

**CALENDAR ITEM
C74**

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S 18

02/22/13
PRC 8997.1
G. Kato

AMENDMENT OF LEASE

LESSEE:

Kenneth D. Wheat and Edith J. Wheat, as Co-Trustees of The Wheat Family Trust, U/A Dated February 21, 2011

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1174 Beach Drive, city of Needles, San Bernardino County

AUTHORIZED USE:

Use and maintenance of existing rock stairs with railing and riprap bankline located on State sovereign land.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

Rock Stairs: Annual rent in the amount of \$50, with the State reserving the right to fix a different rent periodically during the term of the lease, as provided in the lease.

Riprap Bankline: Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State.

PROPOSED AMENDMENT:

Amend the consideration for the stairs to public use and benefit as stairs provide public access to the Colorado River. The State reserves the right to set a monetary consideration if it is determined to be in the best interest of the State. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

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2. The State of California had its fee ownership of the sovereign land located in the Colorado River at this location confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991 and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High Water Mark (OHWM) fixed in the abovementioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located along the Colorado River adjacent to the fixed OHWM.
3. Pursuant to the above-mentioned Boundary Line Agreement and Compromise Settlement, the State of California was granted a perpetual public pedestrian access easement running parallel to the fixed OHWM. The easement is intended to provide public access to and along the bank of the Colorado River. The easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicants' property. Public access to the easement is from the northern or southern end of the subdivision, or from the Colorado River.
4. The United States Department of the Interior, Bureau of Reclamation (Reclamation), Yuma Area Office conducted a review by boat of the bankline on March 27, 2002 and also conducted a site visit on April 10, 2002. The inspection revealed that the bankline had been cleared of vegetation and that the federally applied riprap and federally constructed jetties were undisturbed and in good condition. By letter dated April 23, 2002, Reclamation acknowledged their capacity to apply additional riprap to the bankline at this location in the future was compromised due to the pending development of the upland residences and subsequently declared that Reclamation would not provide additional riprap to the bankline in the future. Consequently, Reclamation decreed that the upland homeowner (Applicants) would be responsible for maintaining protection of their own banklines in the future, subject to the homeowners seeking approval and permitting of their riprap or bankline construction work from the United States Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1899.

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5. The stairs and the riprap bankline mutually benefit both the public and the Applicants and will be maintained by the Applicant at no cost to the public.
6. The staff recommends that the Commission find that the amendment of consideration 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject amendment of consideration is 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.

AUTHORIZATION:

Authorize the Amendment of Lease No. PRC 8997.1, a General Lease – Recreational and Protective Structure Use, effective May 24, 2012, to change the consideration for the stairs to the public use and benefit; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 8997.1

LAND DESCRIPTION

A parcel of State owned sovereign land situate in the bed of the Colorado River, lying adjacent to Swamp and Overflow Survey 2168, patented June 12, 1891, County of San Bernardino, State of California, more particularly described as follows:

All those lands underlying an existing set of rock stairs, and rip rap lying adjacent to that parcel described in Exhibit A of Grant Deed recorded March 14, 2011 as Document Number 2011-0103949 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark as described in Exhibit A of Boundary Line Agreement recorded August 11, 1992 as document Number 92-333250 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 4/25/2012 by the California State Lands Commission Boundary Unit.



