

Staff Report 36

APPLICANT:

Twin Oaks Irrigation Company

PROPOSED ACTION:

Issuance of General Lease – Dredging and Protective Structure Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, near the intersection of Paradise and Prune Avenues, near Patterson, Stanislaus County.

AUTHORIZED USE:

Maintenance dredge a maximum of 3,900 cubic yards (cy) of sediment annually over 5 years from the San Joaquin River. Dredged material will be disposed at an approved U.S. Army Corps of Engineers upland disposal site. Construction, use, and maintenance of bank protection; and riparian habitat restoration.

TERM:

5 years, beginning June 23, 2022.

CONSIDERATION:

\$280 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.
- Lessee acknowledges that material dredged from the Lease Premises is the property of the State of California and shall not be sold, and that Lessee is not

authorized to dredge for purposes of commercial resale, environmental mitigation credits, or other private benefit without Lessor's prior written consent.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Applicant has applied for a General Lease – Dredging and Protective Structure Use to remove sediment build up near two agricultural irrigation pumps located along the San Joaquin River and construct approximately 900 square feet of bank protection near the north pump back channel. The bank protection would be placed adjacent to the opening of the channel for the north pump site for purposes of maintaining the natural opening of the channel. As a result of construction of the bank protection, riparian habitat restoration would occur downstream of the bank protection. The restoration would consist of planting willows.

The first dredging site is near the north pump, removing sediment adjacent to the pump and within the back channel. The second dredging site is near the south pump, removing sediment adjacent to the pump. Removal of the sediment is required for continued operation of the pumps. Sediment removed from around the north and south pumps would be disposed at an approved U.S. Army Corps of Engineers upland disposal site.

Due to lack of rainfall in recent years, the San Joaquin River has low water levels. In-water work would occur while water levels are at their lowest and if possible, outside of the rainy season to provide minimal impacts to the river. To protect the river from downstream sedimentation, an earthen dam would be used at both sites. The earthen dam would allow the contractor to remove the sediment near the pumps. Construction of the earthen dam would occur from the upland, not utilize a barge system in the river channel. Upon completion of dredging project, the earthen dams would be removed and the site restored. Exclusion fencing would be used during construction to avoid the wetland area near the south pump site.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 5-year term, does not grant the Applicant exclusive rights to the lease premises, and requires the Applicant to insure the lease premises and indemnify the State for any liability incurred as a result

of the Applicant'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:

The lease area in the San Joaquin River is not tidally influenced and, therefore, would not be subject to sea level rise. The water level near the existing improvement is regulated primarily by water released upstream from Friant Dam. 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, extreme heat, drought, and storms. The agricultural irrigation pumps would not be able to move up and down as the water levels change. During a severe drought within the next 10 years, the agricultural irrigation pumps would not be functional since water would be too low in the river.

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 in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believes the issuance of the proposed lease will not 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.

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 would not be allowed to remove sediment build up near the agricultural irrigation pumps or be able to place bank protection resulting in the pumps inability to operate. 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 "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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife
Central Valley Flood Protection Board
Central Valley Regional Water Quality Control Board

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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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 the 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Dredging and Protective Structure Use to the Applicant beginning June 23, 2022, for a term of 5 years, for maintenance dredge a maximum of 3,900 cy per year of sediment from the San Joaquin River, construct bank protection, and riparian habitat restoration, near the intersection of Paradise and Prune Avenues, near Patterson, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$280, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease; and the dredged material may not be sold.

EXHIBIT A

A 3565

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of the San Joaquin River, lying adjacent to Sub-Tract No. Two, as shown on the Map of PATTERSON COLONY Sub-Tract No. Two (Sheet 4) recorded on January 9, 1911, in Volume 5 of Maps, at Page 23, Stanislaus County Records, State of California and more particularly described as follows:

PARCEL 1 - (Proposed North Site)

Bounded on the northwest by a line parallel with and 100 feet northwesterly of the Course 24 as shown on said map;

Bounded on the southeast by a line parallel with and 70 feet southeasterly of said Course 24 as shown on said map;

Bounded on the northeast by a line perpendicular to said Course 24 at the northeasterly end of said Course 24 as shown on said map;

Bounded on the southwest by a line perpendicular to said Course 24 at the southwesterly end of said Course 24 as shown on said map;

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

PARCEL 2 – (Proposed South Site)

Bounded on the northeast by a line parallel with and 80 feet northeasterly of the Courses 11 and 12 as shown on said map;

Bounded on the southwest by a line parallel with and 60 feet southwesterly of said Courses 11 and 12 as shown on said map;

Bounded on the south by the low water mark of the left bank of said San Joaquin River;

Bounded on the north by the line parallel with and 40 feet northerly of said low water mark of the left bank of said San Joaquin River;

