

**CALENDAR ITEM
C17**

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S 4

02/21/14
PRC 5189.1
N. Lavoie

**RESCISSION OF APPROVAL AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL AND
PROTECTIVE STRUCTURE USE**

LESSEE:

The Bow Corporation, a California Corporation

APPLICANT:

River View MHC, LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 11705 Parey Avenue, near the city of Red Bluff, Tehama County.

AUTHORIZED USE:

Continued use and maintenance of an existing boat launch ramp and bank protection.

LEASE TERM:

10 years, beginning February 21, 2014.

CONSIDERATION:

Boat Launch Ramp: \$50 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:

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

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On June 24, 2008, the Commission authorized a General Lease – Recreational and Protective Structure Use to The Bow Corporation, a California Corporation (Bow). That lease authorized an existing floating accommodation dock, five finger floats, a walkway, concrete boat launch ramp, and bank protection. Bow disputed the amount of rent associated with the docking facilities because they drew less income directly from the boat docks than the amount of rent under the lease agreement. Although staff explained that the Commission could not waive rent, because it would violate Chapter 585, Statutes of 2011 and would constitute a gift of public property in violation of Article XVI, Section 6 of the California Constitution, Bow never signed the authorized lease. In 2010, Bow provided evidence they had removed the docking facilities and staff attempted to work with Bow to revise the authorized facilities but was unable to get Bow's cooperation. On December 9, 2011, the upland was sold to River View MHC, LLC. The Applicant is now applying for a General Lease – Recreational and Protective Structure Use.

3. Staff believes there is no reasonable chance to recover any damages in the form of back rent or trespass from Bow and it is questionable what those damages would be given that the facilities had been removed. Since Bow provided evidence the docks were removed in 2010, staff recommends accepting the \$1,701 paid by Bow in 2008 and 2009 as full payment for their occupancy and rescinding the Commission's approval of Lease No. PRC 5189.1, at the June 24, 2008, meeting.

4. **Rescind Approval of Lease:** The staff recommends that the Commission find that the subject lease rescission 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.

5. **Issuance of New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of the 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.

6. 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:

Rescind Approval of Lease: Find that the subject lease rescission 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.

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 rescission of the Commission's approval of Lease No. PRC 5189.1, a General Lease – Recreational and Protective Structure Use, at the June 24, 2008 meeting, issued to The Bow Corporation.

CALENDAR ITEM NO. **C17** (CONT'D)

2. Accept payments to date by The Bow Corporation, a California Corporation, in the amount of \$1,701 as full compensation for occupancy.
3. Authorize issuance of a General Lease – Recreational and Protective Structure Use to River View MHC, LLC, beginning February 21, 2014, for a term of 10 years, for the continued use and maintenance of an existing boat launch ramp and 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; consideration for the boat launch ramp: annual rent in the amount of \$50 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 in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5189.1

LAND DESCRIPTION

A parcel of submerged land, situate in the bed of the Sacramento River lying adjacent to those lands as shown on Rancho El Primer Canon approved October 19th 1858, County of Tehama, State of California, and more particularly described as follows:

All those lands underlying an existing concrete boat ramp adjacent to that parcel as described in "Exhibit A" of that Corporation Grant Deed recorded February 10, 2012 as Document #2012001513 in Official Records of said County.

TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

EXCEPTING THEREFROM any portion lying landward of low water of said river

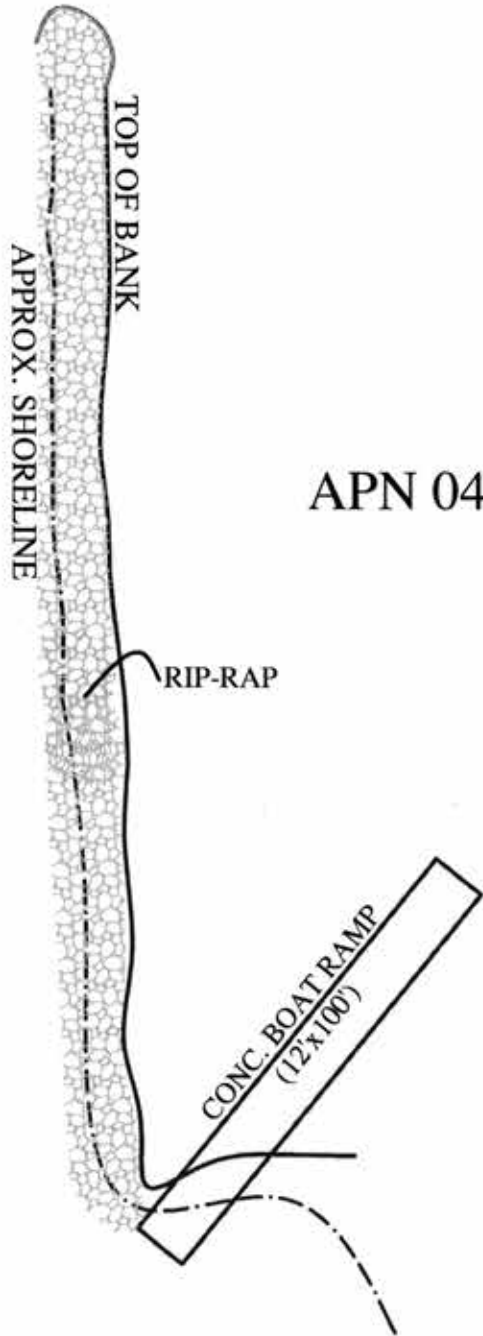
Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