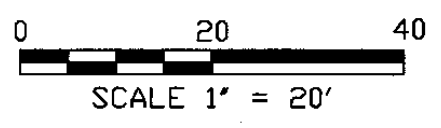
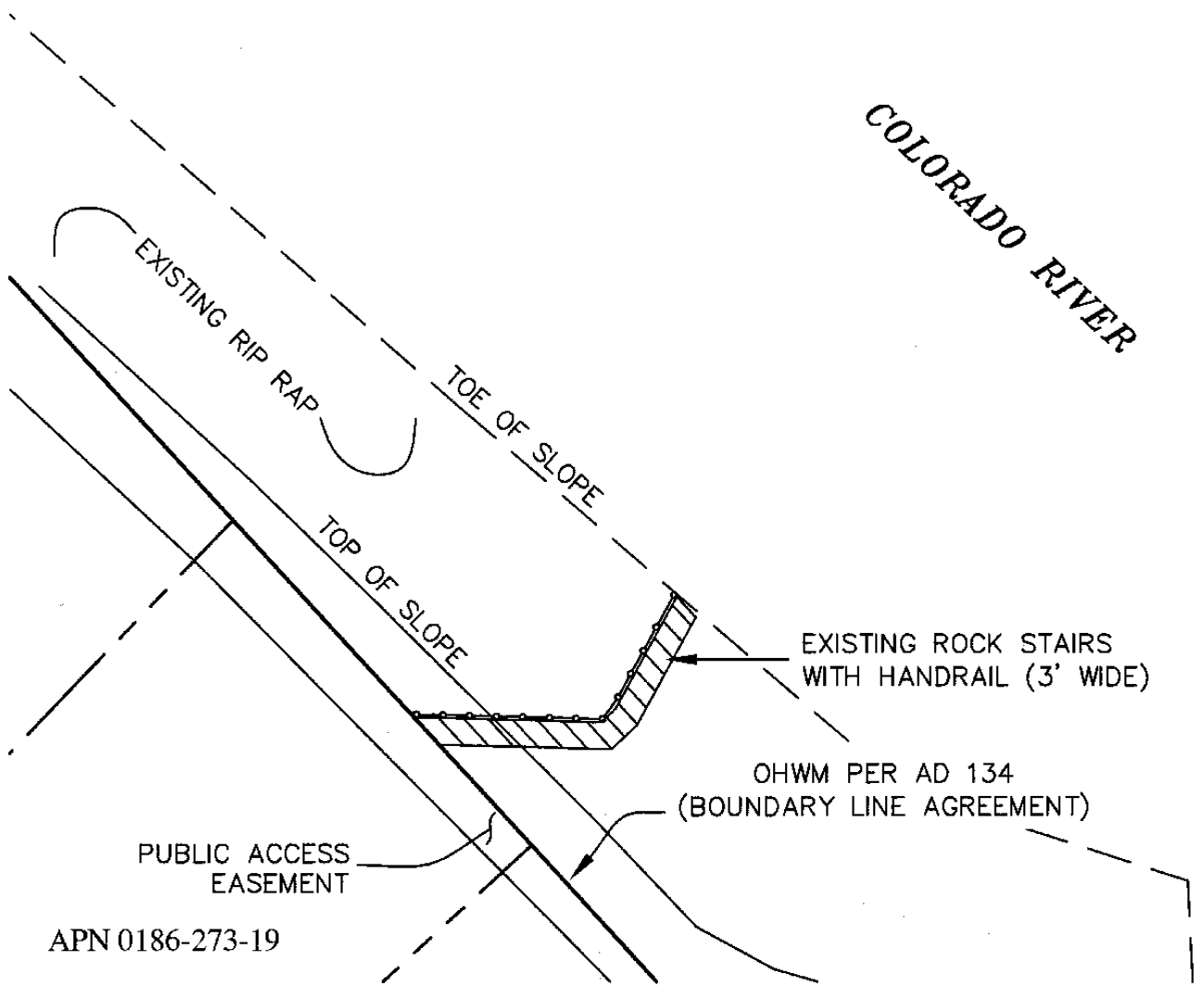


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 8997.1, WHEAT
 SAN BERNARDINO COUNTY

