

Staff Report 31

APPLICANT:

Santa Fe Aggregates, Inc., a California Corporation

PROPOSED ACTION:

Issuance of General Lease – Right of Way Use

AREA, LAND TYPE, AND LOCATION:

0.62± acre of sovereign land located in the historic and present bed of the Tuolumne River, adjacent to Assessor's Parcel Numbers 008-010-022 and 008-010-042, near Waterford, Stanislaus County.

AUTHORIZED USE:

Use and maintenance of an existing aggregate conveyor bridge right-of-way crossing.

TERM:

15 years, beginning October 22, 2020.

CONSIDERATION:

\$1,764 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on every 5th anniversary of the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Surety bond or other security in the amount of \$60,000 .

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 November 30, 1977, the Commission authorized a 15-year General Lease - Industrial Use to M. J. Ruddy, Jr., dba Santa Fe Rock and Sand, with a 10-year renewal option ([Item C3, November 30, 1977](#)). On December 17, 1992, the Commission terminated the lease and authorized a new 25-year General Lease - Industrial Use to M.J. Ruddy & Son, Inc., beginning December 30, 1992, for the stockpiling of processed and unprocessed gravel, use and storage of related equipment, and a bridge right-of-way crossing ([Item C06, December 17, 1992](#)). On March 22, 1995, the articles of incorporation for M.J. Ruddy and Sons, Inc., were amended to change the name of the corporation to Santa Fe Aggregates, Inc., a California corporation. No Commission action was required.

On December 26, 2017, the Applicant submitted a lease application to the Commission for a new General Lease - Industrial Use to replace the lease that subsequently expired on December 29, 2017. The Applicant requested the approval of a 15-year lease for the continued use and maintenance of the lease premises for the stockpiling of processed and unprocessed gravel, use and storage of related equipment, and a bridge right-of-way crossing.

The prior lease premises include a parcel in the abandoned channel of the Tuolumne River and a parcel in the present channel of the river. As part of the application process, staff of the Commission's Boundary Determination Unit completed a boundary analysis of the lease premises and adjacent parcels to determine the State's current jurisdiction. Significant artificial fill, avulsive flood events, and alterations in river flow since the 1850s makes determination of the State's interest difficult on this portion of the Tuolumne River. However, after in-depth research and analysis of available records, staff determined that the lessee's current occupation of sovereign land is less than what was previously authorized by the Commission, justifying a reduction in the area leased. Based on available evidence, staff believes the current proposed occupation of State lands is 0.62± acre of sovereign land compared with 12.316 acres under the previous lease.

Staff recommends issuance of a new lease beginning October 22, 2020, for the use and maintenance of the existing aggregate conveyor bridge right-of-way crossing. Staff also recommends that the Commission accept compensation from the

Applicant for its unauthorized occupation of State land in the amount of \$4,963 for the interim period between the prior lease expiration date of December 30, 2017, and October 21, 2020, the day preceding issuance of the proposed new lease.

The Santa Fe Aggregates Waterford Plant is located approximately 5 miles west of the town of Waterford. The Applicant has operated the Waterford Plant since the 1960s adjacent to the Tuolumne River. Although not previously authorized by the Commission, the existing aggregate conveyor bridge for which the Applicant is seeking authorization has been in place since at least the 1980s and is a critical component in the processing and stockpiling of aggregate material. The bridge crossing authorized in 1992 is a different structure, located up-river from this bridge, and is not part of or subject to this action.

The aggregate conveyor bridge crossing connects the mining properties located on the south side of the Tuolumne River and the Waterford Plant on the north side. Material is mined using a variety of equipment including scrapers, excavators, bulldozers, and haul trucks on the properties adjacent to the river under several use permits issued by Stanislaus County. This material is fed into a feeder hopper and deposited onto the aggregate conveyor bridge for processing and stockpiling. The aggregate conveyor bridge surface is approximately 8-feet-wide – to allow room for both material transport and personnel access to inspect and maintain the equipment – and runs approximately 450 feet in length.

