

Staff Report 23

General Lease – Public Agency Use

APPLICANT:

County of Sacramento, Department of Transportation

PROPOSED ACTION:

AREA, LAND TYPE, AND LOCATION

Sovereign land located in Sutter Slough at its confluence with the Sacramento River, adjacent to 11919 Sutter Slough Bridge Road, near Courtland, Sacramento and Yolo Counties.

AUTHORIZED USE:

Continued use and maintenance of an existing swing bridge.

TERM:

20 years, beginning August 20, 2020.

CONSIDERATION:

The public 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:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Within 12 months of lease inception, Lessee or its Caltrans equivalent shall conduct an external inspection and condition assessment of the Lease Improvements, and at least once every 2 years thereafter. Additionally, Lessee or its Caltrans equivalent shall conduct an external inspection and condition assessment when warranted by extraordinary circumstances such as an accident, a major flood, or a significant seismic event.

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:

On January 24, 1967, the Commission issued a 49-year Right-of-Way Permit to the Counties of Sacramento and Yolo, for the maintenance and reconstruction of an existing swing bridge over Sutter Slough at its confluence with the Sacramento River ([Item C12, January 24, 1967](#)). That permit expired on January 23, 2016. During the permit term, the subject bridge received oversight from the County of Sacramento, Department of Transportation ("County"). The County is now applying for a General Lease – Public Agency Use, for the continued use and maintenance of an existing swing bridge over Sutter Slough.

The subject bridge was originally constructed in 1938, which consisted of steel and truss materials. The bridge was rehabilitated in 1970, which included the replacement of timber trestle portions of the bridge with reinforced concrete structures, and replacement of navigation and protective installations. The main steel truss swing-span was retained and redocked. During the permit term, the bridge was inspected by the California Department of Transportation ("Caltrans"), approximately once every 2 years. The County performed general maintenance on the bridge to ensure public safety and structural integrity. Prior maintenance included, but was not limited to, the following: debris removal, spot painting, striping, signs, and deck repairs.

The bridge crosses State-owned sovereign land in Sutter Slough and is used for vehicle transportation. The bridge provides a significant public benefit to residents and businesses alike. The most recent traffic count indicates daily use at 1,305 northbound vehicles and 1,275 southbound vehicles. The proposed lease will require the County to maintain the bridge. The lease will include provisions on inspections and maintenance, performed by the County or its Caltrans equivalent.

Sutter Slough at this location is a small tributary, which joins the Sacramento River approximately 0.5 mile south of Courtland. The public can use the slough for recreational boating and other activities. Promotion of public access and use of California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of statehood in the Act of Admission (Act of Sept. 9, 1850, ch. 50, 9 Stat. 452), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. Visitors may legally utilize public access easements around the bridge to enter and exit Sutter Slough and the Sacramento River. The

proposed lease includes certain provisions protecting the public use of the proposed lease area. Furthermore, the proposed lease will not substantially impede or impair Public Trust uses in this area. The lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

The lease is limited to a 20-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 any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon.

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 improvements are located on Sutter Slough, in a 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 include an existing bridge on fixed pilings.

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 with respect to a 1991 to 2009 baseline.

This effect could increase Sacramento River’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 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 river 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 storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause improvements to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the pilings. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The fixed features such as pilings and protective structures may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation for the next 20 years. Pursuant to the proposed lease, the County 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 that the issuance of the proposed lease will not substantially impair 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. 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; and Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 INTERESTS:

Find that the proposed lease will not substantially impair 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 20, 2020, for a term of 20 years, for the continued use and maintenance of an existing swing bridge, 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 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; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3699

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sutter Slough at confluence with Sacramento River near the town of Courtland, lying adjacent to Lot 3 and 5 of fractional Section 31, Township 6 North, Range 4 East, Mount Diablo Meridian, as shown on Official Township Plat approved January 22, 1872, Counties of Sacramento and Yolo, State of California and more particularly described as follows:

Bounded on the northwest by a line 100 feet northwesterly of and parallel with the centerline of the existing Sutter Slough Bridge No. 24C0011;

Bounded on the southeast by a line 100 feet southeasterly of and parallel with the centerline of the existing Sutter Slough Bridge No. 24C0011;

Bounded on the northeast by a line 150 feet northeasterly of and parallel with the centerline of Sutter Slough and its southeasterly prolongation;

