

**CALENDAR ITEM
C43**

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06/29/15
PRC 5284.1
B. Terry

GENERAL LEASE – OTHER

APPLICANT:

Reservation Ranch dba Ship Ashore, a General Partnership

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Smith River, adjacent to Assessor's Parcel Numbers 102-170-03, 102-170-05, and 102-010-35, near Crescent City, Del Norte County.

AUTHORIZED USE:

Continued use and maintenance of existing pilings and remnant pilings, deck, boat ramp, breakwater, fill area, concrete abutment, and riprap.

LEASE TERM:

Five years, beginning June 29, 2015.

CONSIDERATION:

\$125 per year; prepayment of \$625 to cover the annual rent for the full term of the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$3,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 28, 1977, the Commission authorized a 15-year General Lease – Commercial Use, to Henry Westbrook III and Robert L. Westbrook, for dredging a proposed marina, construction of a breakwater, and two docks. That lease expired on September 30, 1991. The marina portion was never constructed and the existing facilities consist of pilings and remnant pilings, a deck, boat ramp, breakwater, fill area, concrete abutment, and riprap. The existing facilities have been in trespass since the expiration of the lease. Lessee failed to pay any rental from 1988 forward.
3. Since the expiration of the lease, Commission staff made numerous unsuccessful attempts to contact the Applicant (Westbrooks) to negotiate

CALENDAR ITEM NO. C43 (CONT'D)

a lease. An incomplete application was submitted on August 21, 2012. On June 21, 2013, after numerous additional attempts to collect the required information and application fees, the Commission considered and approved a denial of the incomplete application for a General Lease-Commercial Use and authorized litigation for trespass and ejectment.

4. After the Commission's action, staff continued to work with the Westbrooks to negotiate a lease. The uses anticipated by the prior lease were never realized nor was the lease area occupied beyond the existing facilities. Those facilities currently located on the lease premises are not usable, do not impede general navigation, and income is not generated for the use of these facilities. Staff has negotiated and is recommending a General Lease - Other, for a term of five years; with an annual rent amount of \$125, to be prepaid to cover the full term of the lease; and liability insurance in an amount of no less than \$3,000,000 per occurrence. Staff recommends that all previously invoiced rentals and any applicable penalties and interest be waived in favor of bringing existing facilities under lease and securing liability insurance from the lessee.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

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

CALENDAR ITEM NO. **C43** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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. Waive all past due rentals, applicable penalties and interest and trespass damages.
2. Authorize issuance of a General Lease – Other to Reservation Ranch dba Ship Ashore, a General Partnership, beginning June 29, 2015, for a term of five years, for the continued use and maintenance of existing pilings and remnant pilings, deck, boat ramp, breakwater, fill area, concrete abutment, and riprap as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$125 and prepayment of \$625 to cover the annual rent for the full term of the lease; and liability insurance in the amount of \$3,000,000 per occurrence.

EXHIBIT A

PRC 5284.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed and historic bed of the Smith River, adjacent to Parcel 5 and Parcel 7 as shown on that certain map filed in Book 08 of Parcel Maps at Page 111, 112, and Parcel Three as described in that grant deed recorded June 13, 1996 in Book 458 Page 549, Official Records of Del Norte County, State of California, and being more particularly described as follows:

COMMENCING at the northeast corner of said Parcel 7, thence along the southeasterly boundary of said Parcel 7, South 41°01'05" West 150.00 feet; thence leaving said southeasterly boundary, South 10°23'02" East 160.50 feet to the POINT OF BEGINNING; thence from said point of beginning the following thirteen (13) courses:

- 1) South 19°00'26" East 157.63 feet,
- 2) South 06°52'29" West 248.81 feet,
- 3) North 48°09'32" West 733.72 feet,
- 4) North 41°50'28" East 167.42 feet,
- 5) North 41°54'24" West 348.65 feet,
- 6) North 48°05'36" East 139.09 feet,
- 7) South 23°01'33" East 131.64 feet,
- 8) South 49°41'39" East 65.81 feet,
- 9) South 65°32'57" East 76.25 feet,
- 10) South 50°07'39" East 188.79 feet,
- 11) South 39°32'51" East 38.16 feet,
- 12) South 53°14'51" East 153.16 feet, and
- 13) South 30°55'22" East 155.17 feet to the point of beginning.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark of the Smith River.

