

Staff Report 31

APPLICANT:

Ironhouse Sanitary District

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Number 027-050-001; and in Dutch Slough, adjacent to Assessor's Parcel Numbers 027-040-001 and 037-191-029, at Jersey Island, near Oakley, Contra Costa County.

AUTHORIZED USE:

Use and maintenance of an existing 24-inch-diameter treated effluent pipeline, a 30-inch-diameter effluent outfall pipeline, a 30-inch-diameter diffuser, and rock riprap on each side of the outfall pipeline for additional pipe protection.

TERM:

25 years, beginning August 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:

- Lessee agrees and acknowledges that the hazards associated with sea level rise may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Lessee shall perform both internal and external inspections of the effluent outfall pipeline and provide Commission staff with reports regarding its integrity and repair in accordance with the schedule detailed in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On May 9, 1996, the Commission authorized a 25-year Public Agency Lease to the Ironhouse Sanitary District (District) for the installation of a 24-inch-diameter treated effluent pipeline and the placement of 1,500 cubic yards of rock riprap in Dutch Slough, at Jersey Island ([Item C02, May 9, 1996](#)). On June 24, 2008, the Commission authorized an amendment to the lease to expand the lease area for the construction of a 30-inch-diameter sewer outfall pipeline, a 30-inch-diameter diffuser, and the placement of additional rock riprap ([Item C20, June 24, 2008](#)). The 30-inch-diameter sewer outfall pipeline is an extension of the existing 24-inch-diameter effluent pipeline across Jersey Island and into the bed of the San Joaquin River. On September 1, 2011, the Commission authorized an amendment to the lease to correct an error on the original plat and land description that was part of the lease ([Item C31, September 1, 2011](#)). The lease expired on July 31, 2021. The District is applying for a new General Lease – Public Agency Use for the use and maintenance of an existing 24-inch-diameter treated effluent pipeline, a 30-inch-diameter effluent outfall pipeline, a 30-inch-diameter diffuser, and rock riprap on each side of the outfall pipeline for additional pipe protection.

The District was formed in 1945 and provides wastewater collection and treatment services to approximately 42,000 customers in the Oakley and Bethel Island area. The District's Water Recycling Facility was commissioned in 2011. Operating under Surface Water Discharge Permit Order R5-2018-0090 and National Pollutant Discharge Elimination System (NPDES) Permit Number CA0085260, both issued by the Central Valley Regional Water Quality Control Board, the effluent line leaves the Water Recycling Facility and travels underground in a northeasterly direction to Dutch Slough. It enters Dutch Slough and emerges again to cross the levee onto Jersey Island. The pipeline continues underground north through Jersey Island where it emerges and transitions to the effluent outfall pipeline. The effluent outfall pipeline extends approximately 500 feet into the San Joaquin River and is mostly buried under the riverbed.

The proposed lease does not alienate the State's fee simple interest and does not permanently impair public rights. The proposed lease is limited to a 25-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 its natural state. 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 San Joaquin River and Dutch Slough are tidally influenced and 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 lease area 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 the San Joaquin River and Dutch Slough's inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. 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, creeks, 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, storm flow, and 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 portions of the pipeline and outfalls located on the banks of the river and slough adjacent to the lease premises during the term of the lease. These fixed features may need reinforcement and possibly replacement to withstand higher levels of flood exposure and more frequent storm events. Although riprap bank protection provides additional stability and will reduce the amount of erosion and scour pressure experienced during future events.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons above, staff believes the issuance of the proposed lease will not substantially interfere with Public Trust needs 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 improvements located on sovereign land 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 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:

- 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 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:

Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning August 1, 2021, for a term of 25 years, for the use and maintenance of an existing 24-inch-diameter treated effluent pipeline, a 30-inch-diameter effluent outfall pipeline, a 30-inch-diameter diffuser, and rock riprap on each side of the outfall pipeline for additional pipe protection, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (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, as specified in the lease, if the Commission finds such action to be in the State's best interests.

