

CALENDAR ITEM

C73

A 13

04/26/13

PRC 6846.1; PRC 6939.1; PRC 6944.1

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N. Lavoie

**TERMINATION OF A GENERAL LEASE – COMMERCIAL USE;
TERMINATION OF A GENERAL LEASE – RIGHT-OF-WAY USE;
AND ISSUANCE OF A GENERAL LEASE - COMMERCIAL, RIGHT-OF-WAY, AND
PROTECTIVE STRUCTURE USE**

LESSEE/APPLICANT:

Investors of King Island, Inc.

AREA, LAND TYPE, AND LOCATION:

Filled and unfilled sovereign land in the Old River, adjacent to San Joaquin County's Assessor Parcel Number 129-190-02 and Contra Costa County's Assessor Parcel Number 001-101-007, near Byron.

AUTHORIZED USE:

Continued use and maintenance of seven existing floating boat docks, a bridge, roadway, fill, and bank protection previously authorized by the Commission; and use and maintenance of three existing floating boat docks, a removable water intake float, and additional bank protection not previously authorized by the Commission.

LEASE TERM:

20 years, beginning January 1, 2013.

CONSIDERATION:

\$2,940 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage in an amount no less than \$2,000,000 per occurrence.

Surety:

Surety bond or other security in the amount of \$10,000.

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Other:

Best Management Practices for Boaters

OTHER PERTINENT INFORMATION:

1. Applicant owns or has the right to access the upland adjoining the lease premises.
2. The item before the Commission for consideration is the proposed consolidation of two existing leases and one expired lease into one new lease because the leases are all now associated with the Applicant's upland recreational vehicle (RV) park known as King Island. The three leases, to be consolidated into Lease No. PRC 6846.1, are described below.
3. On April 20, 2000, the Commission authorized Lease No. PRC 6846.1, a General Lease – Commercial Use, to Investors of King Island, Inc. for six existing floating boat docks. That lease will expire on December 31, 2013. Since the authorization of this lease, the Lessee added and removed multiple docks without the Commission's authorization. The proposed lease includes continued authorization of the six docks as stated above, and includes a recommendation for approval of three existing docks, bank protection, and a removable water intake that were not previously authorized by the Commission. These facilities are shown as Parcel 1 on the attached Exhibit B. The Applicant obtained approvals for all existing docks from the U.S. Army Corps of Engineers.
4. On January 23, 1986, the Commission authorized Lease No. PRC 6939.1, a General Lease – Right-of-Way Use, to Naomi K. King for an existing bridge crossing and a roadway on fill. On February 8, 2000, the Commission authorized an assignment of the lease to Investors of King Island, Inc. That lease will expire on December 31, 2015. Staff is recommending the consolidation of Lease No. PRC 6939.1 into Lease No. PRC 6846.1 because the bridge crossing and roadway on fill are used in conjunction with King Island. These facilities are shown in Parcel 2 on the attached Exhibit B.
5. On May 9, 1996, the Commission authorized Lease No. PRC 6944.1, a General Lease – Recreational Use, to Eugene and Mary Scoggins and Nancy Hulme for existing floating docks, RV use, fill, and bank protection. That lease expired on February 28, 2001. Recreational vehicles that were previously located on the filled sovereign land were removed and only a floating boat dock and fill remain. A portion of the fill associated with this lease, also includes the roadway authorized in Lease No. PRC 6939.1,

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described above. The levee roadway leading to the filled sovereign land with the road and the bridge is owned by the California Department of Water Resources (DWR) and is gated, requiring a key to access the approximately three miles of levee roadway to King Island. The Applicant has a Right-of-Way agreement with DWR, authorizing them access to the levee roadway for ingress and egress. The fill is a benefit only to the Applicant. Staff recommends consolidating the remaining authorized improvements in expired Lease No. PRC 6944.1 to Lease No. PRC 6846.1. These facilities are shown in Parcel 2 on the attached Exhibit B.

6. King Island is a private island and is used as a commercial RV park licensed by the California Department of Housing and Community Development. The boat docks are assigned to RV sites on the upland for use by the tenants. The island is serviced by electrical overhead lines crossing to the island at the bridge location, a septic system, and filtered well system for potable water. The water intake float consisting of a ramp, small float, and water intake pipes are for the irrigation of landscaping.
7. **Lease Terminations:** The staff recommends the Commission find that termination of the subject leases does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not a project 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.

8. **Issuance of Lease:** The staff recommends 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.

9. 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.

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EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the subject lease terminations 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 a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of 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).