PREPARED 1/2/14 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



SACRAMENTO
RIVER



APN 043-070-53-1

NOTE:
ALL STRUCTURES
ARE EXISTING

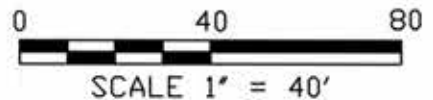


EXHIBIT A

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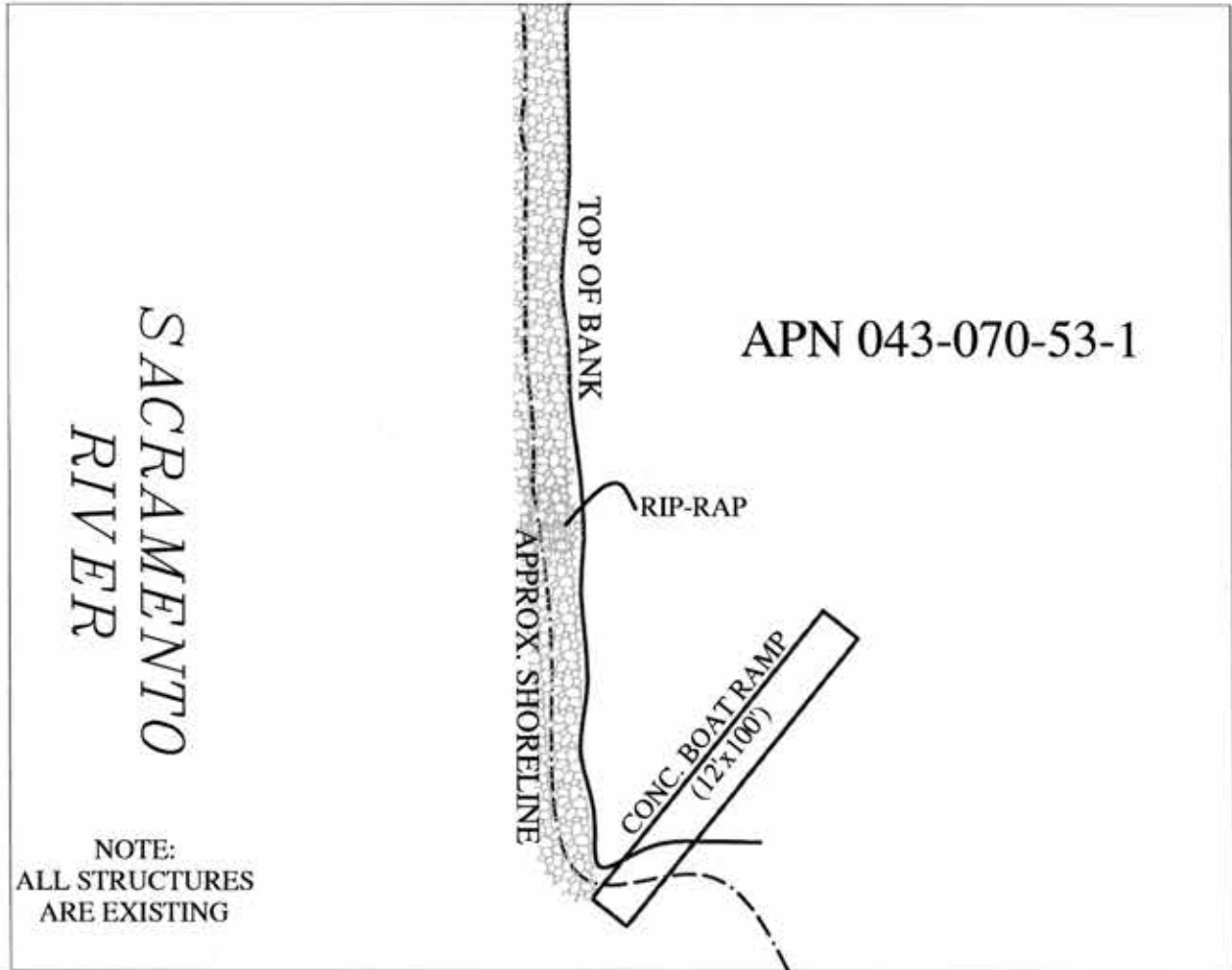
LAND DESCRIPTION PLAT
PRC 5189.1, RIVER VIEW MHC, LLC
TEHAMA COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

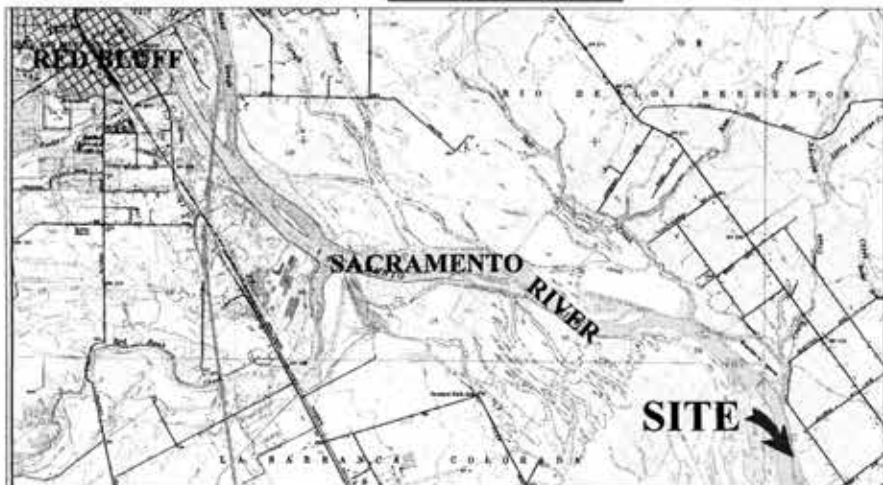
SITE



11705 Pary Avenue, Red Bluff

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 5189.1
 RIVER VIEW MHC, LLC
 APN 043-070-53-1
 GENERAL LEASE -
 RECREATIONAL &
 PROTECTIVE STRUCTURE USE
 TEHAMA COUNTY