EXHIBIT A

LEASE 7889

LAND DESCRIPTION

PARCEL 1 (DUTCH SLOUGH)

A strip of tide and submerged land 30 feet wide situate in the bed of Dutch Slough adjacent to Jersey Island, Contra Costa County, California, and lying 15 feet on each side of the following described line:

COMMENCING at a 2" brass disc monument marked "FCD698" having CCS83 Zone 3 coordinates of N(y) 2,193,577,725, E(x) 6,220,549.861 as said monument is shown on that certain Record of Survey entitled "RS 3204" filed in the office of the recorder of Contra Costa County on January 25, 2008 in Book 138 of Licensed Surveyors Maps at Page 23, said monument being on a boundary corner of that certain parcel granted by Ralph L. Emerson and Ethel E. Emerson to Contra Costa County Flood Control and Water Conservation District by that certain grant deed recorded October 7, 1968 in Book 5724 at Page 107, Contra Costa County Records; thence along the boundary of said parcel (5724 OR 107) North 08°47'15" East 23.11 feet to a point on the center-line of an existing 24" pipe; thence, along the center-line of said pipe North 50°18'10" East, 32.00 feet to a point on the left bank of Dutch Slough, said point being the POINT OF BEGINNING of the centerline of said 30.00 foot wide strip; thence along the center-line of said 24" pipe North 50°18'10" East, 345.00 feet to a point on the right bank of said Dutch Slough.

The sidelines of said strip shall be lengthened or shortened at the northeasterly and southwesterly ends so as to terminate on the Ordinary High Water Mark of said slough.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of Dutch Slough.

PARCEL 2 (San Joaquin River)

A strip of tide and submerged land 30 feet wide situate in the bed of the San Joaquin River adjacent to Jersey Island, Contra Costa County, California, and lying 15 feet on each side of the following described line:

COMMENCING at Point No. 73 having CCS83 Zone 3 coordinates of N(y) 2,208,387.509, E(x) 6,220,337.702 as said Point No. 73 is shown on that certain Record of Survey entitled "Amended Record of Survey", filed in the Office of the Recorder of Contra Costa County on August 22, 1994 in Book 106 of Licensed Surveyors Maps at Page 1; thence from said Point No. 73 South 29°07'52" West, 4,211.11 feet to the POINT OF BEGINNING; thence South 60°51'28" West, 139.76 feet to the westerly lot line of Lot 70 (18M 419) as shown on said map (18 M 419); thence North 60°51'28" West, 571.03 feet to the point of termination.

The sidelines of said strip shall be lengthened or shortened at the northwesterly end so as to terminate at a line perpendicular to the described line at the point of termination and at the southeasterly end so as to terminate on the Ordinary High Water Mark of said river.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the San Joaquin River.

The bearing and distances used in the above description are California Zone III NAD 83. Multiply the above distances by 1.000053 to obtain ground level distances.

END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit 3/22/2022. Original description prepared by Paul Eisenkramer for Milani & Associates on 6/01/2011 as found in State Lands Commission Lease File 7889 and shown on Calendar Item C31 dated 09/01/2011.

