

**STAFF REPORT  
C47**

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06/21/18  
W 27152  
D. Tutov

**GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

Reclamation District 341

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Number (APN) 158-0020-010, along the southeast bank of Horseshoe Bend of the Sacramento River on Sherman Island, Sacramento County.

*AUTHORIZED USE:*

Construction, use, and maintenance of a levee rehabilitation project, including installation of rock slope protection and restoration of habitat on the waterside levee slope.

*LEASE TERM:*

20 years, beginning June 21, 2018.

*CONSIDERATION:*

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 interests.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

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

Reclamation District 341 has applied for a General Lease – Public Agency Use for a levee rehabilitation project, including installation of rock slope protection (RSP) and restoration of habitat on the waterside portion of the levee slope, along the southeast bank of Horseshoe Bend of the Sacramento River on Sherman Island (Project). The Project will conduct levee erosion repair on a 500-foot-long section of the Sherman Island levee along Horseshoe Bend. The Department of Water Resources, Flood

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Management Division, determined that this 500-foot-long section of the Sherman Island levee requires critical erosion repair. This section of the levee is located on the outer portion of a channel bend and is exposed to faster flows that have caused erosion. Continued erosion of this portion of the waterside levee slope will result in levee instability and possible levee system failure. The Project will repair the levee to meet current U.S. Army Corps of Engineers standards, install RSP along approximately 500 feet of the waterside levee slope, and restore habitat on the waterside levee slope. Repair work will be confined to the water side of the levee.

The steep waterside slope of the existing levee will be grubbed and stripped of existing vegetation. RSP will be installed both above and below the mean high-tide line to rehabilitate the water side of the levee to a 2:1 slope and to protect the waterside slope from future erosion. Below mean high tide, only clean RSP will be used. Above mean high tide, the RSP will be filled with soil to support growth of vegetation that will enhance waterside habitat. Where feasible, a 3-foot-wide habitat bench will be constructed at the mean high-tide line and covered in 9 inches of soil. The 9-inch soil cover will continue up the slope to the edge of a 15-foot-wide levee inspection area. The levee inspection area will remain clear of topsoil and vegetation to allow for routine levee inspection.

The Project will be accessed and constructed from the water side of the levee. Access and construction from the land side is not feasible due to Highway 160, which sits on the levee crown. The installation of RSP will be conducted from barges in Horseshoe Bend and no dewatering or diversion is proposed.

The levee rehabilitation project is consistent with the common law Public Trust Doctrine. Overall, the project is intended to provide reinforced structural support to the levee and limit potentially harmful erosion. The RSP also confers a public health and safety benefit to the entire Sherman Island by addressing known levee deficiencies along the southeast bank of Horseshoe Bend of the Sacramento River. In addition, the Project seeks to prevent levee failure and catastrophic flooding of the island.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease includes certain provisions protecting the public's use of the proposed lease area by requiring the Applicant to obtain necessary permits. The lease requires the Applicant to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action. The lease also has a limited term of 20 years that allows the

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Commission flexibility to determine if the Public Trust needs of the area have changed over time.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located on the Sacramento River on Sherman Island in a tidally influenced area along the levee. The levee is vulnerable to flooding at current sea levels; therefore, this area will likely be at a higher risk of flood exposure given future projection scenarios. Rising sea levels can lead to increased flooding, and larger tidal events, and can affect erosion and sedimentation rates. For example, in tidally influenced waters such as the Sacramento River, increased storms and flooding will likely increase scour, leading to decreased bank and levee stability and excessive sediment accretion within the channels.

The risk of flood exposure for the lease premise is likely to increase with time. The region could see up to 1 foot of sea-level rise (from year 2000 levels) by 2030, 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability.

The combination of these projected conditions could increase the likelihood of damage to banks and levee stability and excessive sediment accretion within the channels of the lease premise during the term of the lease. The RSP within the lease area may require reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. In addition, periodic or continuous inundation with rising water levels and more frequent flooding may create a public safety hazard requiring other protective measures.

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Regular maintenance, as required by the lease, will reduce the likelihood of severe bank and levee structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premise is located in an area that may be subject to effects of climate change, including sea-level rise.

