

**CALENDAR ITEM
C66**

A 33
S 18

06/19/14
PRC 3321.1
K. Foster

**RESCISSION OF APPROVAL,
ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE,
ENDORSEMENT OF SUBLEASE**

APPLICANT:

County of San Bernardino
777 E. Rialto Avenue
San Bernardino, CA 92415-0763

LAND TYPE AND LOCATION:

Sovereign land located in the old bed of the Colorado River adjacent to Moabi Regional Park, San Bernardino County.

AUTHORIZED USE:

Public recreational purposes, including the continued use and maintenance of facilities related to campgrounds, a small boat marina, a water treatment plant, and an All-Terrain Vehicle (ATV) riding facility.

LEASE TERM:

Two years, beginning July 2, 2014.

CONSIDERATION:

\$17,430 per year.

SPECIFIC LEASE PROVISIONS:

Insurance: In an amount no less than \$5,000,000 per occurrence. Applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.

Other:

1. A dispute exists with respect to the boundary between lands of the State of California and lands of the United States Department of the Interior Bureau of Reclamation and Bureau of Land Management at Moabi Regional Park (Park) in Section 6, T7N, R24E. The land description in Exhibit A is an interim description of the Lease Premises until the dispute

CALENDAR ITEM NO. C66 (CONT'D)

is resolved, and is not intended to be a waiver or limitation of the State's right, title, or interest in any of the lands so disputed, or an admission of the adequacy of the boundary as described between State and Federal lands in Section 6, T7N, R24E.

2. Lessor acknowledges an existing sublease and operating agreement between Lessee and concession operator Turtle Cove Marina, LLC DBA Pirate Cove Resort Marina during the term of Lease.
3. The issuance of this Lease conveys no water rights to Colorado River water, and it is the Lessee's sole responsibility to secure such water rights for use on the Lease Premises and other areas adjacent to the Lease Premises within the Park.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the upland adjoining the lease premises.
2. On July 2, 1965, the Commission authorized the issuance of Lease No. PRC 3321.9, a General Lease – Public Agency Use, to the County of San Bernardino for a well to supply water, and access to and view of the Colorado River as part of the adjacent small boat marina at Moabi Regional Park (Park), for a 49-year term ending July 1, 2014.
3. On August 20, 1987, the Commission authorized an amendment to the Lease to clarify the existing land use and to authorize the construction of an All-Terrain Vehicle (ATV) facility. The 1987 amendment authorized the Lessee's use of the Lease Premises for public recreational purposes, including facilities related to campgrounds, a small boat marina, and a water treatment plant, and the construction of an ATV riding facility, which was subsequently constructed.
4. The Applicant is also a party to a lease with the United States Department of the Interior Bureau of Reclamation (BOR) and Bureau of Land Management (BLM), for the adjoining upland property at the Park.
5. On November 11, 2011, the Applicant submitted an application to the Commission requesting the issuance of a new lease and approval for the construction of various new park amenities. While processing the application, staff discovered a discrepancy between the location of the State's lease boundary and that of the adjoining BOR/BLM lease. A

CALENDAR ITEM NO. C66 (CONT'D)

dispute arose between the State and BOR/BLM over the boundary which requires resolution before Commission consideration of a new longer-term lease. Commission staff, County of San Bernardino staff, and BOR/BLM staff have been and will continue to work toward resolving the boundary dispute, but a resolution is not expected to be achieved until after the term of the existing lease expires on July 1, 2014.

6. As California Administrative Code, Title 2, section 2004 limits the maximum lease term of a General Lease to 49 years with no option to extend such a lease beyond the specified term, the Applicant has requested a short-term interim lease be authorized for the current lease area and existing improvements to allow the Park facility to continue to operate until the boundary issue can be resolved and a new long-term lease can be considered by the Commission. This short-term lease will terminate upon the issuance of a new long-term lease.
7. The Applicant has entered into a sublease and operating agreement with Turtle Cove Marina, LLC DBA Pirate Cove Resort Marina (Sublessee) to operate various concessions within Park Moabi, including a small boat marina, a general store, fuel sales, and other recreational activities.
8. On April 23, 2014, the Commission authorized the issuance of Lease No. PRC 3321.9, a General Lease – Public Agency Use to the Applicant for a two-year term beginning July 2, 2014. However, the Lease authorization did not recognize the existing sublease and the Lease was never executed. Staff requests that the authorization for issuance of Lease No. PRC 3321.9 made by the Commission at the April 23, 2014, meeting be rescinded and a new lease be authorized
9. **Rescission of Lease Approval and Endorsement of Sublease:** The staff recommends that the Commission find that the subject rescission of lease approval and endorsement of 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.

CALENDAR ITEM NO. **C66** (CONT'D)

10. **Issuance of a 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.