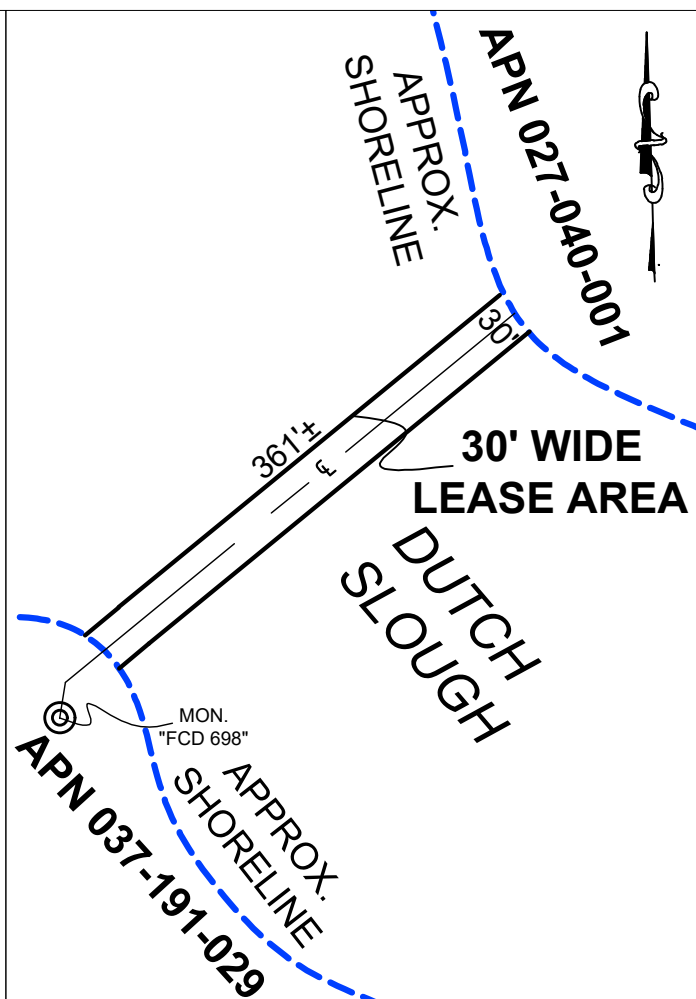
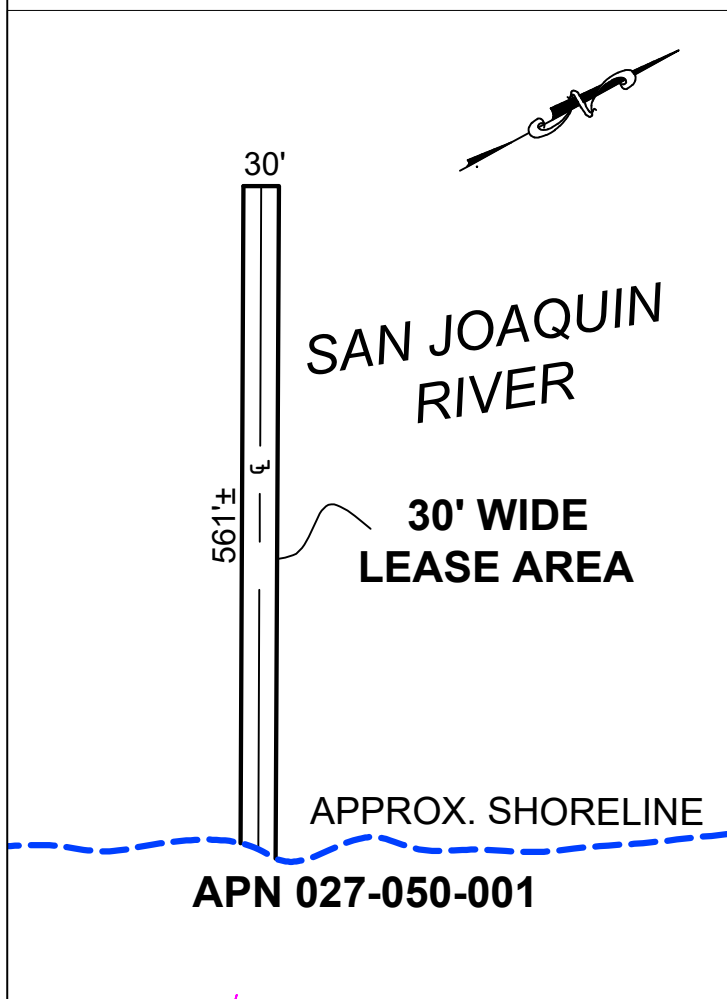


NO SCALE

PARCEL 2

SITE

PARCEL 1

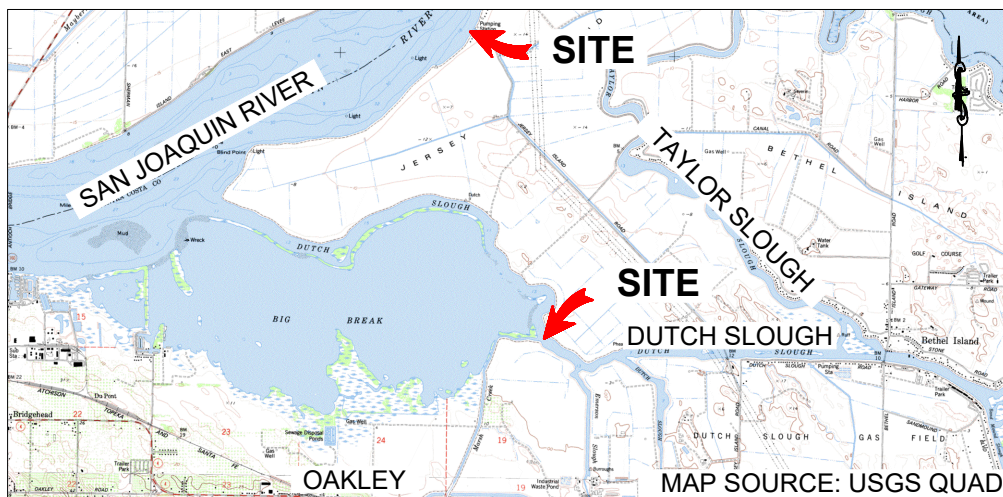


30" EFFLUENT OUTFALL
SAN JOAQUIN RIVER

24" TREATED EFFLUENT
PIPELINE DUTCH SLOUGH

NO SCALE

LOCATION



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.

EXHIBIT B

LEASE 7889
IRONHOUSE SANITARY DISTRICT
APN 027-050-001, 027-040-001,
037-191-029
GENERAL LEASE -
PUBLIC AGENCY USE
CONTRA COSTA COUNTY



MJF 3/22/2022