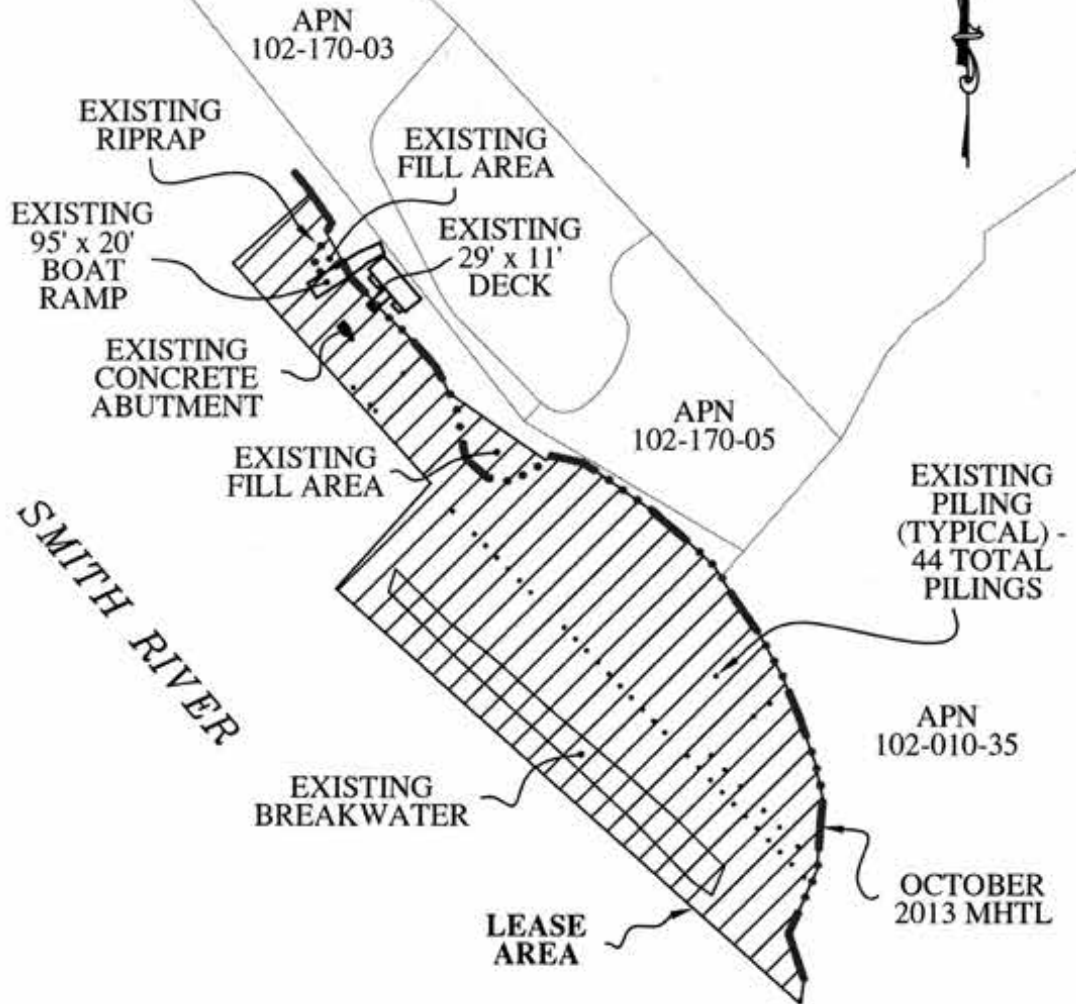
END OF DESCRIPTION

Prepared 04/09/2015 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



12370 HIGHWAY 101 NORTH, NEAR TOWN OF SMITH RIVER

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 5284.1
RESERVATION RANCH
APNs 102-170-03,
102-170-05 & 102-010-35
GENERAL LEASE - OTHER
DEL NORTE COUNTY



JWP 04/09/15