**Conclusion:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; 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. A Mitigated Negative Declaration, State Clearinghouse No. 2017072034, was prepared by Reclamation District 341 and adopted on January 9, 2018, for this project. Commission staff has reviewed such document.

A Mitigation Monitoring and Reporting Program was adopted by the Reclamation District 341.

3. 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 staff's consultation with the persons nominating such lands and through the California Environmental Quality Act (CEQA) review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

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**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2017072034, and a Mitigation Monitoring and Reporting Program were prepared by Reclamation District 341 and adopted on January 9, 2018, for this project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization has been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

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

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**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:**

Authorize issuance of a General Lease – Public Agency Use to Reclamation District 341 beginning June 21, 2018, for a term of 20 years, for the construction, use, and maintenance of a levee rehabilitation project, including installation of rock slope protection and restoration of habitat on the waterside levee slope, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

**EXHIBIT A**

**W 27152**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of Horseshoe Bend of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 524, patented December 19, 1867, County of Sacramento, State of California and more particularly described as follows:

Bounded on the north by a line lying 80.00 feet southerly and parallel with the westerly prolongation of the northerly line of Unit A as described in Grant Deed, recorded May 11, 1994 in Book 940511 at Page 0169, in Official Records of Sacramento County;

Bounded on the south by a line lying 680.00 feet southerly and parallel with the westerly prolongation of the northerly line of Unit A as described in Grant Deed, recorded May 11, 1994 in Book 940511 at Page 0169, in Official Records of said County;

Bounded on the northwest by a line lying northwesterly 300 feet parallel with the center line of the State Route 160 (River Road);

Bounded on the southeast by the ordinary high water mark of the left bank of Horseshoe Bend of the Sacramento River.

**END OF DESCRIPTION**

Prepared 02/26/18 by the California State Lands Commission Boundary Unit



NO SCALE

# SITE

HORSESHOE BEND  
(SACRAMENTO RIVER)

STATE ROUTE 160  
(RIVER ROAD)

APPROX.  
SHORELINE

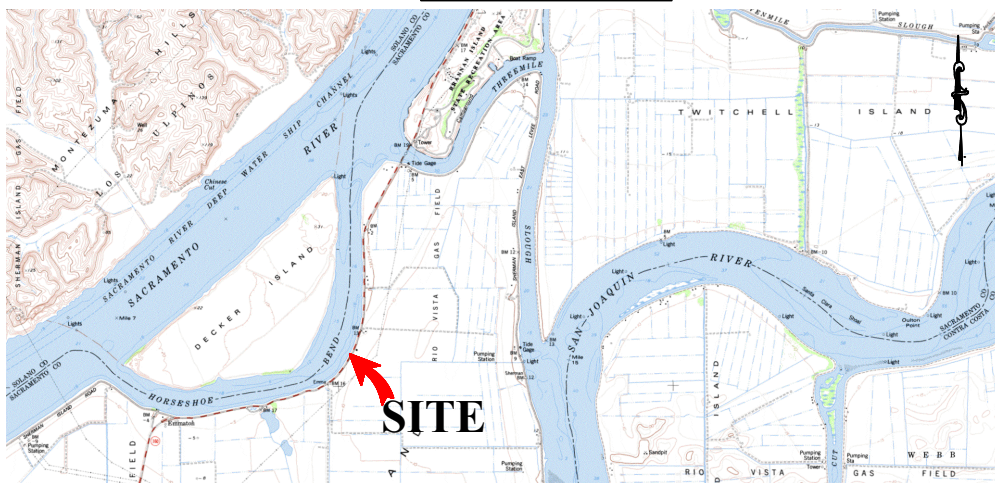
APN  
158-0020-010



HORSESHOE BEND OF THE SACRAMENTO RIVER, SHERMAN ISLAND

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# **Exhibit B**

W 27152  
RECLAMATION  
DISTRICT 341  
APN 158-0020-010  
GENERAL LEASE -  
PUBLIC AGENCY USE  
SACRAMENTO COUNTY



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.