

**CALENDAR ITEM
C70**

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PRC 4082.1

R. Boggiano

**ACCEPTANCE OF LEASE QUITCLAIM DEED AND ISSUANCE OF A GENERAL
LEASE – COMMERCIAL USE AND TERMINATION AND ISSUANCE OF AN
AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE**

LESSEE/APPLICANT:

Tiki Lagun Partners, LLC

SECURED-PARTY LENDER:

Bank of Stockton
301 West Miner Avenue
Stockton, CA 95204

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Whiskey Slough, adjacent to 12988 West McDonald Road,
near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of a commercial marina, known as Tiki Lagun,
consisting of three concrete docks and one wooden dock with approximately 212
combined berths, four restrooms, gas dock with two gas pumps, pumpout
facilities, restrooms, and ancillary facilities.

LEASE TERM:

30 years, beginning on the close of escrow of a loan from The Bank of Stockton
or January 1, 2014, whichever occurs sooner.

CONSIDERATION:

Annual rent in the amount of \$17,607 per year adjusted annually using the
Consumer Price Index, with the State reserving the right to fix a different rent
periodically during the lease term, as provided in the lease

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SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$3,000,000 per occurrence.

Bond:

\$50,000

Other:

The lease contains provisions that require implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

OTHER PERTINENT INFORMATION:

1. Lessee owns the upland adjoining the Lease Premises. The upland is improved with a Recreational Vehicle Park and appurtenant facilities.
2. On February 17, 2005, the Commission authorized a 25-year General Lease – Commercial Use to Tiki Lagun Partners, LLC (Tiki Lagun) and an Agreement and Consent to Encumbrancing of Lease in favor of County Bank in the amount of \$2,200,000. That lease will expire on December 31, 2029.
3. The marina consists of three concrete boat docks and one wooden boat dock, with approximately 212 combined berths. Each berth has electrical and water hookups and pumpout capabilities. Each dock contains a restroom with showers, a laundry room, and dry dock boat storage spaces. The marina also contains a gas dock and two gas pumps.
4. Tiki Lagun is a large marina covering more than eight acres. The marina is vulnerable to theft and property destruction and has experienced vandalism, accidents, fires, and other on-the-water problems, requiring immediate action for the overall safety and security of the facility and the public. These factors support a limited and controlled presence of navigable vessels to be occupied on a 24-hour basis for security purposes. Taking into account the size and design of the marina, staff is recommending that no more than six navigable vessels be used for security purposes. These vessels will be located in strategically designated slips subject to the approval of Commission staff. The security vessels will be required to leave the marina at least once every 90 days for a minimum of six hours and the Applicant is required to maintain an annual log to be made available to Commission staff upon request.

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5. Tiki Lagun is in the process of obtaining refinancing for the marina from the Bank of Stockton, (Secured-Party Lender), in a loan amount not to exceed \$1,650,000. Under the terms of the new loan, the Secured-Party Lender is requiring Tiki Lagun to pledge their interest in a new lease as additional security. Tiki Lagun, is now asking for termination of the existing lease and prior encumbrancing agreement and requesting a new lease and a new Agreement and Consent to Encumbrancing of Lease to accommodate the new loan requirements. In approving the agreement, the Commission retains the right to approve any transfer from the lending institution to a prospective lessee, should any foreclosure of the loan occur.

6. **Acceptance of a Lease Quitclaim Deed and Termination and Issuance of an Agreement and Consent to Encumbrancing of Lease:** The staff recommends that the Commission find that the subject lease quitclaim and termination and issuance of an agreement and consent to encumbrancing of lease do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not projects 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.

7. **Issuance of New Lease:** The staff recommends that 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.

