

STAFF REPORT

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10/24/19
Lease 7742.9
J. Holt

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Central Contra Costa Sanitary District

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Grayson Creek, near Martinez, Contra Costa County.

AUTHORIZED USE:

Continued operation and maintenance of two existing buried box pipes, approximately 6 feet by 7.5 feet and 8.5 feet by 4.5 feet, for wastewater conveyance.

LEASE TERM:

25 years, beginning March 8, 2019.

CONSIDERATION:

The public health, safety, use, and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

Lessee shall perform inspections of the box pipes and provide Commission staff with reports regarding their integrity and repair in accordance with the schedule detailed in Section 2 of the Lease.

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 March 8, 1994, the Commission authorized a 25-year General Lease – Public Agency Use (Right-of-Way) to the Central Contra Costa Sanitary District (District), for the construction, operation, and maintenance of an interceptor pipeline in Grayson Creek, near Martinez, Contra Costa County ([Item C20, March 8, 1994](#)). That lease expired on March 7, 2019.

STAFF REPORT NO. 29 (CONT'D)

During the term of the lease, the District replaced the buried interceptor pipeline with two buried box pipes with concrete encasement. The modification enhanced structural integrity and protects public health and safety. However, staff finds no record of an application to the Commission for the proposed modification. The Applicant is now applying for a General Lease – Public Agency Use, for the continued operation and maintenance of the two existing buried box pipes, approximately 6 feet by 7.5 feet and 8.5 feet by 4.5 feet, for wastewater conveyance.

The District operates a wastewater treatment plant in Martinez, California. Plant engineers monitor the daily treatment and distribution of wastewater to ensure compliance with permits and environmental standards. Treated wastewater is regulated by the California Regional Water Quality Control Board through the National Pollutant Discharge Elimination System (NPDES) permitting process. The District maintains an NPDES permit for its wastewater treatment plant (not within the lease area); however, an NPDES permit is not required for the subject facilities. The District maintains a Clean Water Program to ensure acceptable standards of sanitation and compliance with codes and regulations.

The subject facilities operate in conjunction with the District's wastewater and conveyance system. According to Dana Lawson, a senior engineer with the District, "In 1947 Central Contra County Sanitary District (Central San) was created by a vote of the public to form a Special District to collect, treat and appropriately dispose of wastewater from central Contra Costa County to maintain public and environmental health. Central San collects and cleans an average of 35 million gallons of wastewater per day for about 488,900 residents and 3,000 businesses in 13 cities in central Contra Costa County. There is no alternate conveyance route for this flow." (Lawson, 2019)

The subject facilities are located approximately 12 feet below the bed of Grayson Creek, in a rural section of Contra Costa County. This location is considered at low risk for anchor strikes, based on the lack of commercial boating traffic and infrequent use. The subject facilities do not impair public navigation or interfere with or limit Public Trust uses of sovereign land, due to the submerged location.

The proposed lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

STAFF REPORT NO. 29 (CONT'D)

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located under Grayson Creek, in a possibly tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise. The lease premises consist of two box pipes with an average diameter of approximately 10.3 feet (with reinforced concrete), buried an estimated 12 feet under Grayson Creek.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: ¹ Projections are based on a 1991 to 2009 baseline.

This effect could increase Grayson Creek’s inundation levels within the lease area. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers, creeks, and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease creek levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and

STAFF REPORT NO. 29 (CONT'D)

storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

Even though the box pipes transfer raw sewage with volumes of approximately 10 to 100 million gallons per day, depending on the calendar season, it is unlikely that the buried pipes in a small watershed would be affected by climate change. There is no record of sewage spills from the pipeline into Grayson Creek, which leads into the Pacheco Creek and the Carquinez Strait. Because the bank is somewhat vegetated, it would continue to provide additional stability and would reduce the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system; but remains at risk of accelerated deterioration from storm flows and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with the public rights to navigation, fishing and commerce, or substantially interfere with the Public Trust needs and values at this location, at this time and for the foreseeable term of the lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the two existing buried box pipes and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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. **29** (CONT'D)