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 termination, effective December 31, 2012, of Lease No. PRC 6846.1, a General Lease – Commercial Use, issued to the Investors of King Island, Inc.
2. Authorize termination, effective December 31, 2012, of Lease No. PRC 6939.1, a General Lease – Right-of-Way Use, issued to Naomi K. King and assigned to the Investors of King Island, Inc. on February 8, 2000.
3. Authorize issuance of a General Lease - Commercial, Right-of-Way, and Protective Structure Use to Investors of King Island, Inc. beginning January 1, 2013, for a term of 20 years, for the continued use and maintenance of seven existing floating boat docks, a bridge, roadway on fill, fill, and bank protection previously authorized by the Commission and use and maintenance of three existing floating boat docks, a removable water intake float, and additional bank protection not previously authorized by the Commission 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 \$2,940;

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with the State reserving the right to fix a different rent periodically during the lease, as provided in the lease; liability insurance with coverage in an amount no less than \$2,000,000 per occurrence; and surety bond in the amount of \$10,000.

EXHIBIT A

PRC 6846.1

LAND DESCRIPTION

Two parcels of land situate in the Counties of Contra Costa and San Joaquin and more particularly described as follows:

Parcel 1 – Docks and Rip-Rap and Water Intake (Kings Island)

A 60 foot wide strip of tide and submerged land, situate in the historic bed of the Old River, lying adjacent to Swamp and Overflowed Lands Survey 1273, patented May 26, 1877, County of San Joaquin, and more particularly described as follows:

Bounded on the landward side by ordinary high water mark of said river adjacent to that island (Kings Island also known as Bra's Island) as described in that Grant Deed recorded in Document Number 98156238 in Official Records of said County; bounded on the waterward side by a line lying 60 feet parallel to and waterward of the ordinary high water mark of said river; bounded by the artificial channel of the Old River which lies northeasterly of said island.

EXCEPTING THEREFROM any portion of herein after described Parcel 2.

Parcel 2 – Dock, Bridge, Road, Rip-Rap and Fill-Area

All those tide and submerged lands, both filled and unfilled lying immediately beneath an existing road, bridge, fill area, dock, and ten foot impact area adjacent to said dock, situate in the historic bed of the Old River lying adjacent to Swamp and Overflowed Lands Survey 1273, patented May 26, 1877, County of San Joaquin and Swamp and Overflowed Lands Survey 125, patented October 2, 1873, County of Contra Costa, said lands lying with a strip of land 240 feet wide, said strip lying 80 feet northeasterly of and 160 feet southwesterly of the following described centerline:

BEGINNING at a point which bears N 37°55' W 30 feet from the center of a bridge crossing the historic bed of said river and having the approximate coordinates North(y)=2136562, East(x)=6253611 CCS83, Zone 3; thence S 37°55' E 220 feet along the northwesterly prolongation of the centerline, the centerline, and southeasterly prolongation of said bridge to POINT OF TERMINATION.

Sidelines of said strips shall begin and terminate at a point lying perpendicular to the beginning and termination of said centerline