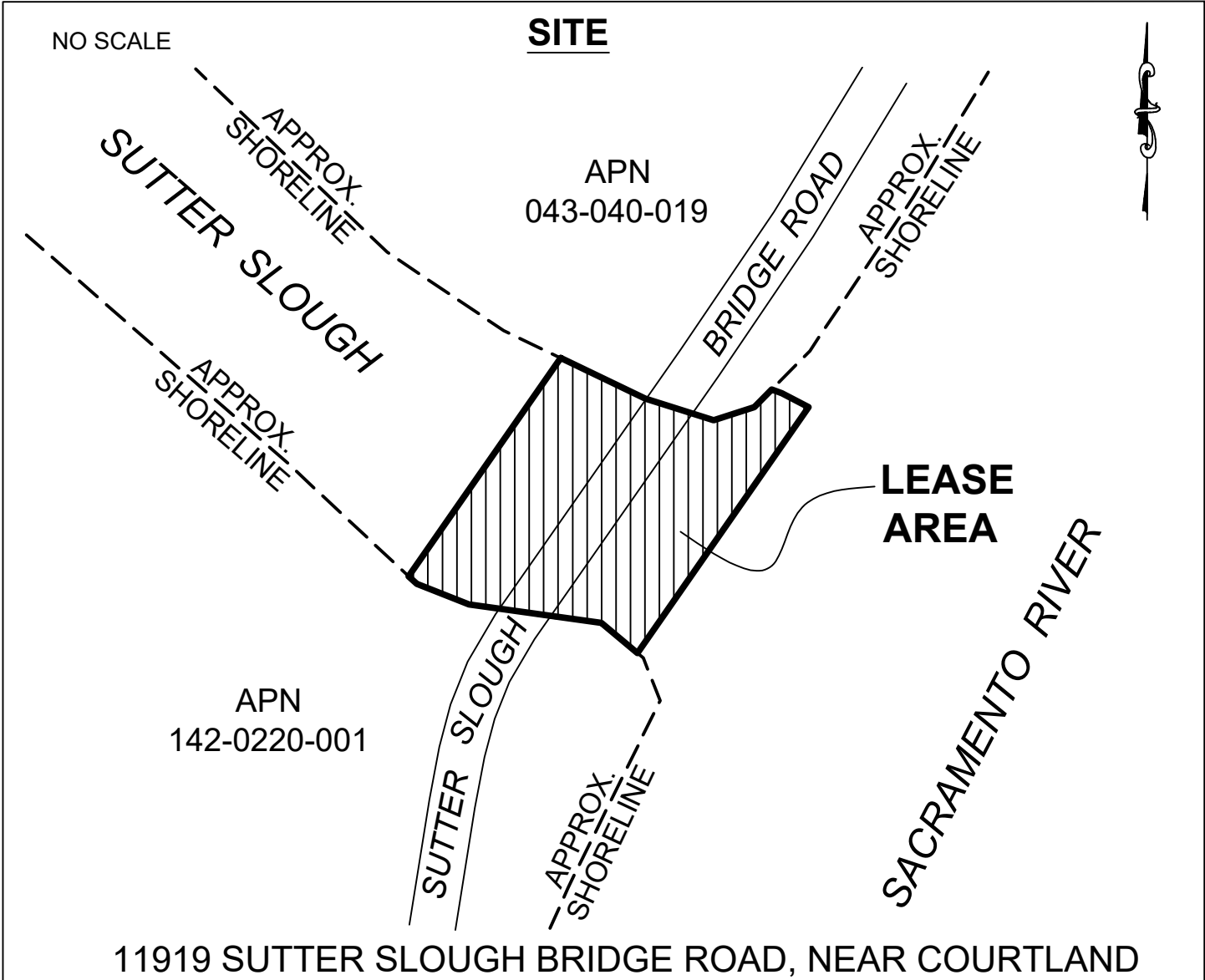
Bounded on the southwest by a line 150 feet southwesterly of and parallel with the centerline of Sutter Slough and its southeasterly prolongation.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of the Sutter Slough and the Sacramento River.

END OF DESCRIPTION

Prepared 06/11/2020 by the California State Lands Commission Boundary Unit.





11919 SUTTER SLOUGH BRIDGE ROAD, NEAR COURTLAND

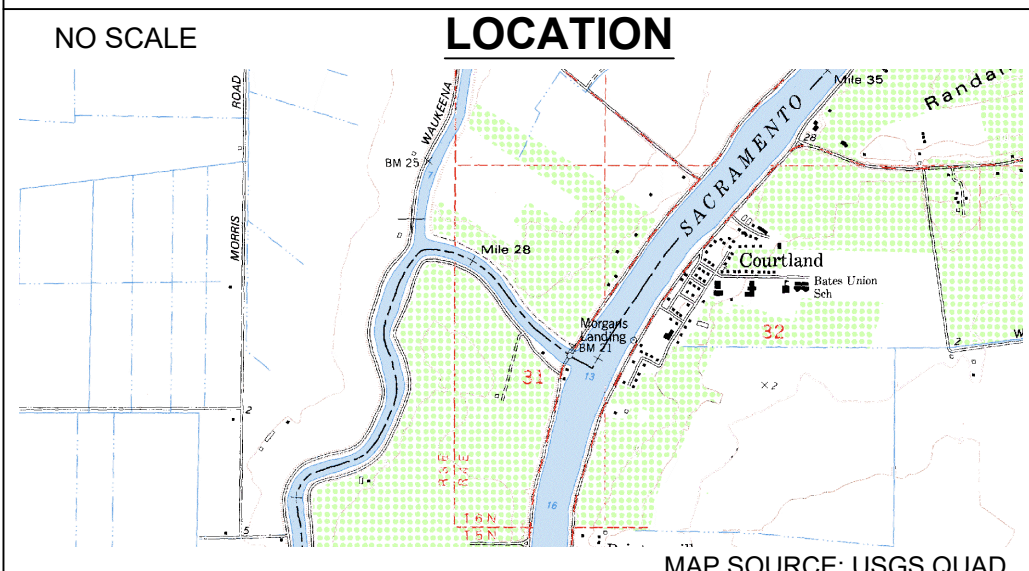


Exhibit B

LEASE 3699

COUNTY OF SACRAMENTO

DEPARTMENT OF TRANSPORTATION

GENERAL LEASE - PUBLIC AGENCY USE

SACRAMENTO & YOLO COUNTIES



TS 06/11/2020

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.