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Acceptance of a Lease Quitclaim Deed and Termination and Issuance of an Agreement and Consent to Encumbrancing of Lease:

Find that the subject lease quitclaim and termination and issuance of an agreement and consent to encumbrancing of lease 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 projects as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of New 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 acceptance of a quitclaim for Lease No. PRC 4082.1, a General Lease – Commercial Use, effective on the close of escrow of a new loan from Bank of Stockton or January 1, 2014, whichever occurs sooner.
2. Authorize the termination of the Agreement and Consent to Encumbrancing of Lease authorized by the Commission on February 16, 2005, between the California State Lands Commission, Tiki Lagun Partners, LLC, and County Bank, effective on the close of escrow of a new loan from Bank of Stockton or January 1, 2014, whichever occurs sooner.
3. Authorize issuance of a General Lease – Commercial Use to Tiki Lagun Partners, LLC, beginning on the close of escrow of a loan from Bank of Stockton or January 1, 2014, whichever occurs sooner, for a term of 30 years, for the continued use and maintenance of an existing commercial

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marina facility known as Tiki Lagun consisting of three concrete docks and one wooden dock with approximately 212 combined berths, four restrooms, gas dock with two gas pumps, pumpout facilities, restrooms, and ancillary 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; annual rent in the amount of \$17,607 per year adjusted annually using the Consumer Price Index, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in the amount of no less than \$3,000,000 per occurrence; and surety bond in the amount of \$50,000.

4. Authorize execution of the document entitled "Agreement and Consent to Encumbrancing of Lease," in the amount not to exceed \$1,650,000, on file in the office of the Commission, between the California State Lands Commission, Tiki Lagun Partners, LLC, and Bank of Stockton, effective on the close of escrow of a new loan from Bank of Stockton or January 1, 2014, whichever occurs sooner.

EXHIBIT A

PRC 4082.1

LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Whiskey Slough, situate adjacent to Swamp and Overflowed Lands Survey 1266 patented November 24th, 1875, San Joaquin County, State of California, and being more particularly described as follows:

COMMENCING at a the northeast corner of "Parcel 2" as shown on the map titled "Record of Survey Map – a portion of Section 31, T.2N., R.5E., M.D.B.&M., on Lower Roberts Island" and filed in Book 15 of Surveys, Page 137 of said county; thence westerly along the northerly line of said parcel South 87°53' West 113.40 feet; thence leaving said line South 32°01'46" West 17.38 feet to a point on the left (east) bank of said slough, said point also being the POINT OF BEGINNING; thence leaving said bank and along the following twelve (12) courses:

- (1) North 89°10'01" West 203.27 feet,
- (2) South 27°27'06" West 143.94 feet,
- (3) South 56°43'49" West 242.13 feet,
- (4) South 47°49'56" West 252.38 feet,
- (5) South 01°26'52" West 225.22 feet,
- (6) South 21°09'16" East 224.64 feet,
- (7) South 54°50'43" East 385.60 feet,
- (8) South 16°59'32" West 220.15 feet,
- (9) South 56°59'41" West 103.07 feet,
- (10) South 33°32'25" West 244.58 feet,
- (11) South 10°41'49" West 159.79 feet,
- (12) South 79°08'16" East 216.97 feet to a point on the left (east) bank of said slough;

Thence along said bank the following thirteen (13) courses;

- (1) North 17°05'36" East 214.42 feet,
- (2) North 44°08'25" East 314.12 feet,
- (3) North 13°30'02" East 158.89 feet,
- (4) North 13°35'59" West 104.25 feet,
- (5) North 27°34'30" West 153.22 feet,
- (6) North 46°46'37" West 161.73 feet,
- (7) North 56°47'27" West 229.15 feet,
- (8) North 15°36'22" West 91.45 feet,
- (9) North 11°34'48" East 85.58 feet,
- (10) North 46°57'04" East 242.44 feet,
- (11) North 53°25'49" East 208.00 feet,
- (12) North 36°49'05" East 124.47 feet,
- (13) North 18°59'09" East 140.54 feet to the POINT OF BEGINNING.