3. 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

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 INTEREST:

Find that the proposed 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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use, to the Applicant beginning March 8, 2019, for a term of 25 years, for the continued operation and maintenance of two existing buried box pipes, approximately 6 feet by 7.5 feet and 8.5 feet by 4.5 feet, for wastewater conveyance, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: the public health, safety, use, and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

EXHIBIT A

LEASE 7742.9

LAND DESCRIPTION

A 35-foot wide strip of tide and submerged land situated in the bed of Grayson Creek, being a portion of Parcel 196 (Grayson Creek) described in the deed from Central Contra Costa Sanitary District (CCCSD) to Contra Costa County Flood Control and Water Conservation District (CCCFC & WCD) recorded December 21, 1961 in Book 4020 at page 607 Official Records of Contra Costa County (4020 O.R. 607), State of California, lying 17.5 feet on each side of the following described centerline:

BEGINNING at a point on the westerly line of Parcel C as shown upon the Parcel Map filed of December 29, 1980 in Book 91 of Parcel Maps at page 41 Contra Costa County Records, also being a point on the easterly line of above referenced CCCFC & WCD parcel (4020 O.R. 607), said point bears North $21^{\circ} 53' 44''$ East 172.66 feet from the most southwesterly corner of said Parcel C; thence leaving said westerly line South $67^{\circ} 42' 35''$ West 382.97 feet to a point on the easterly line of the 15-foot wide strip of land described in the deed from Contra Costa County Flood Control and Water Conservation District to Central Contra Costa Sanitary District recorded July 19, 1976 in Book 7943 of Official Records of said County at page 42 (7943 O.R. 42) and POINT OF TERMINUS of said centerline.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of Grayson Creek.

The sidelines of said strip to be lengthened or shortened as to begin at said easterly line of above referenced CCCFC & WCD parcel (4020 O.R. 607) and terminate at said easterly line of above referenced CCCSD parcel (7943 O.R. 42).

The Basis of Bearings is CCS27, Zone 3. All distances are grid and in U.S. survey feet.

