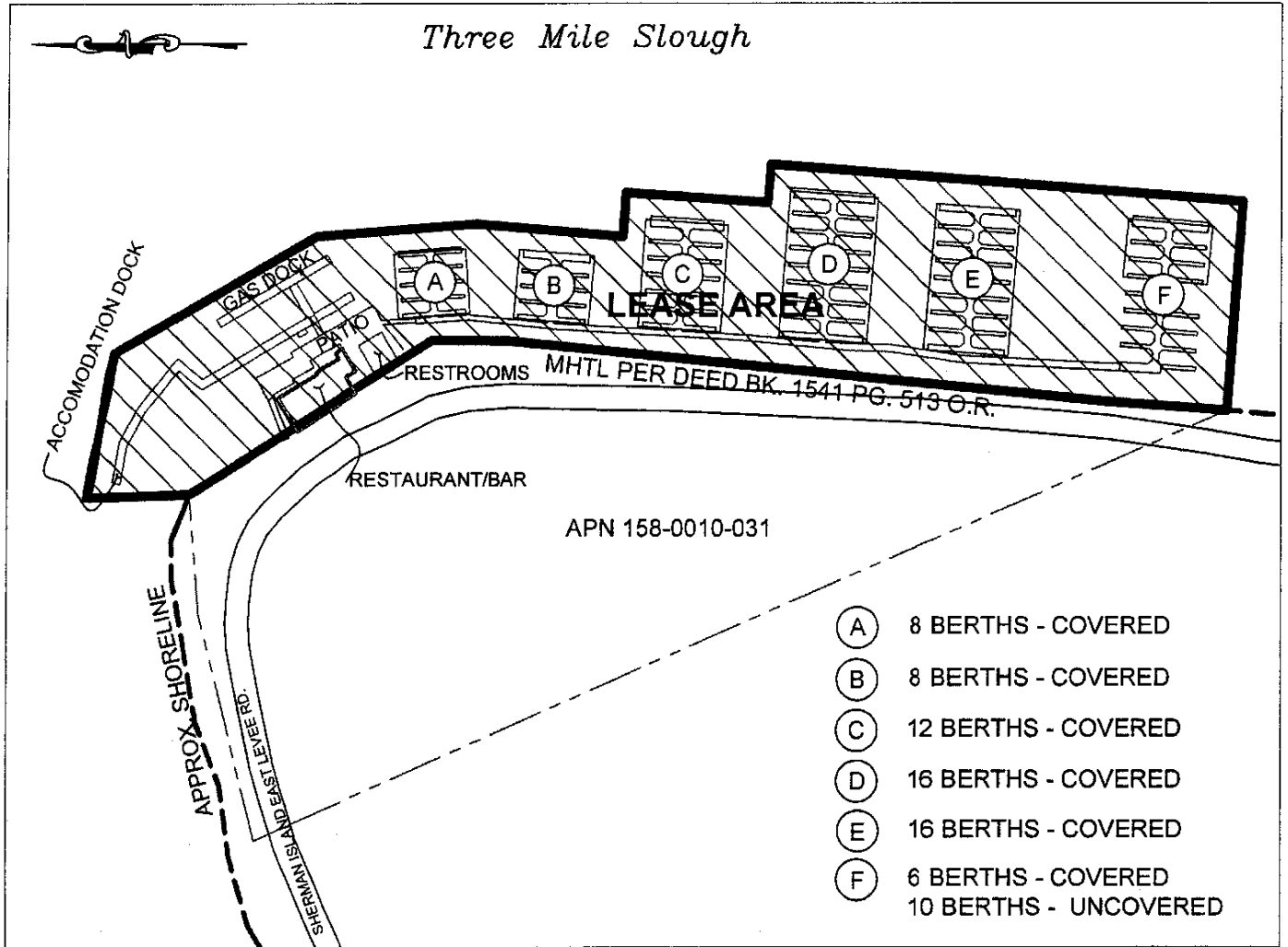
PREPARED 9/6/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE

Three Mile Slough



- (A) 8 BERTHS - COVERED
- (B) 8 BERTHS - COVERED
- (C) 12 BERTHS - COVERED
- (D) 16 BERTHS - COVERED
- (E) 16 BERTHS - COVERED
- (F) 6 BERTHS - COVERED
10 BERTHS - UNCOVERED

17641 Sherman Island East Levee Rd, Rio Vista

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 3934.1
 OUTRIGGER MARINA
 APN 158-0010-031
 GENERAL LEASE -
 COMMERCIAL USE
 SACRAMENTO COUNTY



MJF 8/29/12