

Staff Report 20

Approval of a Public Agency Permit and Right-of-Way Map Pursuant to Section 101.5 of the Streets and Highways Code and Section 6210.3 of the Public Resources Code

APPLICANT:

California Department of Transportation

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Tolay Creek at Highway 37, adjacent to 4100 Sears Point Road, near Sonoma, Sonoma County.

AUTHORIZED USE:

Continued use and maintenance of an existing bridge.

TERM:

Continuous use, plus 1 year, beginning November 1, 2020.

CONSIDERATION:

Reasonable value of the right-of-way to be deposited into the State Parks and Recreation Fund.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6210.3, 6216, and 6301; Streets and Highways Code section 101.5.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 28, 1971, the Commission authorized a Public Agency Permit for a bridge serving State Route 37 to the State Department of Public Works, Division of Highways ([Item 11, October 28, 1971](#)). The permit expires on October 31, 2020, and the Applicant is applying for a Public Agency Permit and submitting a Right-of-Way Map pursuant to

section 6210.3 of the Public Resources Code and section 101.5 of the Streets and Highways Code, respectively, for the continued use and maintenance of a bridge. There have been no changes to the right-of-way and the existing bridge and no changes are proposed.

All state or county highway projects and all city street projects that propose construction of a new bridge over a navigable waterway must consider, and report on, the feasibility of providing public access for recreational purposes to the waterway before the bridge is constructed. There is no construction associated with this application so a public access feasibility study will not be undertaken by the Applicant.

Based on information from a 2012 bridge inspection conducted by the Applicant that indicates a maximum of 1 foot of water depth under the bridge, and a review of aerial photographs, staff believes the creek at this location currently receives minimal or no use by the public for recreational activities such as fishing, swimming, or boating. Therefore, no impacts to these Public Trust uses from the proposed action are expected.

The permit does not alienate the State's fee simple interest, but any subsequent approval to use the right-of-way lands shall be subordinate to the Applicant's permit. Furthermore, Highway 37 is critical infrastructure that is necessary to facilitate the movement of goods, people, and services throughout the State. Staff believes this use of State land, by a public agency, for a public benefit is in the best interests of the State.

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 bridge is located over Tolay Creek in a tidally influenced site that is vulnerable to shallow coastal flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

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 permit location and structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the permit area 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 10, State of California Sea-Level Rise
Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. 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 and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run-up, potentially resulting in greater bank erosion than previously experienced. Finally, in rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The SR 37 Transportation and Sea Level Rise Corridor Improvement Plan (2018) was prepared by the Metropolitan Transportation Commission, Caltrans, and four North Bay partners - the Solano Transportation Authority, the Sonoma County Transportation Authority, the Transportation Authority of Marin, and the Napa Valley Transportation Authority, and encompasses three broad goals:

- Integrate transportation, ecosystem and sea-level rise adaptation into one design.
- Improve mobility across all modes and maintain public access.
- Increase corridor resiliency to storm surges and sea-level rise.

No flood protection improvements were specified for the bridge at Tolay Creek in the Plan; however, the combination of the projected conditions noted above could increase the likelihood of damage to the bridge in the future. Regular maintenance of the bridge will reduce the likelihood of severe structural degradation.

CONCLUSION:

For the reasons stated above, staff believes the approval of the proposed permit will not substantially impair the public rights to navigation, fishing, or other Public Trust

needs and values at this location, at this time, and for the foreseeable term of the permit; 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.
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.
3. The Applicant has filed a map showing the right-of-way with the Commission.
4. Section 101.5 of the Streets and Highways Code requires the Applicant to determine the reasonable value of the proposed right-of-way and to deposit that amount in the State Parks and Recreation Fund.
5. 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. Site and Location Map
- B. Section 101.5 Right-of-Way 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 INTERESTS:

Find that the approval of the proposed permit and right-of-way map will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the permit; and is in the best interests of the State.

AUTHORIZATION:

Authorize a Public Agency Permit and approve a Right-of-Way Map as submitted by the California Department of Transportation pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code, effective November 1, 2020, for a right-of-way with a term of continuous use plus 1 year, for an existing bridge over the Tolay Creek, as shown on Exhibits A and B, attached and by this reference made a part hereof.

NO SCALE

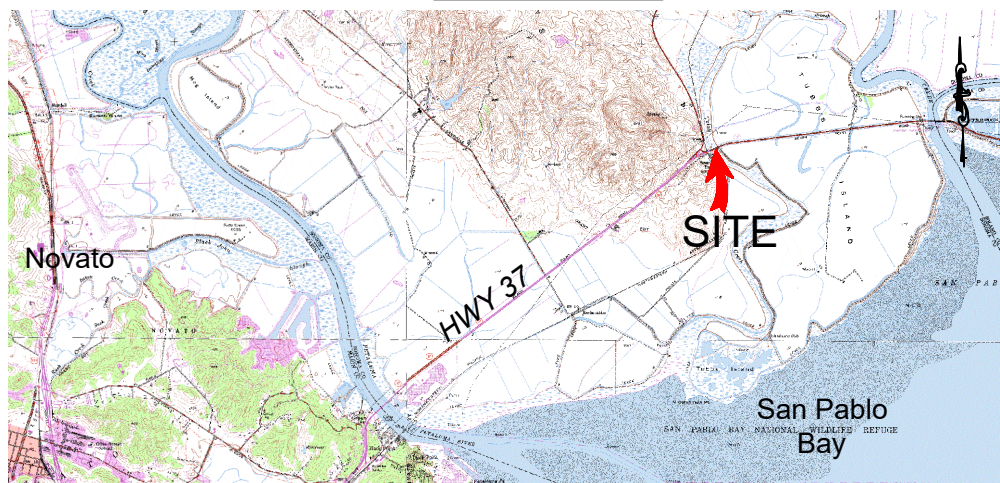
SITE



STATE HIGHWAY 37 AT 4100 SEARS POINT ROAD, SONOMA

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 A

LEASE 4625

CALIFORNIA DEPARTMENT
OF TRANSPORTATION
SECTION 101.5 STREETS &
HIGHWAYS CODE
SONOMA COUNTY



TS 04/21/2020

S.P. No.	STATE	FEDERAL PROJECT NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
4	SON	37	4.0		

DIST.	COUNTY	ROUTE	P. M.	SHEET NO.	TOTAL SHEETS
4	SON	37	4.0		

R. A. Hayler
DISTRICT ENGINEER



STATE OF CALIFORNIA
DIVISION OF STATE LANDS

This map is hereby approved and filed for record with the Division of State Lands pursuant to the provisions of Section 101.5 of the Streets and Highways Code. Neither this map nor the approval and filing thereof shall constitute the establishment of the extent of the lands referred to in said Code Section, which may be included within the area shown on such map, or the location of the boundaries thereof.

Date _____ Division of State Lands Chief

LEGEND

Portion requested
through lands of
the State Lands
Division.

Scale 1" = 50'

NO. 8831
STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS

Map showing ungranted or lands of the State of California in Sonoma County across Tolay Creek, needed as a right of way for the protection of State Highway Road, 4-Son-37-4.0

R-71.31

R71032

(D#75)

Form WH-23, Rev. 11-58, 8871-1-81 (24 870)