

**STAFF REPORT  
C51**

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02/27/18  
PRC 7637.1  
J. Holt

**GENERAL LEASE – RIGHT-OF-WAY USE**

**APPLICANT:**

George Reed, Inc.

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Filled sovereign land in the historic bed of the Tuolumne River, three miles east of Waterford, Stanislaus County.

*AUTHORIZED USE:*

Use and maintenance of existing paved haul road.

*LEASE TERM:*

20 years, beginning July 15, 2017.

*CONSIDERATION:*

\$2,651 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on the 10<sup>th</sup> anniversary of the lease term, as provided in the lease.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$3,000,000 per occurrence.
  
2. Surety bond or other security in the amount of \$10,000.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State's Best Interests Analysis:**

On June 30, 1992, the Commission approved a General Lease – Right-of-Way Use for an existing paved quarry haul road and bridge to George

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Reed, Inc. ([Item C17, June 30, 1992](#)). This lease was effective on July 15, 1992, and expired on July 14, 2017. The quarry haul road and bridge previously authorized were constructed to support a sand and gravel quarry located adjacent to the lease area on lands owned and/or leased by the Lessee. Due to passive market conditions, the Applicant registered its gravel and sand mining operation as inactive (Interim Management Plan) with the County of Stanislaus and the State of California Division of Mine Reclamation. The Applicant has no immediate plans to resume sand mining operations at this site. However, when market conditions improve, the Applicant plans to resume operations.

The Applicant is now applying for a new General Lease – Right-of-Way Use for the use and maintenance of the existing paved haul road in the historic bed of the Tuolumne River. Based on staff's research, the bridge previously authorized by the Commission is located outside the historic channel of the Tuolumne River, and therefore a lease is not required for it.

The proposed lease contains an existing 30-foot-wide paved haul road, previously authorized by the Commission. The lease area is largely surrounded by private land and is not generally accessible by the public. The existing paved haul road does assist in providing quicker emergency vehicle access to a predominately rural area within Stanislaus County. The proposed use does not interfere with current Public Trust uses in the area, which consist primarily of boating on the current channel of the Tuolumne River.

Although the lease premises are within the historic bed of the Tuolumne River, the river has moved due to artificial conditions, and the lease premises no longer serve as the river channel. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. The lease reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land, especially if these structures obstruct navigation or present a public safety hazard. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon.

### **Climate Change Analysis:**

The lease area is not tidally influenced and therefore would not be subject to sea-level rise. However, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase

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the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are in an area which may be subject to effects of climate change.

**Conclusion:**

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with Public Trust needs and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. 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.

**EXHIBITS:**

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

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that this 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).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease for the use and maintenance of existing improvements will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Right-of-Way Use to George Reed, Inc. beginning July 15, 2017, for a term of 20 years, for the use and maintenance of an existing paved haul road, 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 \$2,651, with an annual Consumer Price Index adjustment, as provided in the lease; the State reserving the right to fix a different rent on or after the 10<sup>th</sup> year anniversary, as provided in the lease; liability insurance in an amount no less than \$3,000,000 per occurrence; and a surety bond in an amount no less than \$10,000.

**EXHIBIT A**

**PRC 7637.1**

**LAND DESCRIPTION**

Four (4) strips of filled submerged land, each one-hundred (100) foot wide, situate in the historic channel of the Tuolumne River lying adjacent to Swamp and Overflowed Land Survey 76 patented January 20, 1868, County of Stanislaus, State of California and lying 50 feet on each side of the following described centerline:

An existing haul road located between the southerly line of the SE ¼ of Section 25, T3S, R11E, MDM and the easterly line of the SW ¼ of Section 30, T3S, R12E, MDM as shown on that Parcel Map filed December 11, 2001 in Book 51 of Parcel Maps at Page 38 in said county.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the low water mark of the right and left banks of the historic channel of the Tuolumne River.

