CALENDAR ITEM

C67

A	33	02/22/13
		W 26548
S	16	R. Collins

ISSUANCE OF A NEW GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

APPLICANTS:

Michael Shutt and Christine D. Shutt, as Trustees, or any Successor Trustee, Under that certain Declaration of Trust named Michael Shutt and Christine D. Shutt Family Trust, created by Michael Shutt and Christine D. Shutt, as Trustors, dated September 8, 2006

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Colorado River, adjacent to 1170 Beach Drive, City of Needles, San Bernardino County.

AUTHORIZED USE:

Use and maintenance of existing concrete stairs with railing and appurtenances, rock walls, concrete patios, and riprap bankline located on State sovereign land.

LEASE TERM:

10 years, beginning February 22, 2013.

CONSIDERATION:

Rock Walls and Concrete Patios: Annual rent in the amount of $260, with the State reserving the right to fix a different rent periodically during the term of the lease, as provided in the lease.

Concrete Stairs and Riprap Bankline: Public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State.

SPECIFIC LEASE PROVISIONS:

Insurance: Combined single-limit liability not less than $1,000,000.

Other: Applicants acknowledge that the Public Access Easement shall remain open to the public and that no structures or improvements shall be erected and no personal property placed so as to obstruct or prevent public access in and

along the Easement. Such improvements include, but are not limited to, fences, walls, railings, or landscaping. Applicants further acknowledge that they shall not place signs or advocate in any other manner in such a way as to prevent or discourage public use of the Public Access Easement.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

2. The State of California had its fee ownership of the sovereign land located in the Colorado River at this location confirmed in 1991 as a result of a Boundary Line Agreement and Compromise Settlement entered into between the Commission and Kahala Needles Partners, Ltd., a Nevada Limited Partnership, recorded as AD 134 dated January 1, 1991, and recorded on August 11, 1992, document No. 92-333250, Official Records, San Bernardino County, California. Projects, including new development or maintenance of existing facilities, extending waterward of the Ordinary High Water Mark (OHWM) fixed in the abovementioned Agreement (AD 134) require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants' upland property is located along the Colorado River adjacent to the fixed OHWM.

3. Pursuant to the above-mentioned Boundary Line Agreement and Compromise Settlement, the State of California was granted a perpetual public pedestrian accesses easement running parallel to the fixed OHWM. The easement is intended to provide public access to and along the bank of the Colorado River. The easement affects lots 1-40 of the Rio Buena Vista residential subdivision, one of which is the Applicants' property. Public access to the easement is from the northern or southern end of the subdivision, or from the Colorado River.

4. The United States Department of the Interior, Bureau of Reclamation (Reclamation), Yuma Area Office conducted a review by boat of the riprap bankline on March 27, 2002, and also conducted a site visit on April 10, 2002. The inspection revealed that the bankline had been cleared of vegetation and that the federally applied riprap and federally constructed jetties were undisturbed and in good condition. By letter dated April 23, 2002, Reclamation acknowledged their capacity to apply additional riprap to the bankline location in the future was compromised due to the pending development of the upland residences and subsequently declared that Reclamation would not provide additional riprap to the bankline location in the future. Consequently, Reclamation decreed that the upland

homeowner (Applicants) would be responsible for maintaining protection of their own banklines in the future, subject to the homeowners seeking approval and permitting of their riprap or bankline construction work from the United States Army Corps of Engineers under Section 10 of the Rivers and Harbors Act of 1899.

5. The riprap bankline mutually benefits both the public and the Applicants, and will be maintained by the Applicants at no cost to the public.

6. 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.

7. 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:

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:

Authorize Issuance of a General Lease – Recreational and Protective Structure Use to Michael Shutt and Christine D. Shutt, as Trustees, or any Successor Trustee, Under that certain Declaration of Trust named Michael Shutt and Christine D. Shutt Family Trust, created by Michael Shutt and Christine D. Shutt, as Trustors, dated September 8, 2006, beginning February 22, 2013, for a term of 10 years, for use and maintenance of existing concrete stairs with railing and appurtenances, concrete patios, and riprap bankline located on sovereign land, as described on Exhibit A attached and by this reference made a part hereof and shown on Exhibit B (for reference purposes only); consideration for the concrete patios to be $260 per year; consideration for the concrete stairs with railing and appurtenances and riprap bankline to be the public use and benefit, with the State reserving the right to set a monetary consideration if it is determined to be in the best interest of the State; combined single-limit liability coverage of not less than $1,000,000.

EXHIBIT A

W 26548

LAND DESCRIPTION

A parcel of State owned land adjacent to Lot 22 of Tract No. 15640 as shown on Tract Map recorded in Book 261, Pages 88 through 94, inclusive of Maps, in the Office of the County Recorder of San Bernardino County, lying in the bed of the Colorado River, County of San Bernardino, State of California, described as follows:

> BEGINNING at the most northerly corner of said Lot 22; thence along the prolongation of the northwesterly line of said lot N 49°01'57" E 65.00 feet; thence S 40°58'03" E 45.00 feet to the northeasterly prolongation of the southeasterly line of said lot; thence along said prolongation S 49°01'57" W 65.00 feet to the most easterly corner of said lot; thence N 40°58'03" W 45.00 feet along the northeasterly line of said lot to the POINT OF BEGINNING.

