

**STAFF REPORT
C61**

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06/21/18
PRC 4111.1
L. Pino

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Fresno County Department of Public Works and Planning

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the historic bed of the Kings River in Laton-Kingston Park, near Laton, Fresno County.

AUTHORIZED USE:

Continued use and maintenance of a public park and appurtenant facilities.

LEASE TERM:

25 years, beginning October 1, 2017.

CONSIDERATION:

Rent in the amount of \$125 per year with an annual Consumer Price Index adjustment, with additional consideration being the public use and benefit.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5, California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On December 19, 1968, the Commission authorized the issuance of a 49-year Public Agency Permit, to Fresno County, for the use of sovereign land located within Laton-Kingston Park (Park), beginning October 1, 1969 ([Item 6, December 19, 1968](#)). That lease expired on September 30, 2017. The County is now applying for a new lease.

Since its establishment, the Park has seen a steady increase in usage by the public; during the summer months, and on holiday weekends the Park

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draws large crowds. The Park is open to the public and available for use between Easter Sunday and September 30, and provides river access, fishing, swimming, and other waterborne recreation opportunities. The County charges a \$5 fee per vehicle for use of the parking area within the Park boundary but does not charge a day-use fee and otherwise provides park amenities at no cost to the public.

Since the issuance of the prior lease, the area within the lease premises has been developed slightly to provide visitor-serving amenities. Although previously unauthorized, existing facilities include covered sitting areas, restrooms, a paved access road, a paved parking lot, a pump house, and landscaping. Most of the Park is unimproved and used for open space, recreation, fishing, and river access, consistent with the terms of the prior lease.

Because staff has determined that the bed of the Kings River has moved over time and has been subject to significant artificial influence at this location, the exact location of the State's sovereign interest within the Park is unknown. Additional research might more accurately identify the extent of the State's sovereign interest, but staff believes that the time, effort, and cost to develop such information is not warranted at this time and in this situation. As such, the lease area identified may be larger than the actual area owned by the State, but includes all areas supported by available evidence that have the potential to be within the Commission's leasing jurisdiction.

The Park is divided by the Kings River. The northern portion of the Park is managed and operated by Fresno County; the southern portion of the Park is managed and operated by Kings County (Lease No. PRC 4256.9) ([Item 3, July 31, 1969](#)). However, due to budgetary constraints, the Kings County portion of the Park has been closed since 2011.

The proposed lease area is approximately 57.89 acres along the Kings River and consists of two parcels. The improvements within the lease premises identified as Parcel 1, which may be within the State's jurisdiction, include but may not be limited to, the covered sitting areas, portions of the parking lot, a pump house, restrooms, and portions of the paved access road through the Park to the parking lot. There is also a camp host residence located within Parcel 1 near the entrance of the Park. The camp host provides necessary park maintenance and security services. The Park has been subject to vandalism and theft, and the camp hosts' presence acts as a deterrent to illegal activity. In addition to being a

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deterrent, the camp host also collects trash, stocks bathrooms, and conducts other park maintenance activities.

Parcel 2 consists of an unused storage warehouse, portions of which are located in one of the historic tracts of the Kings River. The warehouse was historically used for storage by the County. However, due to frequent break-ins, theft, and vandalism, the warehouse is not currently being used.

The proposed lease would allow the County to continue its management of the Fresno County portion of the Park, which encourages and promotes river access, fishing, and other water-dependent recreational activities. Because the Park is primarily used for open space recreation, none of the existing improvements restrict public access to the river, but rather serve public recreation and access needs to and along this stretch of the Kings River. As such, staff believes the proposed lease is consistent with the common law Public Trust doctrine.

Furthermore, the proposed lease is limited to a 25-year term, which allows the Commission greater flexibility in evaluating the public's Public Trust needs at this location over time. The proposed lease does not grant the lessee exclusive rights to the lease premises and does not alienate the State's fee simple interest, or permanently impact public rights. Upon termination of the lease, the County may be required to remove any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires the County to indemnify the State for any liability incurred as a result of the County's activities thereon; and provides that the State may set a monetary rent in the future, if the Commission finds that such action is in the best interests of the State.

