

# Staff Report 14

## **APPLICANT:**

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Skylar J. Rice; and Joe Rice and Jill Rice

## **PROPOSED ACTION:**

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Issuance of a General Lease – Protective Structure Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Quill Slough, adjacent to Assessor's Parcel Number 310-021-005, near Loleta, Humboldt County.

## **AUTHORIZED USE:**

Continued use and maintenance of an existing tide gate and rock riprap.

## **TERM:**

10 years, beginning February 1, 2021.

## **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 hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503; California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On March 29, 2012, the Commission authorized a General Lease - Protective Structure Use for an existing tide gate and rock riprap to Jo Ann V. Dewey, Trustee of the Edith F. Fearrien GST Trust, and Andrea L. Proett ([Item C11, March 29, 2012](#)). On July 26, 2016, the upland property and facilities were transferred to Skylar J. Rice; and Joe Rice and Jill Rice. The lease expired on January 31, 2021. The Applicant is now applying for a General Lease – Protective Structure Use for the continued use and maintenance of the existing facilities that extend onto state sovereign land.

The Applicant owns the upland parcel adjoining the lease premises. The rock riprap protects the dike along the bank of Quill Slough from erosion, and the tide gate allows for drainage into the slough from the adjoining property, a designated farmed wetland per the U.S. Fish and Wildlife Service. The riprap is maintained by the Applicant with no cost to the public. The riprap may reduce erosion of the natural shoreline which in turn, may help protect Public Trust resources in and around the slough.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and 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 and restore the lease premises to their original condition.

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. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

### **CLIMATE CHANGE:**

Climate change impacts, including sea-level rise, increased wave activity, 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 on Quill 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 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 North Spit 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 North Spit**

<b>Year</b>	<b>Projection (feet)</b>
2030	1.0
2040	1.6
2050	2.3
2100	7.6

Source: Table 4, State of California Sea-Level Rise Guidance: 2018 Update

Note: 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, drought, 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. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, 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 potentially raise the likelihood of damage and affect access to structures within the lease premises from rising seas and flooding events during the term of the lease. All of the facilities are fixed and, due to the low elevation, will likely need more frequent maintenance to ensure continued functionality during and after storm seasons and to avoid

dislodgement. In addition, the riprap and tide gate could need reinforcement or replacement in the future to withstand higher levels of flood exposure. While the exposed bank protection provides stability, it does not reduce the amount of erosion and scour pressure experienced during future events and therefore remains at risk of accelerated deterioration from currents and floods. The adjacent upland may also experience periodic or continuous inundation with rising water levels and more frequent flooding.

Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. 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, and may require additional maintenance or protection as a result, for which the Applicant agrees to be solely responsible.

**CONCLUSION:**

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

**OTHER PERTINENT INFORMATION:**

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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 the prior lessee, may be required to remove the tide gate and rock riprap 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 the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
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:**

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

## **RECOMMENDED ACTION:**

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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 and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning February 1, 2021, for a term of 10 years, for the use and maintenance of an existing tide gate and rock riprap, 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 interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 5961**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Quill Slough, lying adjacent to Swamp and Overflowed Land Survey 1185, patented September 26, 1881, Humboldt County, State of California and more particularly described as follows:

