

# Staff Report 16

## **APPLICANT:**

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Reclamation District No. 2111

## **PROPOSED ACTION:**

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Issuance of a General Lease – Public Agency Use

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

Sovereign land in the North Fork of the Mokelumne River, adjacent to Assessor's Parcel Numbers 146-0470-001 and 146-0470-003, at Dead Horse Island, near Walnut Grove, Sacramento County; and Assessor's Parcel Number 069-020-190, at Staten Island, near Walnut Grove, San Joaquin County.

## **AUTHORIZED USE:**

Continued operation and maintenance of an existing bridge known as the Dead Horse Island Bridge, crossing the North Fork of the Mokelumne River.

## **TERM:**

20 years, beginning August 25, 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:**

- Lessee shall not place, attach, or authorize placement or attachment of any utilities or other improvements on the Bridge or within the Lease Premises without the Commission's prior review and approval. Separate leases or subleases are required and shall be obtained for all utilities not operated by Lessee.
- 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.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 February 24, 1955, the Commission authorized a 49-year General Permit - Right-of-Way Use to George R. Wilson for the construction, use, and maintenance of a bridge across the North Fork of the Mokelumne River, adjoining Dead Horse Island and Staten Island ([Item C14, February 24, 1955](#)). On March 12, 2002, Mr. Wilson transferred control and maintenance of the bridge to the Applicant, Reclamation District No. 2111. The Permit expired on April 8, 2002. The Applicant is now applying for a General Lease – Public Agency Use, for the continued operation and maintenance of an existing bridge crossing the North Fork of the Mokelumne River.

The bridge, known as the Dead Horse Island Bridge, is a one-lane, removable-span bridge, approximately 133 feet long by 16 feet wide, with a 60-foot removable span. Completed in 1955, the bridge runs generally north to south and connects Dead Horse Island with Staten Island. The bridge provides the only access by land to Dead Horse Island, which includes accessing the ongoing farming operation, two residences, and all work done by Reclamation District No. 2111 in managing the operation of Dead Horse Island.

The Applicant is in the process of conducting required minor repairs to the Bridge. The proposed lease includes a provision that within three months of authorization of the lease, the Applicant shall conduct an external inspection and condition assessment of the Bridge, certified by a California registered Civil/Structural Engineer, and that Applicant shall then promptly submit to Lessor copies of the results of the external inspection and condition assessment, including reports, findings, and recommendations. The lease further stipulates that Applicant shall perform an external inspection of the Bridge every two years and a condition assessment every five years.

Promotion of the public's right to access and use California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of statehood in the Act of Admission of the State of California into the Union (Vol.9, Statutes at Large, page 452), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. Bridges are often the most logical location for the public to access a waterway because kayakers, rafters, and others may legally utilize the public access easements around bridges to enter and

exit navigable waterways. Furthermore, bridges and roads are critical infrastructure that are necessary to facilitate the movement of goods, people, and services throughout the State. The movement of goods is a critical part of local, state, and national commerce; and the creation and maintenance of the instrumentalities of commerce is essential to a thriving economy. While the existing Bridge does not currently facilitate water-dependent activities, bridges are consistent with Public Trust uses and values because they facilitate commerce, and the existing bridge does not interfere with navigation, water-dependent recreation, or other Public Trust uses along the Mokelumne River in any substantive way.

The proposed lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease requires the Reclamation District to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from lessee's activities within the lease premises. The lease does not grant the lessee exclusive rights to the lease premises and is also limited to a term of 20 years, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time. 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 subject facilities are located on the North Fork of the Mokelumne River 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 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 Francisco**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.3
2050	1.9

Year	Projection (feet)
2100	6.9

Source: Table 13, 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 and could increase the North Fork of Mokelumne River's inundation levels within the lease area over the term of the lease. 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 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 and affect access 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 facilities 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 bridge supports. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

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 the reasons stated above, staff believes the issuance of the proposed lease 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 lease; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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1. Approval of 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area 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, 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; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 25, 2021, for a term of 20 years, for the continued use and maintenance of an existing bridge, known as the Dead Horse Island Bridge, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (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.

## EXHIBIT A

LEASE 802

### LAND DESCRIPTION

A 30 feet wide strip of tide and submerged land situate in the bed of the North Fork Mokelumne River, lying adjacent on the north bank to Swamp and Overflowed Lands Survey 596, patented June 16, 1871, County of Sacramento and on the south bank to Swamp and Overflowed Lands Survey 597, patented December 6, 1869, County of Sacramento and County of San Joaquin, State of California and lying 15 feet on each side of the following described centerline:

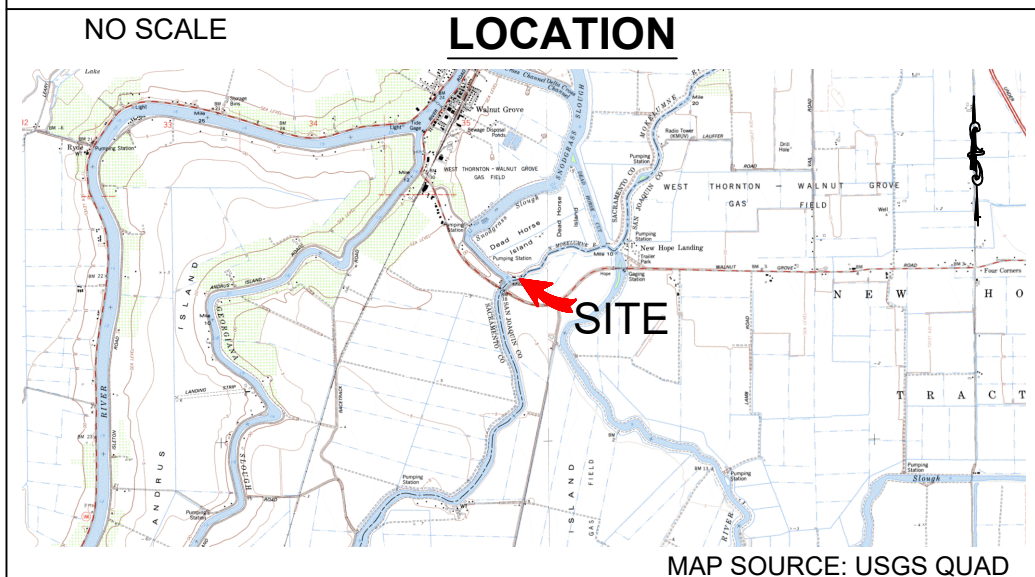
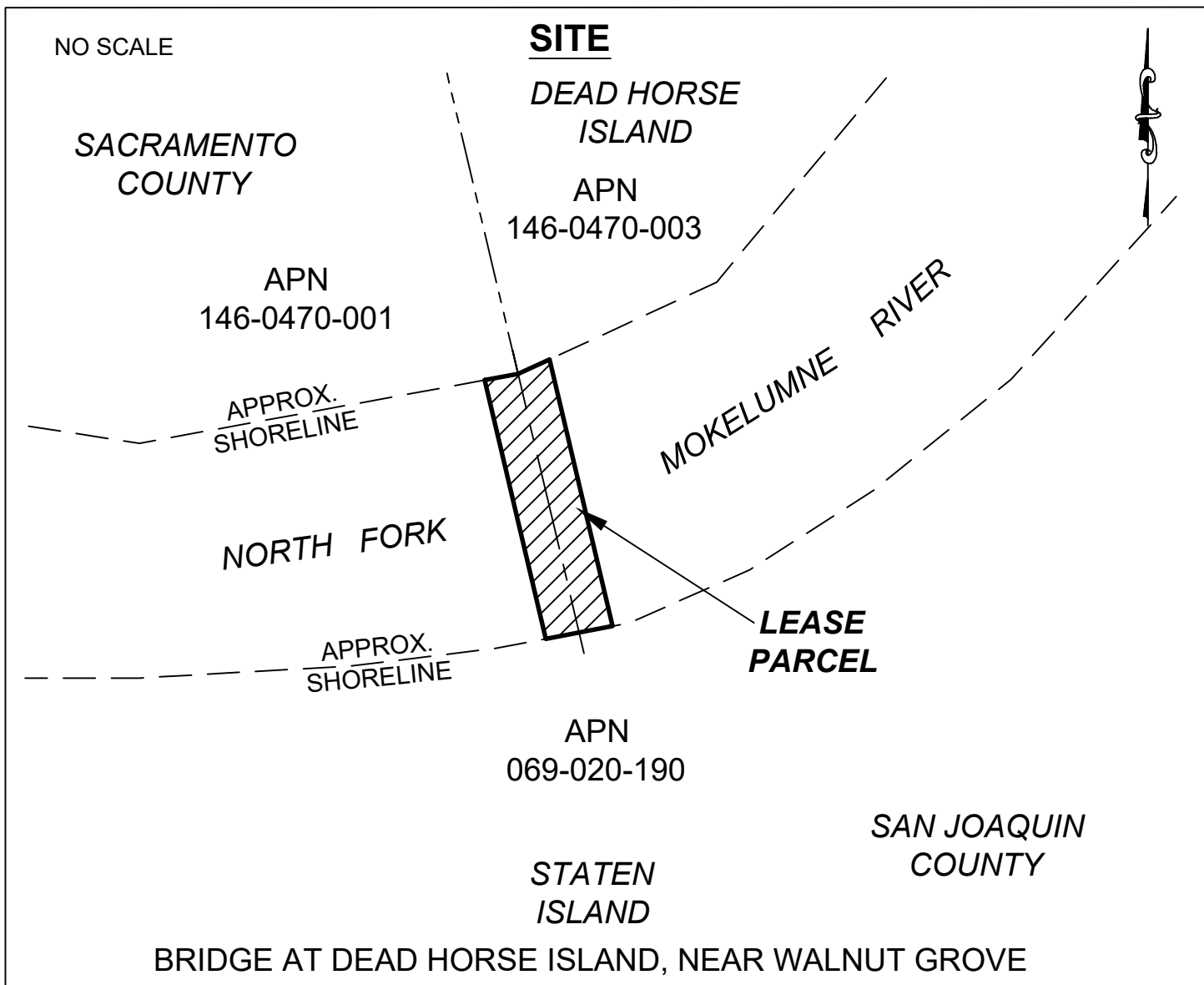
BEGINNING at the southeast corner of the PARCEL 1 as shown on that certain Parcel Map filed in Book 218 of Parcel Maps at Page 3, Records Office of the Sacramento County, said point bears N 65° 08' 38" E 795.97 feet from 2 inch Brass Cap stamped "REC. BD. SL 60A"; thence along a bridge as shown on the Sheet 3 of said map S 13° 18' 15" E 126.68 feet to the TERMINUS of said centerline.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said River.

### END OF DESCRIPTION

Prepared 07/06/2021 by the California State Lands Commission Boundary Unit





**Exhibit B**

LEASE 802

RECLAMATION DISTRICT NO. 2111

APNs: 146-0470-001; -003 & 069-020-190

GENERAL LEASE - PUBLIC AGENCY USE

SACRAMENTO & SAN JOAQUIN COUNTIES

**SITE**

TS 07/06/2021

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.