Climate Change:

The project 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 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, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

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Due to these potential changes, the public park, portions of the parking lot, pump house, and bathroom could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. These structures will not be adaptable to variable water levels. Therefore, these structures may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement.

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 that may be subject to effects of climate change.

Conclusion:

For all the reasons above, staff believes that the issuance of this lease will not substantially interfere with Public Trust needs and values 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 State's best interests.

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 and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the issuance of this lease will not substantially interfere with Public Trust needs and values, 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 State's best interests.

AUTHORIZATION:

Authorize issuance of a 25-year General Lease - Public Agency Use to Fresno County Department of Public Works and Planning beginning October 1, 2017, for the use and maintenance of a public park and appurtenant facilities as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, consideration in the amount of \$125 per year, with an annual Consumer Price Index adjustment, and the public use and benefit, with the State reserving the right to set a different monetary rent should the Commission find such action to be in the State's best interests.

EXHIBIT A

PRC 4111.1

LAND DESCRIPTION

All those submerged lands situate in the historic channel of the Kings River, whether filled or unfilled, lying adjacent to those portions of Sections 27 and 28, Township 17 South, Range 21 East, Mount Diablo Base and Meridian, County of Fresno, State of California and more particularly described as follows:

PARCEL 1

That portion of the parcel as shown on Record of Survey "LATON-KINGSTON REGIONAL PARK" filed in Book 24 Records of Survey, at pages 31 and 32 in Fresno County Recorder's Office lying westerly of the westerly right-of-way line of Gonser Road (Fowler Avenue).

EXCEPTING THEREFROM any portion lying within Rancho Laguna de Tache as shown on Plat of the "RANCHO LAGUNA de TACHE" approved on March 15, 1864.

ALSO EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of said river.

PARCEL 2

That portion of the parcel as shown on Record of Survey "LATON-KINGSTON REGIONAL PARK" filed in Book 24 Records of Survey, at pages 31 and 32 in Fresno County Recorder's Office lying easterly of Gonser Road (Fowler Avenue) and more particularly described as follows:

BEGINNING at a point that bears South 67° 29' 31" East 687.10 feet from a ¾ inch iron pipe at the southeasterly end of course "N 66° 53' 15" W 285.42 feet" as shown on said Record of Survey; thence South 74° 37' 41" East 150.00 feet; thence South 15° 22' 19" West 90.00 feet; thence North 74° 37' 41" West 150.00 feet; thence North 15° 22' 19" East 90.00 feet to the POINT-OF-BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of said river.

