

**STAFF REPORT
C83**

A 56
S 28

08/23/18
W 27149
R. Collins

GENERAL LEASE – OTHER

APPLICANT:

Colorado Riviera Community Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Colorado River, Blythe, Riverside County.

AUTHORIZED USE:

Repair, use, and maintenance of an existing earthen dam.

LEASE TERM:

10 years, beginning August 23, 2018.

CONSIDERATION:

\$125 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

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 November 15, 1994, the Commission authorized Title Settlement Agreement AD 216 ([Item C75, November 15, 1994](#)), to settle a title dispute on farm land and a residential subdivision adjacent to the Colorado River. AD 216 cleared the title in the farm lands and the residential subdivision to the private parties in exchange for certain property interests adjacent to the current Colorado River channel in the Goose Flats area.

On January 29, 2009, the Commission authorized Lease No. PRC 7191.9 ([Item C31, January 29, 2009](#)) to the California Department of Fish and Wildlife (CDFW) for habitat restoration and revegetation at the Goose

STAFF REPORT NO. **C83** (CONT'D)

Flats and Big Hole areas adjacent to the Colorado River. CDFW manages the State's sovereign lands for their ecological value and continues to pursue habitat restoration projects at these sites. Major portions of the Goose Flats area remain accessible to the public, including the entire river waterfront; the backwater areas are accessible by boat.

The Palo Verde Irrigation District (District) distributes irrigation water to farmers from the Colorado River. Unused irrigation water is collected by District canals and empties into Goose Flats and eventually back into the Colorado River. An earthen dam held back the unused irrigation water creating a recreationally navigable pond within Goose Flats before returning to the Colorado River. The pond created a diverse habitat for fish, waterfowl, upland birds, mammals, reptiles, and other wildlife, but the dam washed out during heavy rains in 2016. The District did not construct the earthen dam and advises it is not necessary for its operations.

The Colorado Riviera Community Association (Applicant) is a homeowner association comprised of 197 lots. The northerly portion of the subdivision is adjacent to the Colorado River and the southerly portion is separated from the Colorado River by Goose Flats. The Applicant has applied for a lease to repair and maintain the earthen dam and restore the pond to its original condition. The District has agreed to assist the Applicant and make the necessary repairs to the dam so that the pond, habitat, and navigability it created are restored to previous conditions. The District proposes to use a long reach excavator and a front-end loader to repair the dam.

CDFW does not object to the repair of the earthen dam and restoration of the habitat created by the ponding water. CDFW has advised staff that the restoration and maintenance of the earthen dam by the Applicant will not adversely affect CDFW's lease for habitat restoration and revegetation at Goose Flats as authorized by Lease No. PRC 7191.9.

The proposed lease would restore recreational navigability, riparian habitat, and eliminate unwanted plants from the exposed channel bottom. Overall, the project is considered beneficial because it will promote habitat restoration, enhance fisheries, and restore navigation, all of which are recognized Public Trust purposes. Furthermore, the project will not substantially impede or impair any other Public Trust uses in the area. The lease does not alienate the State's fee simple interest or permanently impair public rights. The lease requires the Applicant to conduct all work safely and indemnify the Commission in the event of any liability resulting from the proposed action. The lease also requires the payment of annual

STAFF REPORT NO. **C83** (CONT'D)

rent to compensate the people of the State for the occupation of the public land involved. The lease also has a limited term of 10 years, which allows the Commission flexibility to determine if the Public Trust needs of the area change over time.