11. 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:

Rescission of Lease Approval and Endorsement of Sublease: Find that the subject rescission of lease approval and endorsement of 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 a 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).

CALENDAR ITEM NO. **C66** (CONT'D)

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 approval for the issuance of Lease No. PRC 3321.9, a General Lease – Public Agency Use, to the County of San Bernardino, made by the Commission on April 23, 2014.
2. Authorize the issuance of a new General Lease – Commercial Use to the County of San Bernardino beginning on July 2, 2014, for a term of two (2) years, for the continued use and maintenance of the existing improvements at Moabi Regional Park, as described in Exhibit A attached and shown on Exhibit B attached (for reference purposes only) and by this reference made a part hereof,; annual rent in the amount of \$17,430; insurance in an amount of no less than \$5,000,000 per occurrence, applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.
3. Authorize endorsement of an existing sublease and operating agreement between the County of San Bernardino and Turtle Cove Marina, LLC DBA Pirate Cove Resort Marina during the term of the Lease.

EXHIBIT A

PRC 3321.1

LAND DESCRIPTION

THOSE CERTAIN SOVEREIGN LANDS OF THE BED OF THE COLORADO RIVER SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 6, T. 7 N., R. 24 E., S.B.M., AS SHOWN ON COUNTY SURVEYOR'S MAP NO. 7003 DATED MAY 1959; THENCE N. 89° 10' E. 4,290 FEET TO A POINT OF INTERSECTION OF THE 1947 RIGHT BANK OF THE COLORADO RIVER WITH THE RIGHT BANK OF THE BUREAU OF RECLAMATION CHANNEL IN THE VICINITY OF NEEDLES, WHICH POINT IS THE TRUE POINT OF BEGINNING; THENCE ALONG THE 1947 RIGHT BANK OF THE COLORADO RIVER THE FOLLOWING COURSES: S. 79° 25' W. 445 FEET, S. 81° 05' W. 1370 FEET, N. 84° 30' W. 890 FEET, N. 65° 20' W. 1190 FEET, N. 58° 50' W. 1230 FEET, N. 72° 30' W. 1300 FEET, S. 81° 10' W. 840 FEET, N. 41° 05' W. 975 FEET, N. 23° 05' W. 790 FEET, N. 8° 40' W. 1380 FEET, N. 2° 50' W. 1350 FEET, N. 24° 50' W. 945 FEET; THENCE LEAVING THE 1947 RIGHT BANK OF THE COLORADO RIVER, N. 65° 25' E. 260 FEET TO A POINT ON THE RIGHT BANK OF THE BUREAU OF RECLAMATION CHANNEL; THENCE, IN A SOUTHEASTERLY DIRECTION, 700 FEET, MORE OR LESS, ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 7947.04 FEET, THENCE 6500 FEET, MORE OR LESS, ALONG A CURVE CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 8014.63 FEET AND, THENCE, 3200 FEET, MORE OR LESS, ALONG A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 11,661.05 FEET, TO THE POINT OF BEGINNING (CURVE DATA ON THE NEEDLES CHANNEL SHOWN ON U. S. DEPT. OF INTERIOR, BUREAU OF RECLAMATION, REGION 3, OFFICE OF RIVER CONTROL, QUADRANGLE SHEETS, DATED 1952).