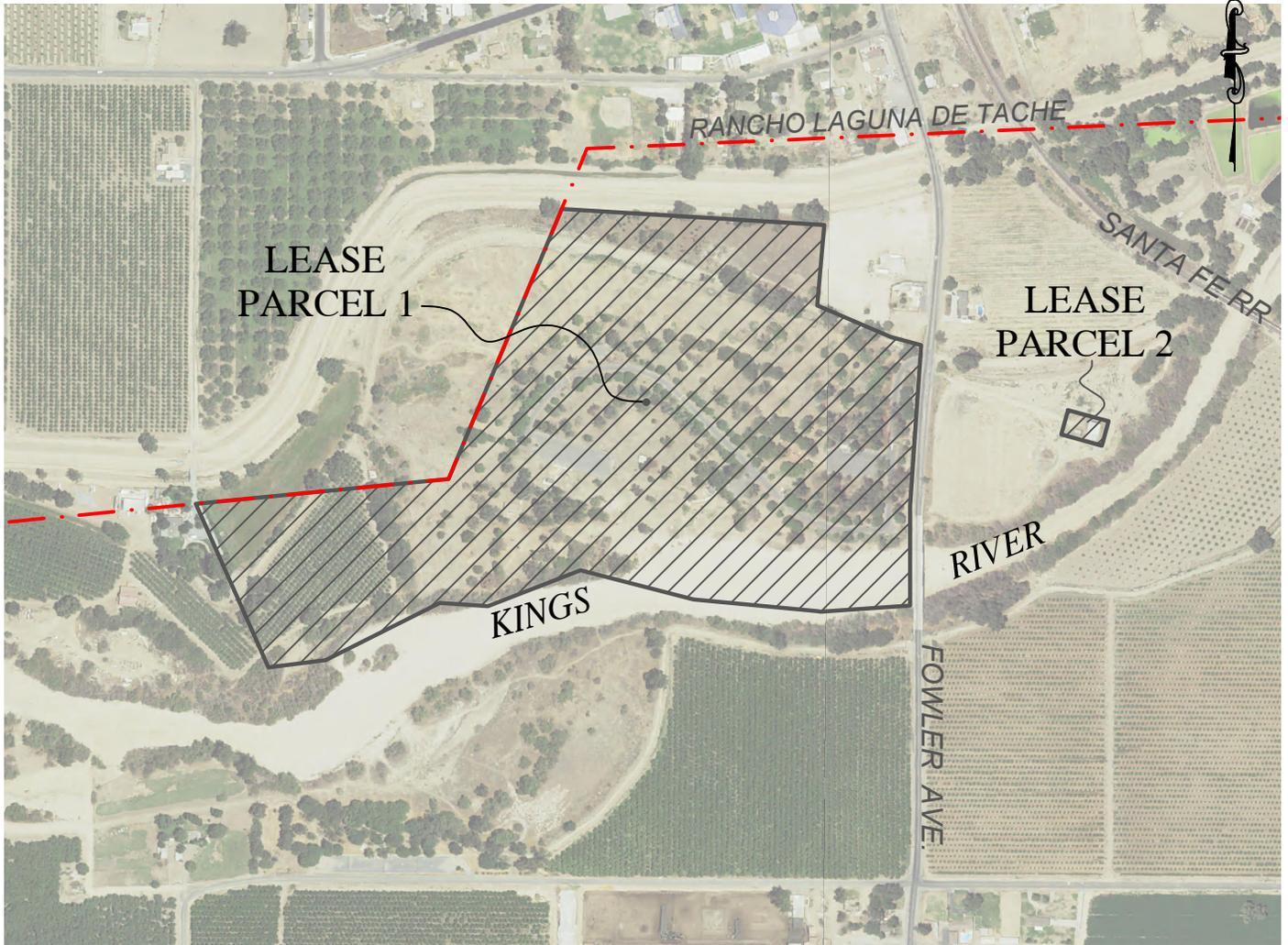
END OF DESCRIPTION

Prepared 05/03/2018 by the California
State Lands Commission Boundary Unit



NO SCALE

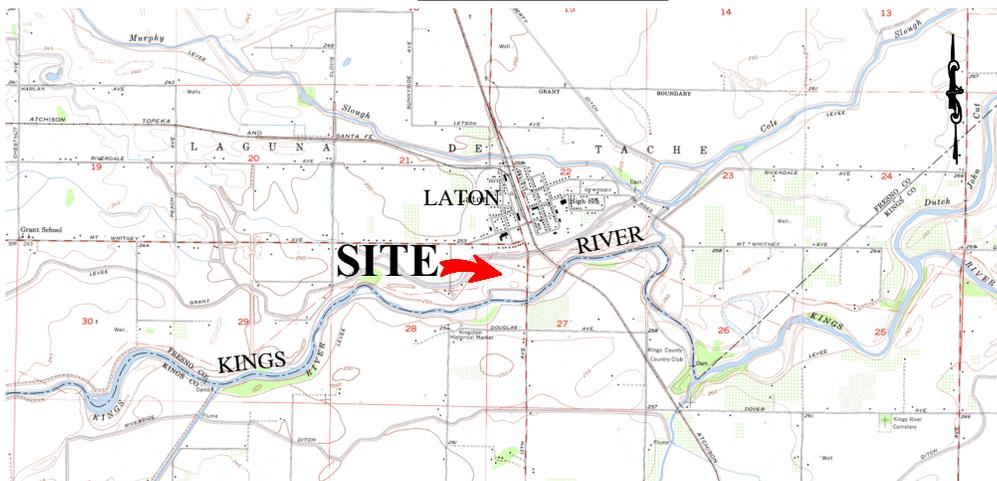
SITE



KINGS RIVER AT LATON-KINGSTONE PARK, NEAR LATON

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4111.1

FRESNO COUNTY PUBLIC
WORKS & PLANNING
GENERAL LEASE -
PUBLIC AGENCY USE
FRESNO 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.