END OF DESCRIPTION

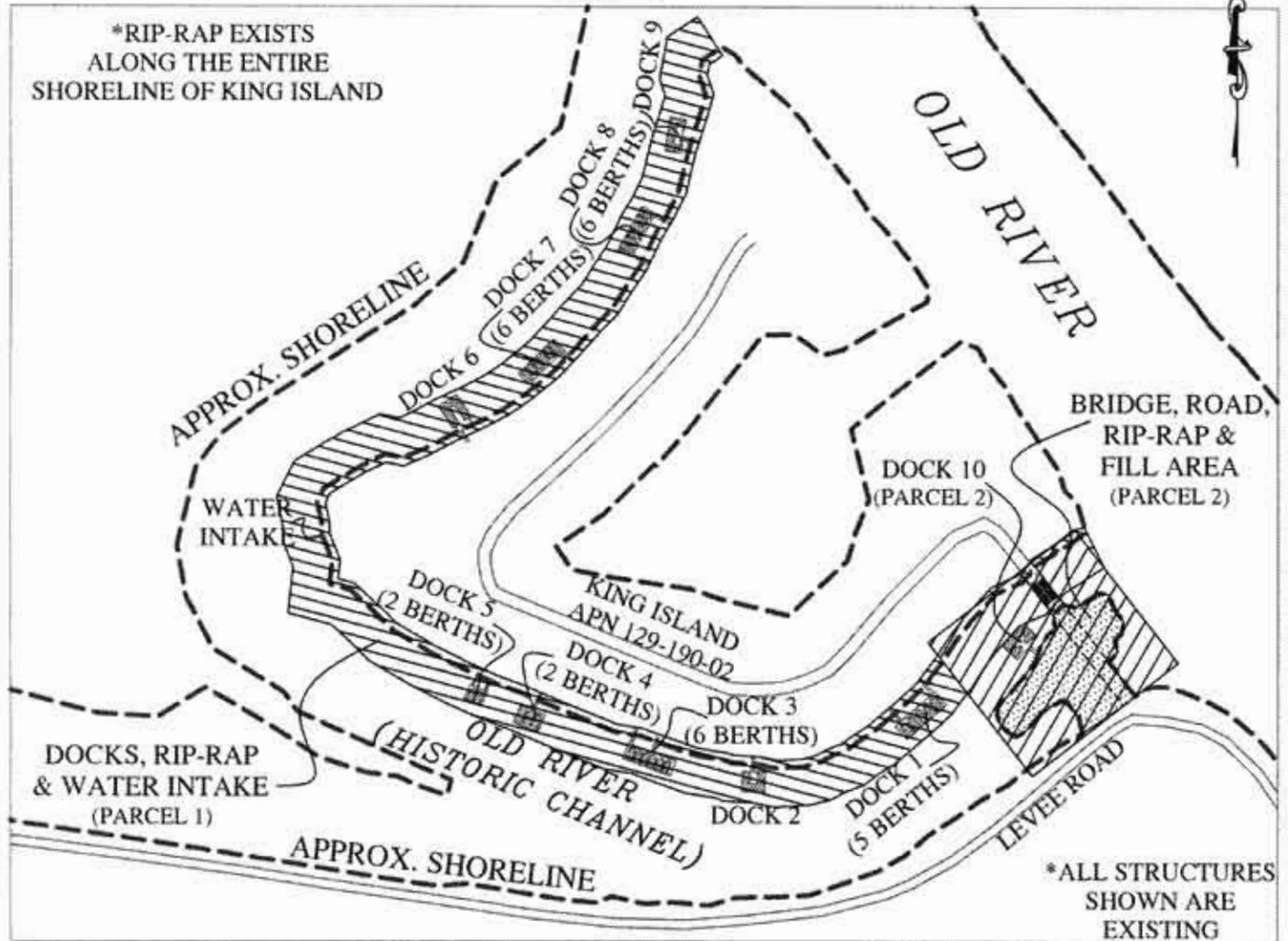
PREPARED 2/27/13 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT.



NO SCALE

SITE

*RIP-RAP EXISTS
ALONG THE ENTIRE
SHORELINE OF KING ISLAND



Old River at King Island, near Byron

NO SCALE

LOCATION

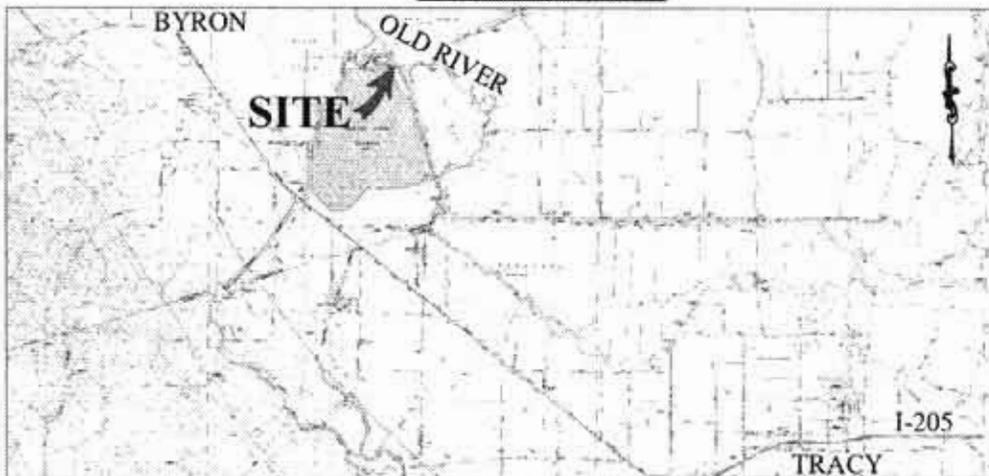


Exhibit B

PRC 6846.1
 INVESTORS OF KING ISLAND, INC.
 APN 129-190-02
 GENERAL LEASE -
 COMMERCIAL, RIGHT-OF-WAY &
 PROTECTIVE STRUCTURE USE
 CONTRA COSTA AND SAN JOAQUIN
 COUNTIES



MJF 2/27/13

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