Climate Change Analysis:

The lease area in the Colorado River is not tidally influenced and, therefore, would not be subject to sea-level rise. The water level near the existing improvements is regulated primarily by water released upstream from the Davis Dam. 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, fire, extreme heat, drought, and storms. The earthen dam that held back unused irrigation water was damaged by heavy rains and would be repaired to hold back water, restore riparian habitat created by the ponding water, and restore navigability. The earthen dam could again be damaged from both storm-created debris or prolonged droughts if it is not regularly maintained. 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 runoff by likely increasing scour and decreasing bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises from floods or droughts during the next 10 years of lease. The earthen dam is a fixed structure that would not be adaptable to variable water levels allowing it to rise and fall with storms and droughts and increasing its resiliency to some climate change impacts. The earthen dam should always be maintained because regular maintenance, as required by the lease, would reduce the likelihood of severe structural degradation or dislodgement.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change.

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.

STAFF REPORT NO. **C83** (CONT'D)

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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to Colorado Riviera Community Association beginning August 23, 2018, for a term of 10 years, for the repair, use, and maintenance of an earthen dam, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; rent in the amount of \$125 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27149

LAND DESCRIPTION

A parcel of land within Section 14, Township 7 South, Range 23 East, SBM, as shown on Official Government Township Plat approved December 28th, 1874, County of Riverside, State of California, said parcel being a portion of the "State Parcel" as described within Exhibit "D-1" of that certain title settlement and exchange agreement, AD 216, recorded January 25, 1996 as Instrument No. 029016, and being more particularly described as follows:

COMMENCING at the southwest corner of said State Parcel; thence along the southerly boundary of said State Parcel, North 88°48'00" East 558.05 feet; thence leaving said boundary, North 1°12'00" West 104.78 feet to the POINT OF BEGINNING; thence North 70°02'10" West 40.00 feet; thence North 19°57'50" East 135.00 feet; thence South 70°02'10" East 40.00 feet; thence South 19°57'50" West 135.00 feet to the point of beginning.

END OF DESCRIPTION

Prepared 03/12/2018 by the California State Lands Commission Boundary Unit.





AD 216 STATE PARCEL (EXHIBIT D-1), NEAR BLYTHE

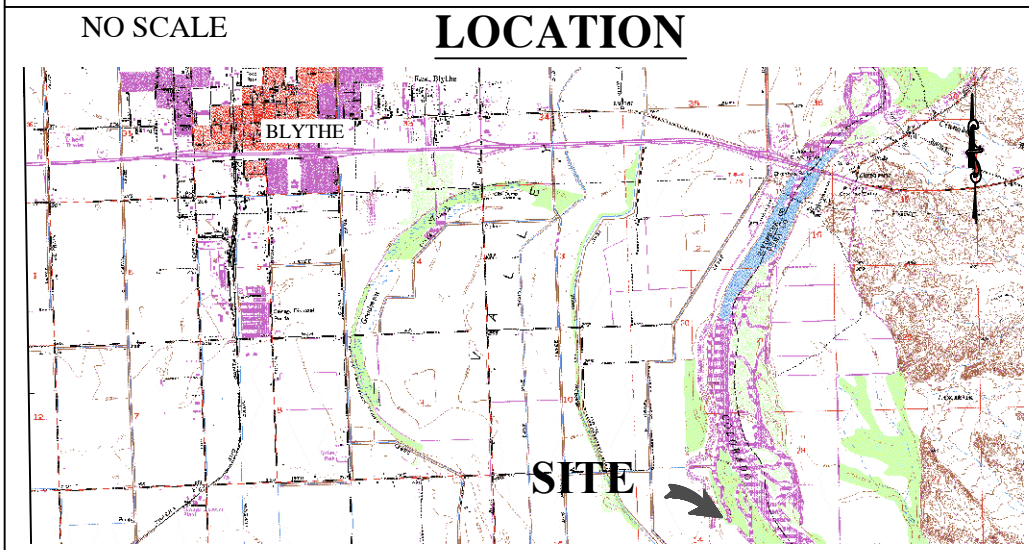


Exhibit B
W 27149
COLORADO RIVIERA
COMMUNITY ASSOCIATION
APN 875-060-016
GENERAL LEASE -
OTHER USE
RIVERSIDE COUNTY



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.