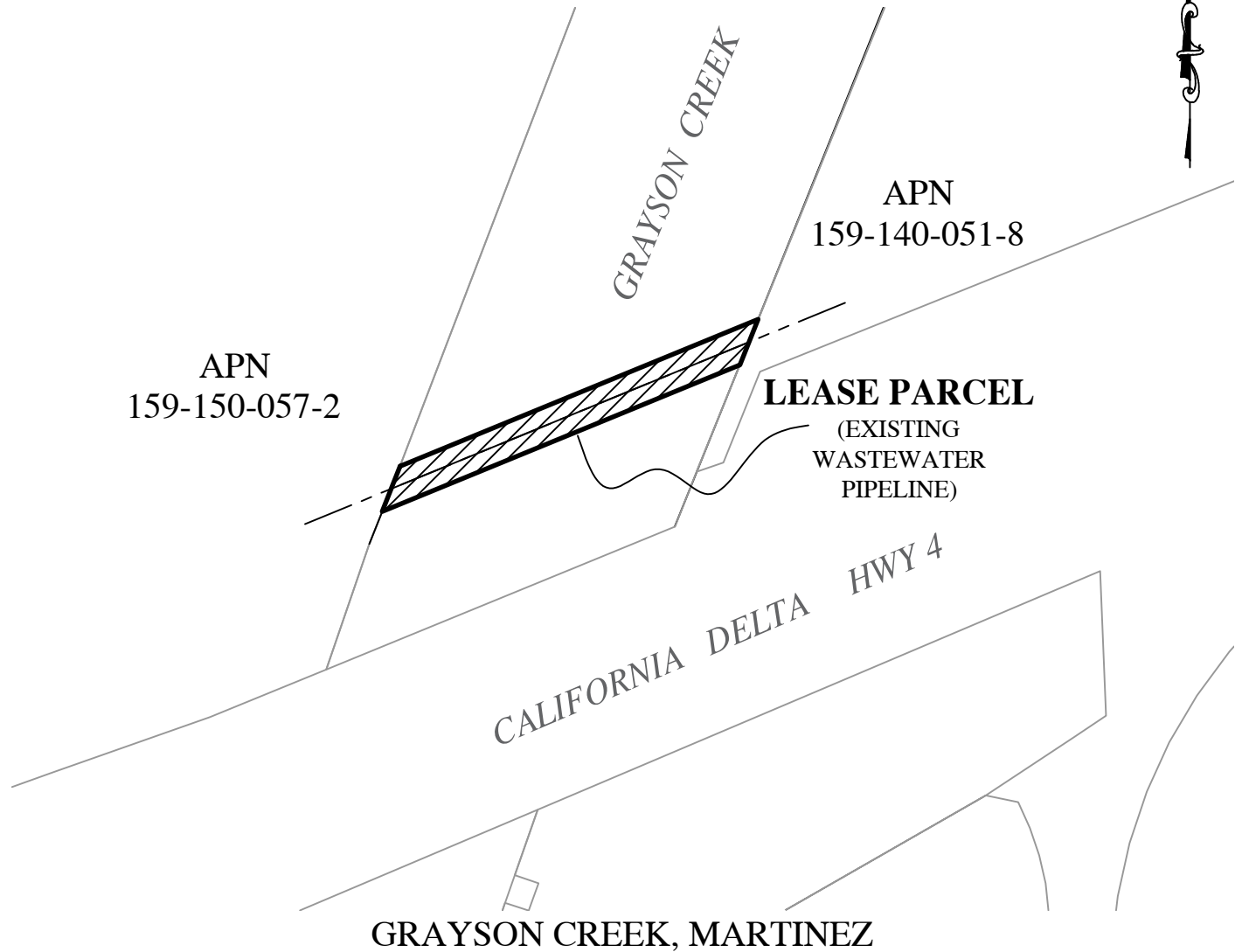
END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit 12/12/2018. Original description prepared/reviewed by SFBCC on September 1993 as found in PRC 7742 file, Calendar Item C20.



NO SCALE

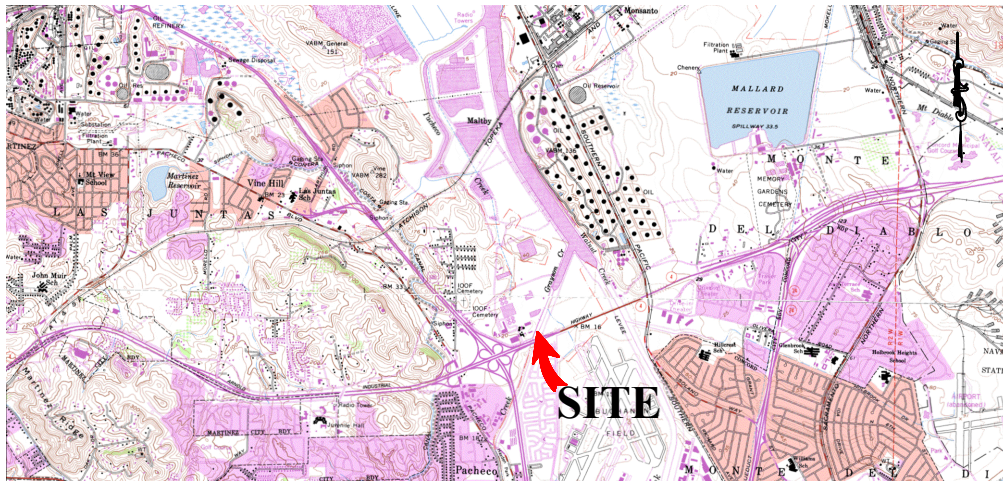
SITE



GRAYSON CREEK, MARTINEZ

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

LEASE 7742.9
CENTRAL CONTRA COSTA
SANITARY DISTRICT
APNs: 159-140-051-8 &
159-150-057-2
GENERAL LEASE -
PUBLIC AGENCY USE
CONTRA COSTA COUNTY



TS 12/12/18