

Staff Report 42

APPLICANT:

Central Contra Costa Sanitary District

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Pacheco Creek, near Martinez, Contra Costa County.

AUTHORIZED USE:

Continued use and maintenance of two 20-inch-diameter force main pipelines, three 4-inch-diameter reclaimed water pipelines, four electric conduits, one signal conduit, and three 30-inch-diameter steel casings, not previously authorized by the Commission, and one non-operational 20-inch-diameter force main pipeline previously authorized by the Commission.

TERM:

20 years, beginning March 1, 2018.

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 conduct a burial depth survey of the existing pipelines within the Lease Premises.
- Lessee shall provide periodic inspection results of the cathodic protection system operation and test results of all future inspections or integrity monitoring tests of the existing pipelines within the Lease Premises.

- 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:

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 May 29, 1969, the Commission authorized a 49-year Public Agency Permit PRC 4214 to the Applicant for the construction and operation of a 20-inch-diameter force-main-sewer pipeline ([Item 3, May 29, 1969](#)). That permit expired on February 28, 2018. The Central Contra Costa Sanitary District (District) is applying for a new General Lease – Public Agency Use for two 20-inch-diameter force mains, three 4-inch-diameter reclaimed water pipelines, four electric conduits, one signal conduit, three 30-inch-diameter steel casings, and one non-operational 20-inch-diameter force main.

Established in 1946, the District collects and cleans wastewater for nearly 500,000 residents and more than 3,000 businesses in central Contra Costa County. Currently there are two active and one inactive sewage force mains that exit the Maltby Pump Station and cross the Pacheco Creek. Each force main pipeline crossing is inside a 30-inch-diameter steel casing along with reclaimed water pipelines and electric and signal conduits. The two active force mains were constructed in 1991 within the lease premises. The steel casings and force main pipelines were installed using a trenchless jack and bore method under the Creek, without disturbing the surface above. According to District staff, the existing original 20-inch-diameter sewage pipeline, referenced in the original Public Agency Permit, was taken out of service in 1991 due to poor condition. The other facilities were installed without prior Commission authorization.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years and a non-exclusive use provision. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, nor permanently impair public rights. 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 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 facilities are located inland, upland, and under Pacheco Creek, near the Buchanan Field Airport, Contra Costa County, 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

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

This effect could increase Pacheco Creek'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 which could impact coastal areas. Climate change and sea-level rise will further influence these 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.

Since the two currently active 20-inch-diameter pipelines, one 4-inch-diameter recycled water pipeline, and one non-operational 20-inch-diameter pipeline are buried at least 6 feet below Pacheco Creek, these pipelines are not likely to be

affected by sea-level rise. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of any structural degradation or dislodgement of the four pipelines. 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 all the reasons above, staff believes the issuance of this 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 proposed lease; is consistent with the Public Trust; 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 may be required to remove the existing facilities and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" 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:

- 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 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 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 March 1, 2018, for a term of 20 years, for two 20-inch-diameter force main pipelines, three 4-inch-diameter reclaimed water pipelines, four electric conduits, one signal conduit, and three 30-inch-diameter steel casings, not previously authorized by the Commission, and one non-operational 20-inch-diameter force main pipeline previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being 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 4214

LAND DESCRIPTION

A 20 feet wide strip of tide and submerged land situate in the bed of Pacheco Creek lying adjacent on the left bank to Swamp and Overflowed Land Survey No. 267 patented on April 29, 1874 and on the right bank to Swamp and Overflowed Land Survey No. 86 patented on February 18, 1874 and lying 10 feet on each side of the following described centerline:

COMMENCING at the most southerly corner of that certain Parcel Two described in the deed to Harry O. Henry recorded in Book 4650, page 115 of Official Records of said County; thence from said point along the southerly line of said Parcel Two N 77° 28' E 105.20 feet to a point on a curve in the northwestern line of the Contra Costa County Flood Control and Water Conservation District, Pacheco Creek right-of-way, as said right-of-way is described in the Lis Pendens, recorded in Volume 5352, page 543, in Official Records of said County; thence northeasterly along said northwestern line, along a curve to the left, having a radius of 1390 feet, an arc distance of 41.14 feet to the POINT OF BEGINNING of herein described centerline; thence from said point S 85° 20' 12" E 248.72 feet to a point in the southeast line of said Flood Control right-of-way and TERMINUS of said centerline.