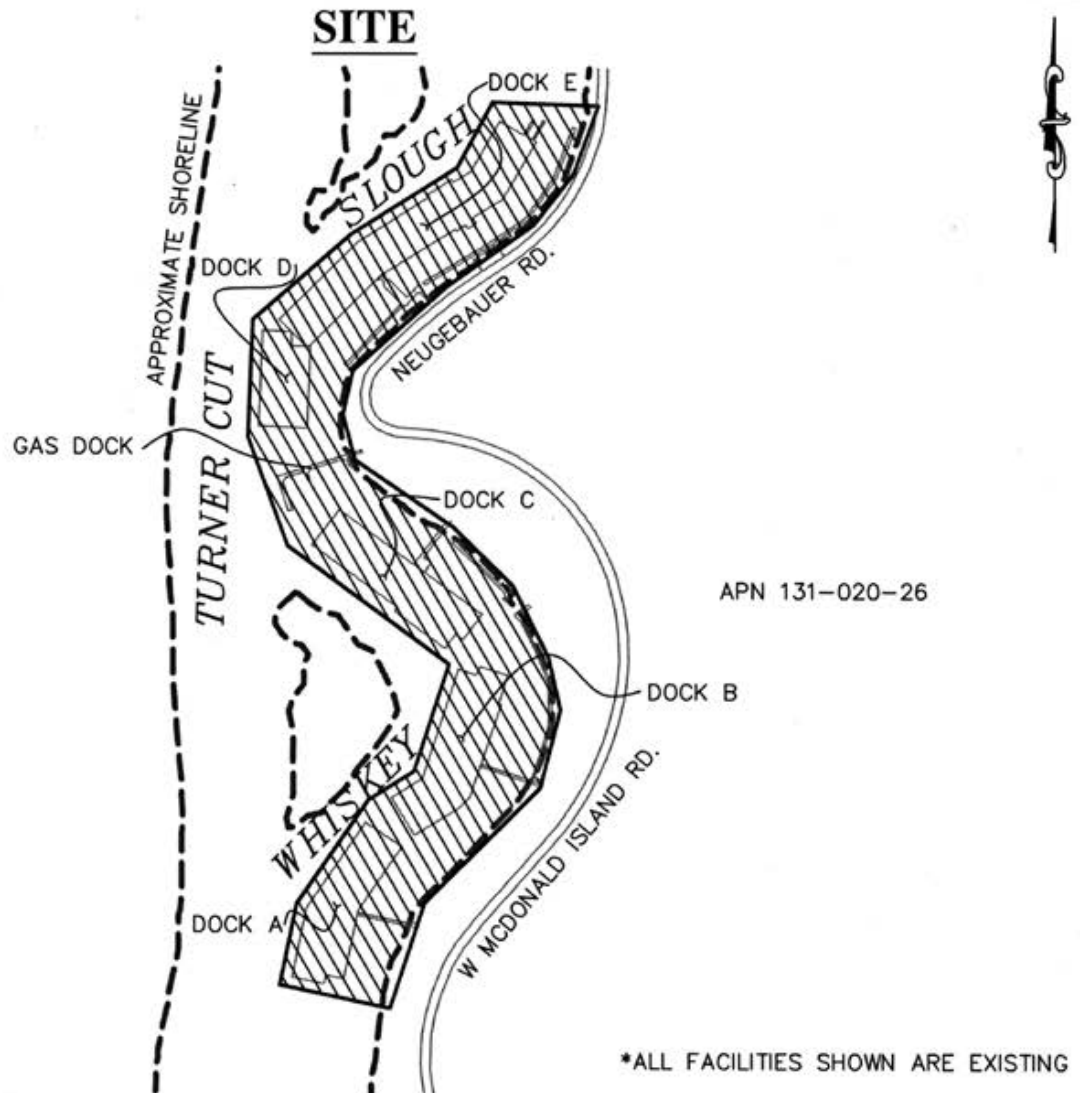
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Whiskey Slough.

END OF DESCRIPTION

Prepared 08/22/2013 by the California State Lands Commission Boundary Unit.



NO SCALE



Tiki Lagoon - 12988 West McDonald Rd. - Whiskey Slough

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

PRC 4082.1
TIKI LAGUN
APN 131-020-26
GENERAL LEASE -
COMMERCIAL USE
SAN JOAQUIN COUNTY



MJF 8/20/13