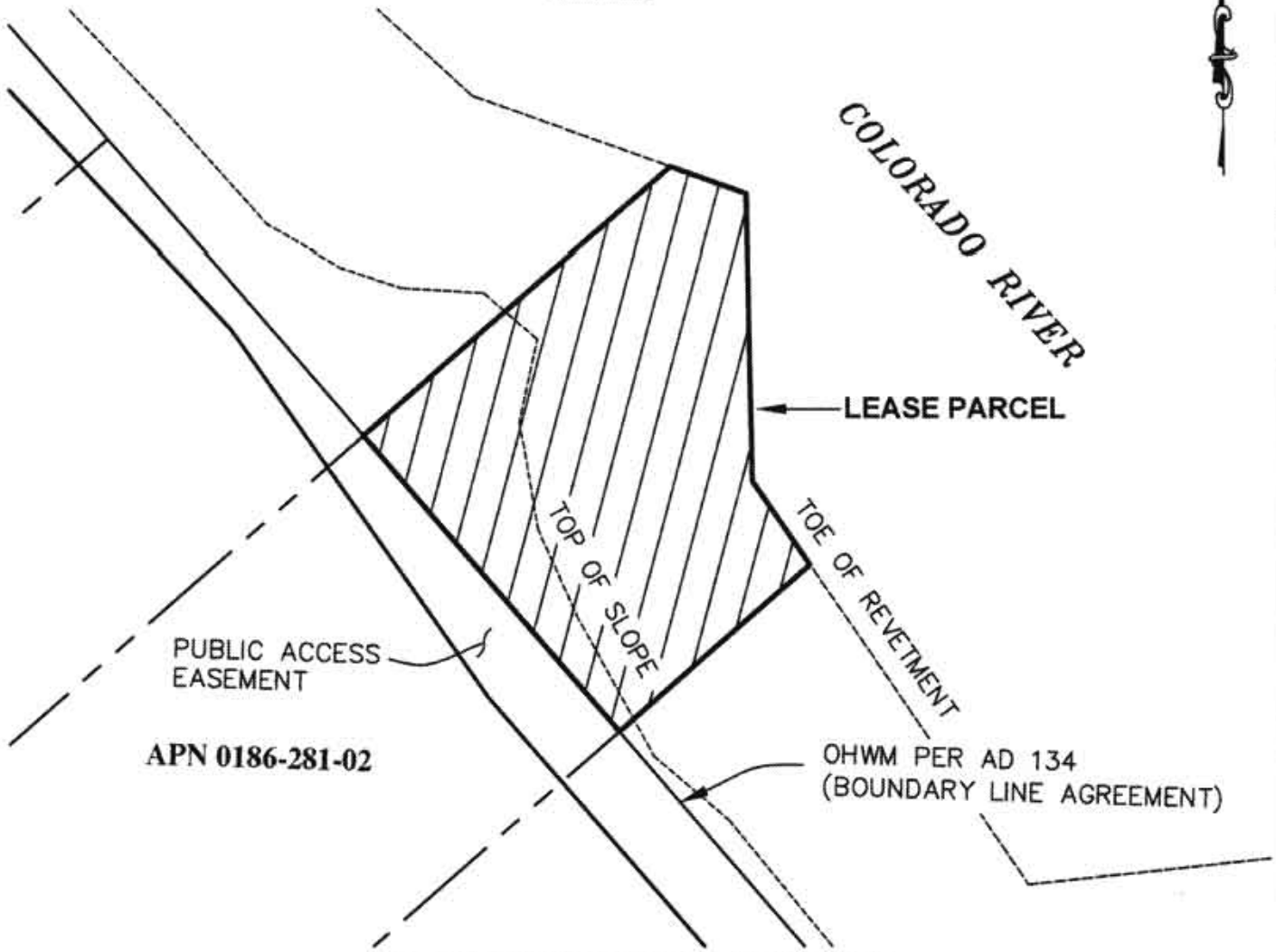
EXCEPTING THEREFROM any portion lying waterward of the toe of revetment adjacent to said lot.

END OF DESCRIPTION

Prepared 01/15/2013 by the California State Lands Commission Boundary Unit

NO SCALE

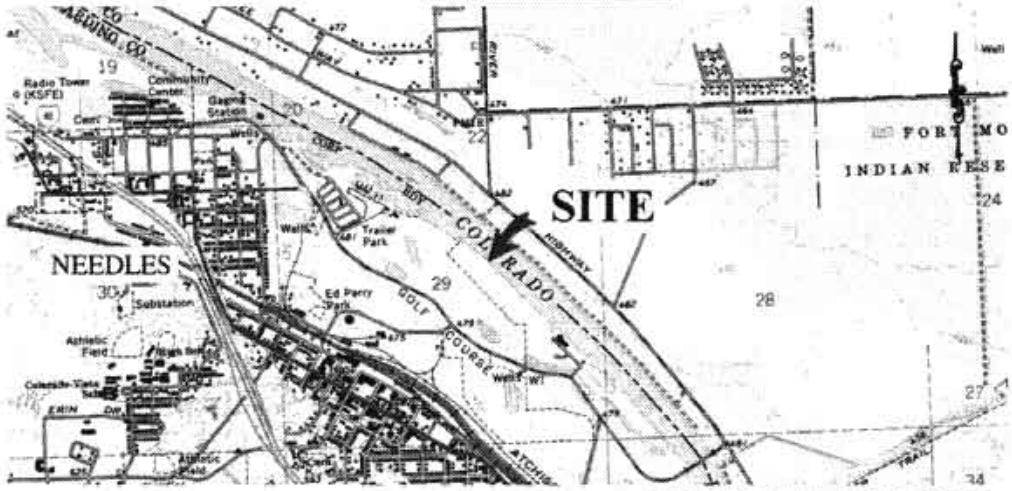
SITE



1170 BEACH DRIVE, 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

W 26548
SHUTT
APN 0186-281-02
GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
SAN BERNARDINO COUNTY

DJF 1/15/2013