The proposed lease contains the existing aggregate conveyor bridge. The lease area is largely surrounded by private land and the bridge is not used or generally accessible by the public. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 15-year term and does not grant the lessee exclusive rights to the lease premises. The lease reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land, especially if these structures obstruct navigation or present a public safety hazard. 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:

The project area is not tidally influenced and therefore, would not be subject to sea-level rise. However, 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely,

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

Due to these potential changes, the aggregate conveyor bridge used for right-of-way crossing could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement.

CONCLUSION:

For all the reasons above, staff believes the issuance of this 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.

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, as prior lessee, may be required to remove the existing aggregate conveyor bridge right-of-way crossing 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.
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 issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$4,963 for the occupation of State Land for the period beginning December 30, 2017, through October 21, 2020.
2. Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning October 22, 2020, for a term of 15 years, for the use and maintenance of an existing aggregate conveyor bridge right-of-way crossing, 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 \$1,764 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond or other security in the amount of \$60,000.

EXHIBIT A

LEASE 5409

LAND DESCRIPTION

A parcel of submerged land, whether filled or unfilled, situate in the bed of the Tuolumne River, and lying adjacent to, on the left bank, Swamp and Overflowed Land Survey 72 patented February 1, 1868, County of Stanislaus, State of California and more particularly described as follows:

COMMENCING at a 4"x4" redwood post at a U.S Meander Corner on the right bank of the Tuolumne River as shown on the Record of Survey filed February 18, 1941 in Volume 3, Page 13 Stanislaus County Records; thence along the U.S Meander line North 76°01' West 675.05 feet to a 4"x4" redwood post at a U.S. Meander Corner; thence leaving said line North 89°04'04" West 470.48 feet to a point on the right bank of the Tuolumne River as shown on said Record of Survey, also being the POINT OF BEGINNING; thence South 08°23'25" East 167.66 feet along said bank; thence leaving said bank North 85°44'39" West 75.84 feet; thence North 41°41'42" West 68.26 feet; thence South 61°43'18" West 160.69 feet to a point on the present left bank of the Tuolumne River; thence North 28°16'42" West 50.00 feet along said bank; thence leaving said bank North 61°43'18" East 176.53 feet; thence North 01°14'54" East 60.58 feet; thence North 59°16'02" East 38.04 feet; thence South 72°52'30" East 75.65 feet to the right bank per said Record of Survey and the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the low water mark of said river.