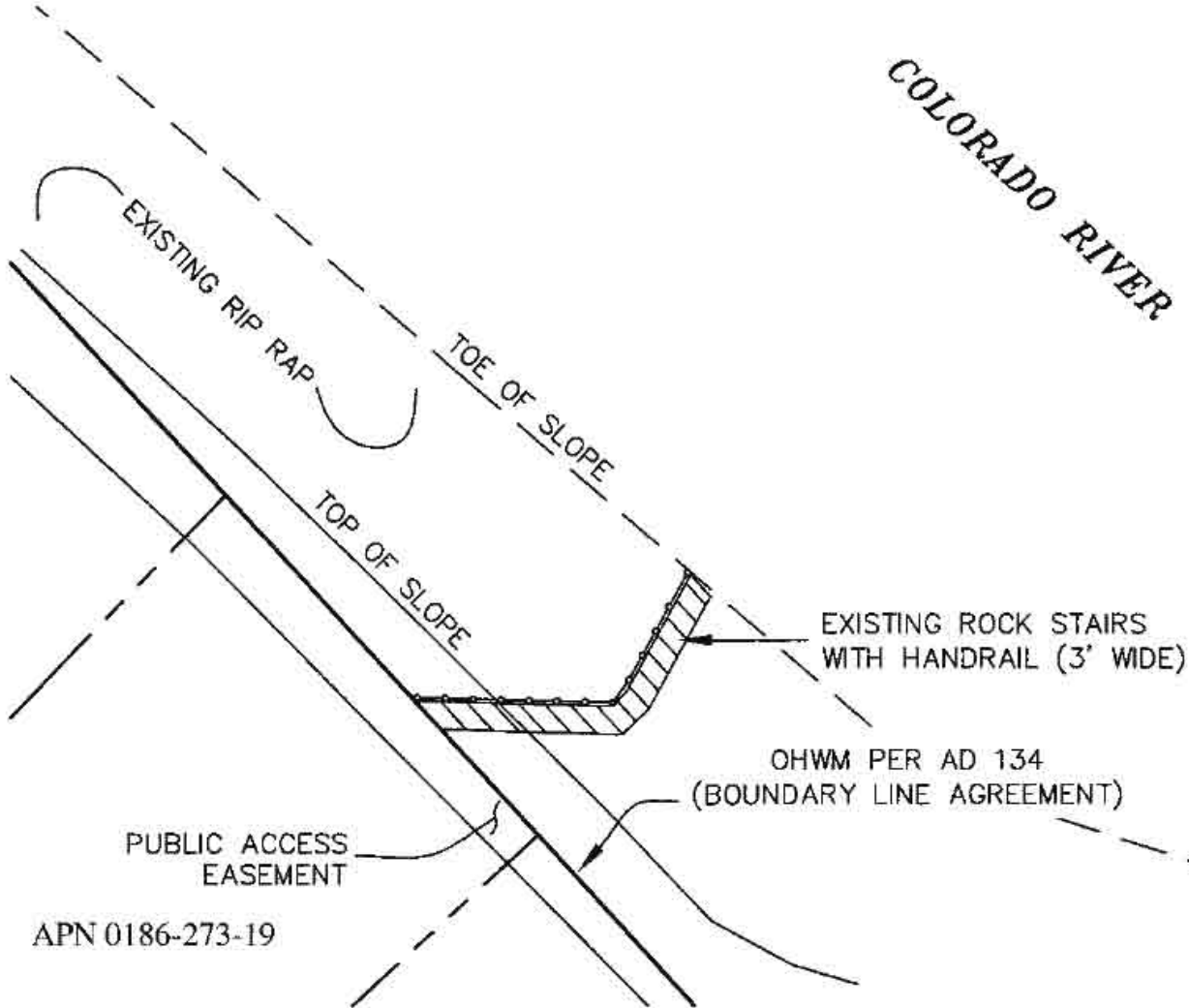
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

COLORADO RIVER



APN 0186-273-19

1174 BEACH DRIVE, NEEDLES

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8997.1
 WHEAT
 APN 0186-273-19
 GENERAL LEASE -
 RECREATIONAL & PROTECTIVE
 STRUCTURE USE
 SAN BERNARDINO COUNTY



DJF 01/29/2013

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.