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

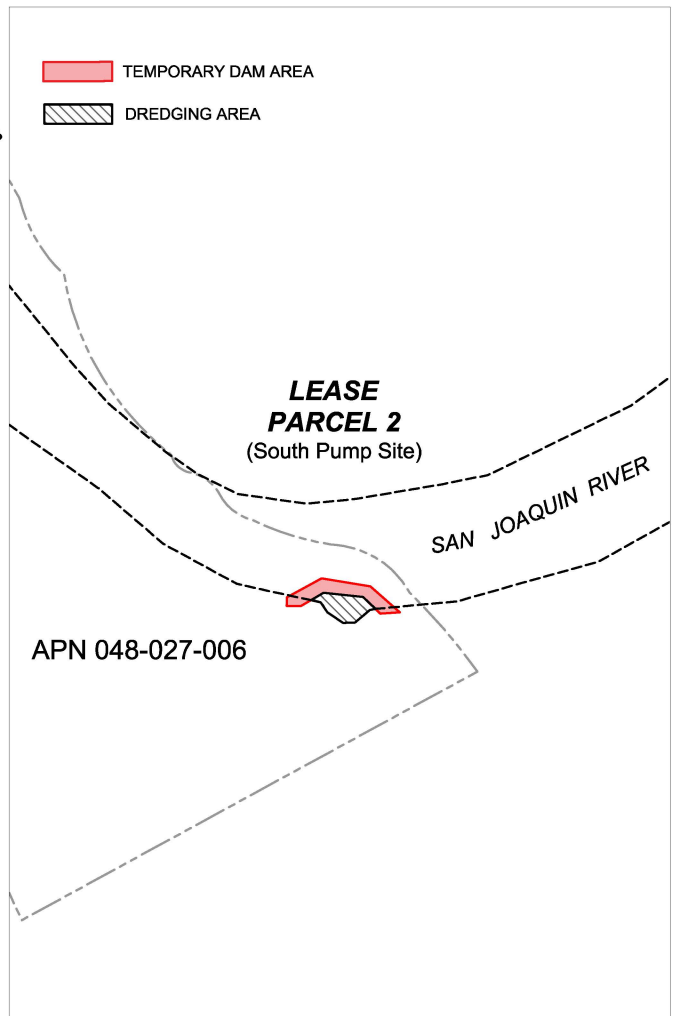
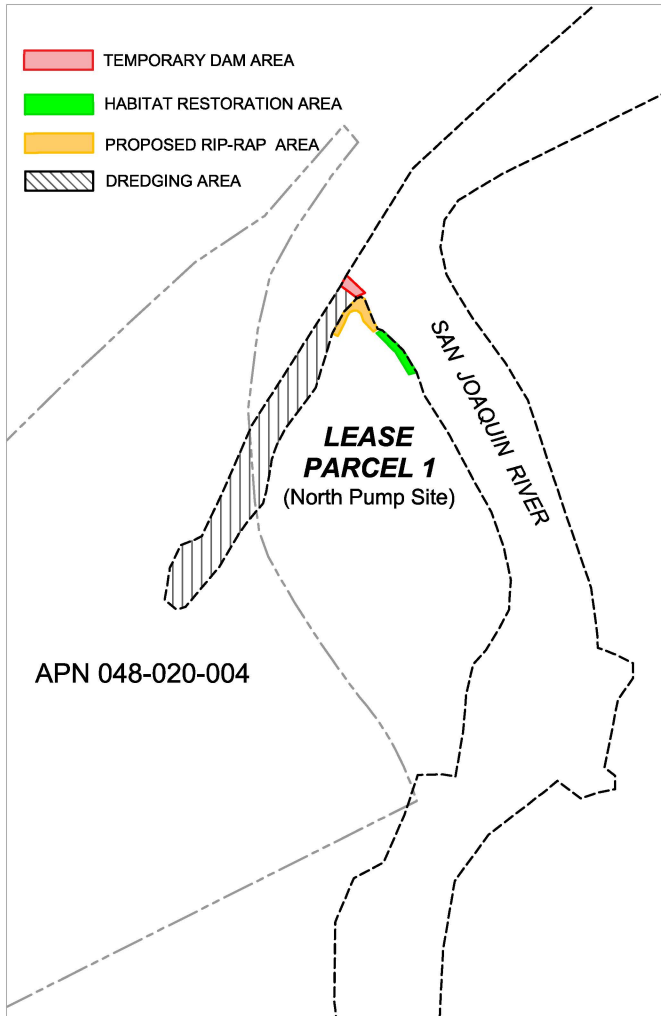
END OF DESCRIPTION

Prepared 05/12/2022 by the California State Lands Commission Boundary Unit



NO SCALE

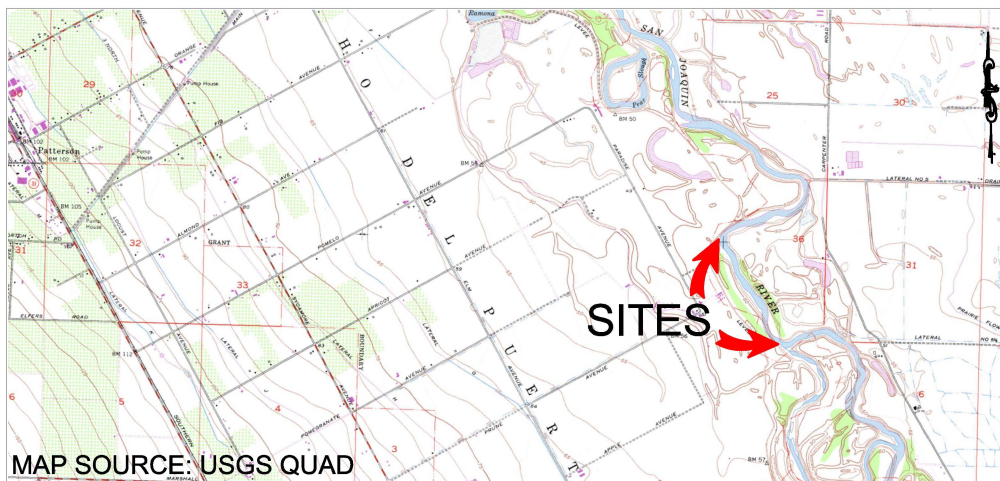
SITES



SAN JOAQUIN RIVER NEAR INTERSECTION OF PARADISE AND PRUNE AVE.

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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

A 3565

TWIN OAKS IRRIGATION DISTRICT
APNs 048-020-004 & 048-027-006
GENERAL LEASE -
DREDGING AND PROTECTIVE
STRUCTURE USE
STANISLAUS COUNTY



TS 05/12/2022