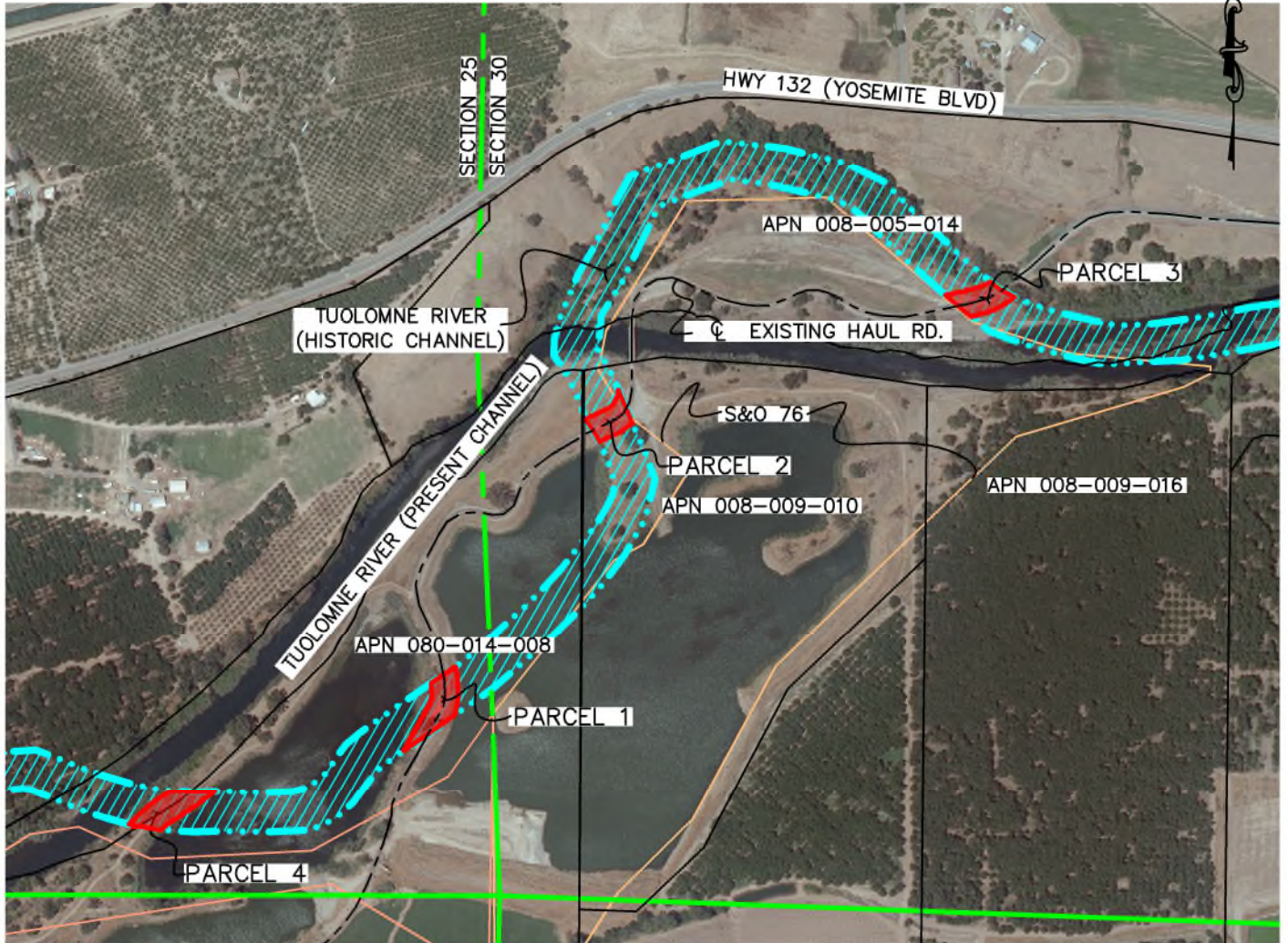
**END OF DESCRIPTION**

PREPARED 1/29/18 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

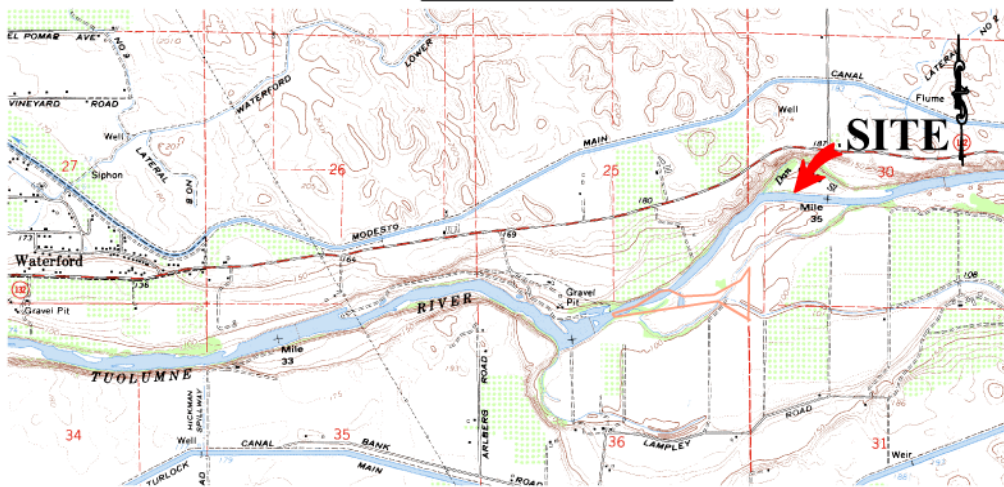
# SITE



## TUOLUMNE RIVER NEAR WATERFORD

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

PRC 7637.1  
 GEORGE REED, INC.  
 APN 080-014-008,  
 008-005-014, 008-009-010  
 GENERAL LEASE -  
 RIGHT-OF-WAY USE  
 STANISLAUS COUNTY



MJF 1/16/18

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.