END OF DESCRIPTION

PREPARED 9/08/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



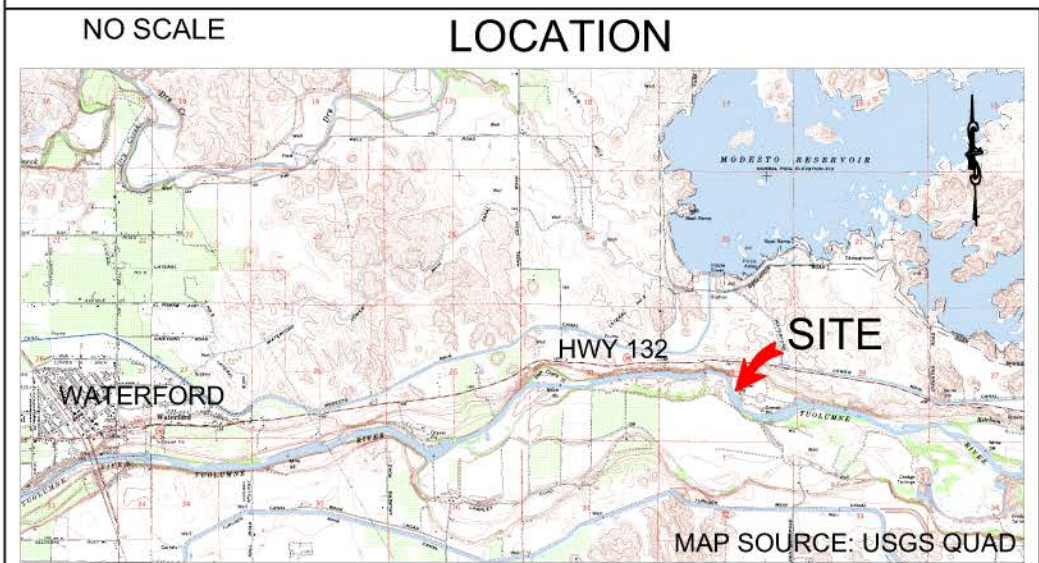
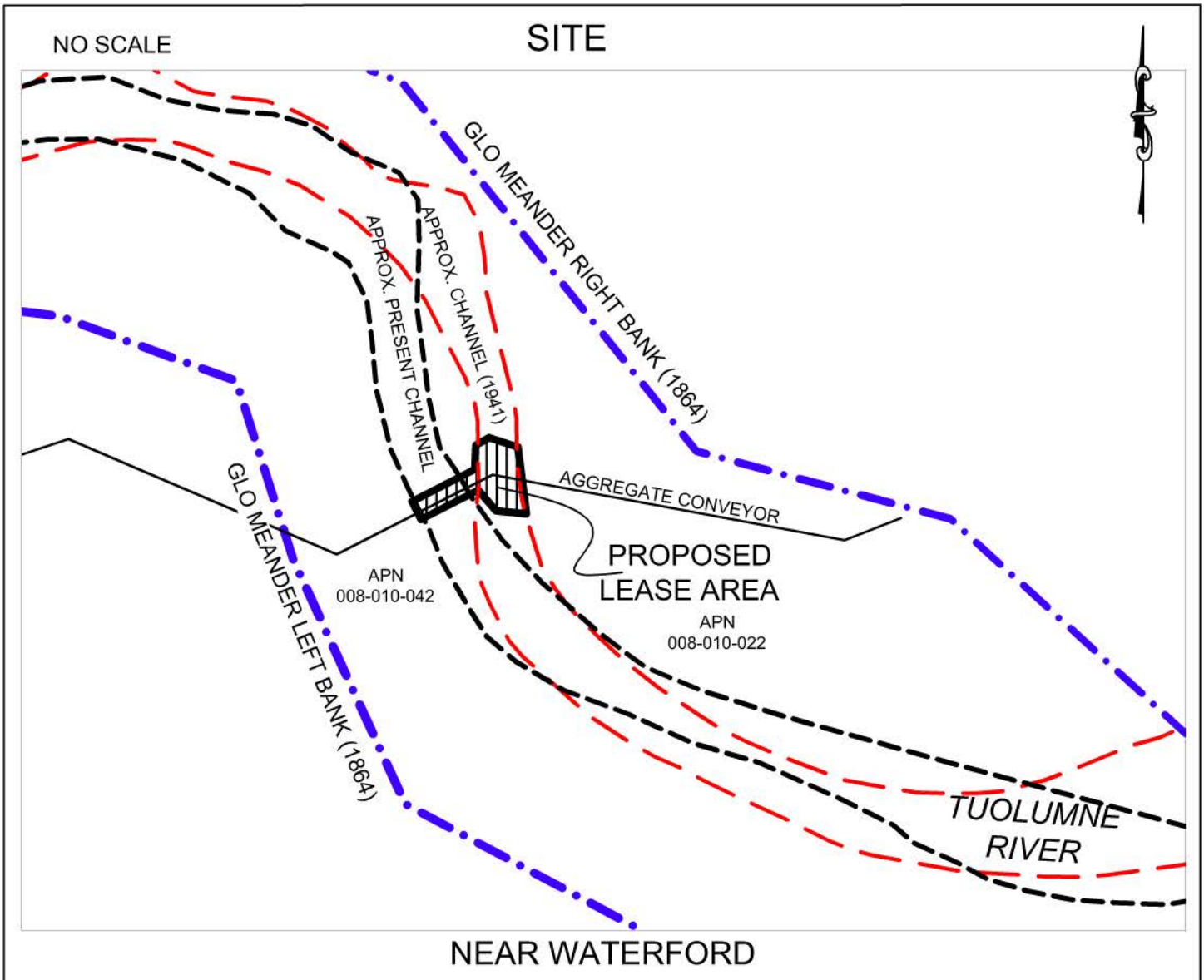


EXHIBIT B

LEASE 5409
 SANTA FE AGGREGATES, INC
 APN 008-010-022,-042.
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 STANISLAUS COUNTY



MJF 9/28/2020

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.