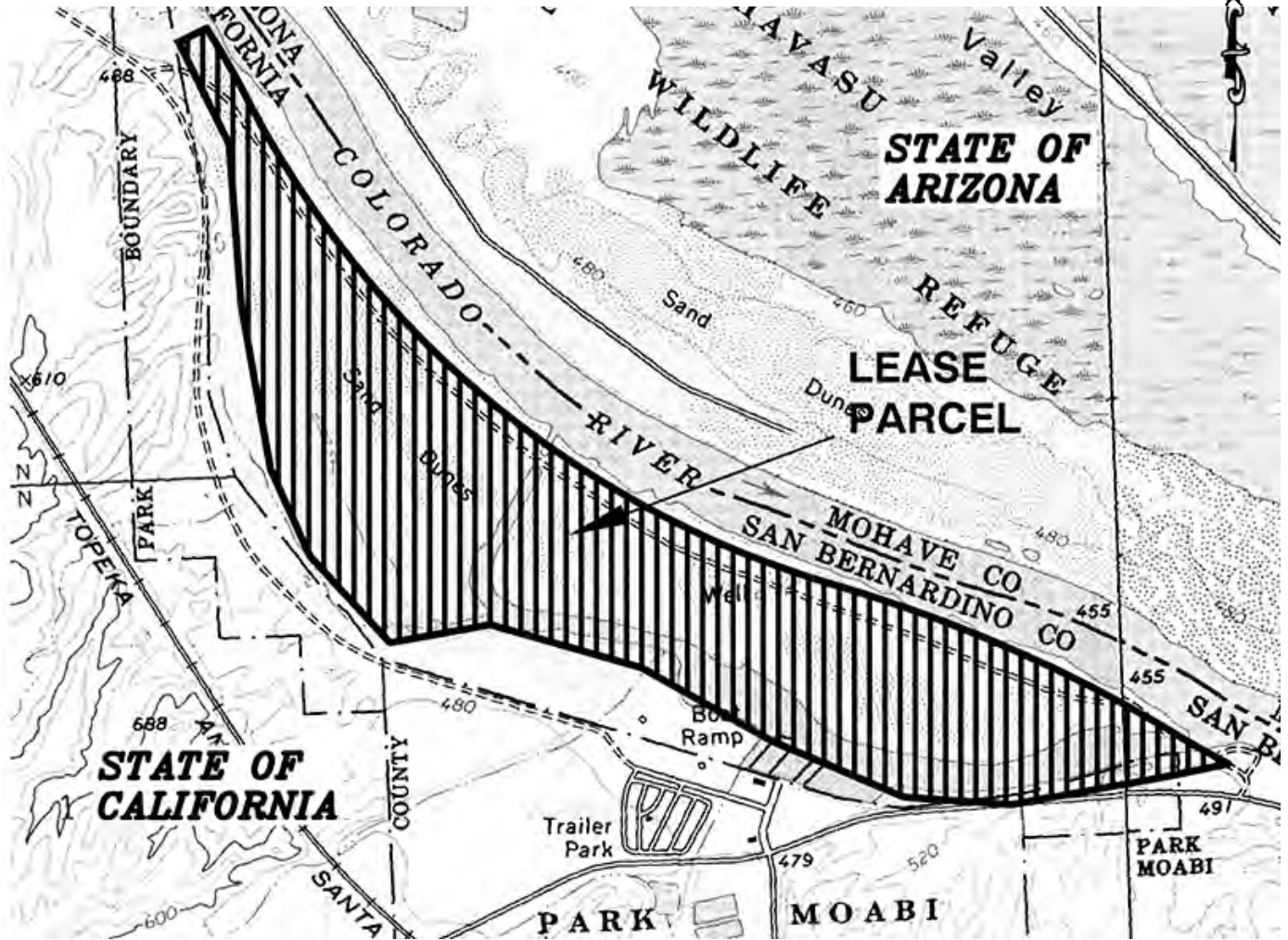
EXCEPTING FROM THE ABOVE-DESCRIBED PARCEL ANY PORTION OF HALF OF THE NATURAL CHANNEL OF THE COLORADO RIVER BELONGING TO THE STATE OF ARIZONA.

END OF DESCRIPTION

The above description is a duplicate of that original description prepared by California State Lands Commission on February 1965 as found in PRC 3321.9 file.

NO SCALE

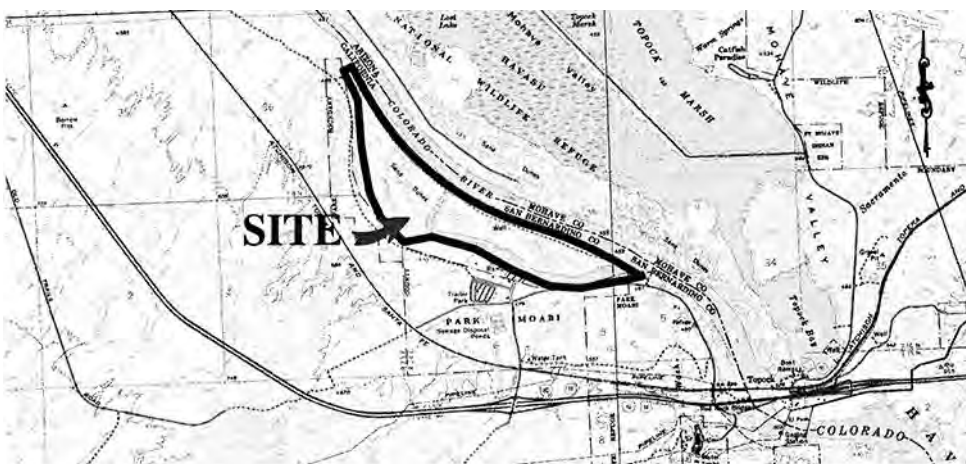
SITE



COLORADO RIVER, SOUTH OF THE CITY OF NEEDLES

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 3321.1

COUNTY OF SAN

BERNARDINO -

MOABI PARK

GENERAL LEASE -

COMMERCIAL USE

SAN BERNARDINO COUNTY



TS 04/08/14