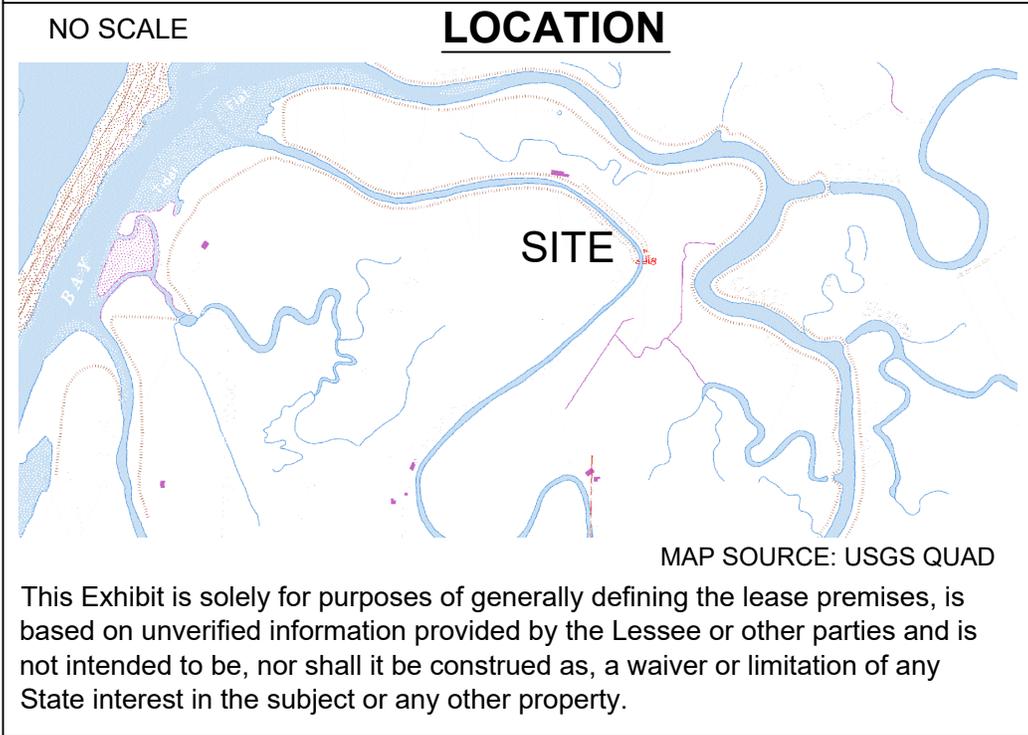
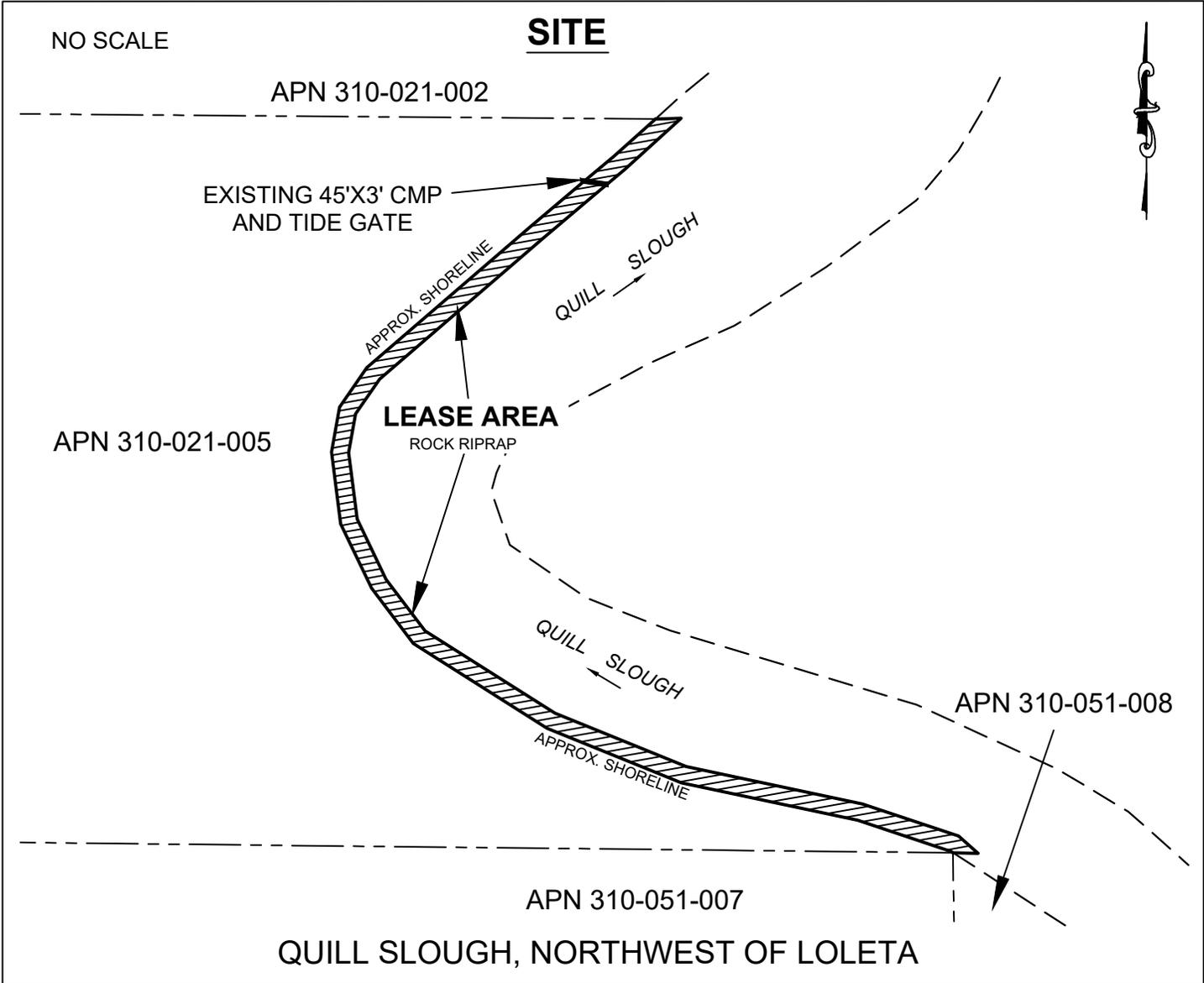
A Parcel of land bounded on the north by the easterly prolongation of the north line of Parcel One described in Grand Deed, recorded July 26, 2016 in Document Number 2016-013905 in Official Records of Humboldt County; bounded on the south by the easterly prolongation of the north line of the south half of the southwest quarter of Section 11, Township 3 North, Range 2 West, Humboldt Meridian; bounded on the west by the ordinary high water mark of the left bank of the Quill Slough; bounded on the east by a line parallel with and easterly 30 feet perpendicular to the ordinary high water mark of said slough.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said slough.

**END OF DESCRIPTION**

Prepared 02/16/2021 by the California State Lands Commission Boundary Unit





**Exhibit B**  
 LEASE 5961  
 RICE  
 APN 310-021-005  
 GENERAL LEASE-  
 PROTECTIVE  
 STRUCTURE USE  
 HUMBOLDT COUNTY