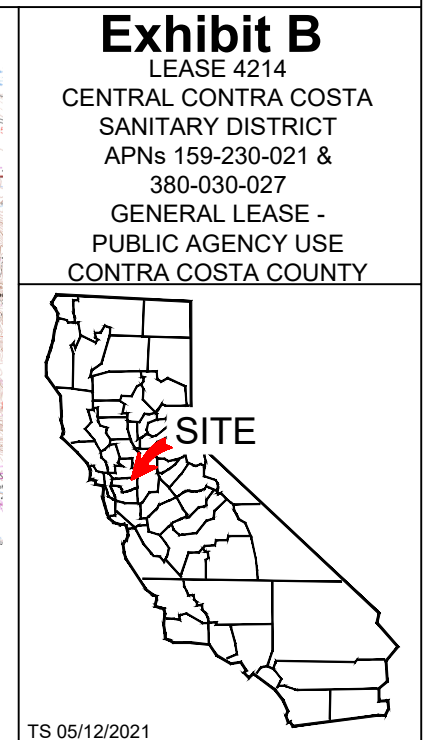
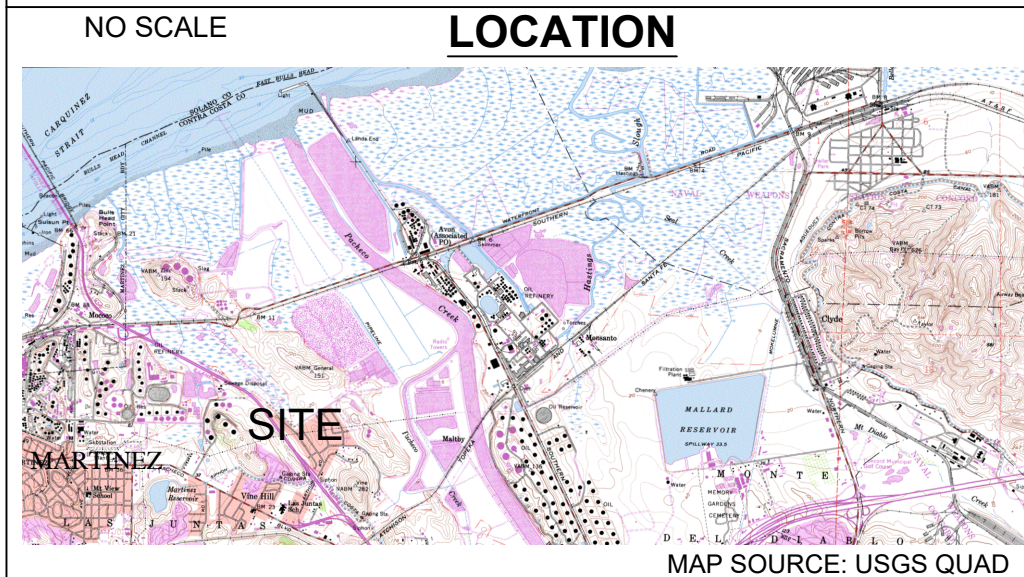
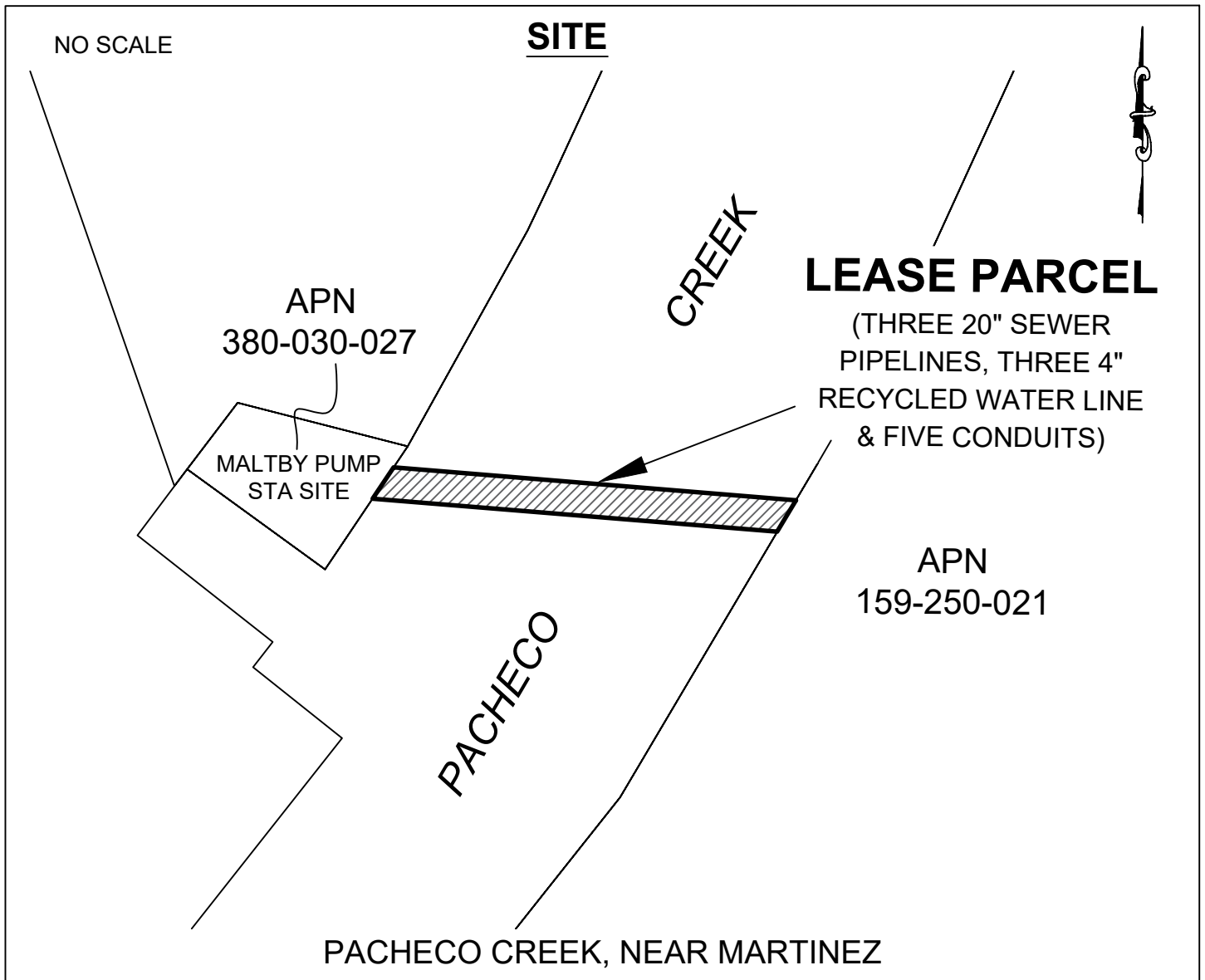
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left and right banks of said Pacheco Creek.

END OF DESCRIPTION

The above description is based on that original description prepared by CSLC Boundary Unit on March 5, 1969 as found in PRC 4214 (W 8389) file, Calendar Item 2.

Revised on 05/12/2021 by the California State Lands Commission Boundary Unit.





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.