

# Staff Report 14

## **APPLICANT:**

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C&H Sugar Company, Inc.

## **PROPOSED ACTION:**

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Issuance of a General Lease – Industrial Use

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

29.39 acres, more or less, of sovereign land located in the Carquinez Strait, adjacent to 830 Loring Avenue, Crockett, Contra Costa County.

## **AUTHORIZED USE:**

Use and maintenance of an existing sugar refinery, dock, 42-inch diameter outfall line, and appurtenant facilities.

## **TERM:**

25 years, beginning September 24, 2022.

## **CONSIDERATION:**

\$593,958 per year, with the State reserving the right to fix a different rent on every fifth anniversary of the lease term, as provided in the lease.

## **SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$10,000,000 per occurrence.
- Surety Bond in an amount of \$2,000,000 with Lessor reserving the right to increase the bond amount, as provided in the lease.
- Parent guaranty in an amount of \$6,000,000 with Lessor reserving the right to increase the guaranty from Applicant's parent company, as provided in the lease.
- Within 60 days of completing the authorized repair and maintenance activities, Lessee will provide Lessor with as-built photographs depicting the repairs performed.

- Lessee agrees to maintain the described easements within the adjacent Cogen facility as provided in Lease PRC 7691.
- 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 expressly accepts the hazards involved in using or improving such lands.
- Before the tenth lease anniversary, Lessee shall have an independent, professional assessment of its facilities within the Lease Premises to value Lessee's maintenance and removal obligations.

## **BACKGROUND:**

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In 1906, the California and Hawaiian Sugar Refining Company, today known as C&H Sugar Company, Inc. (C&H), a member of ASR Group, began refining in Crockett, California. In its first year, the refinery took in 74,000 tons of raw sugar and employed 490 people. In 2005, C&H was acquired by American Sugar Refining, Inc. Today, approximately 25 annual ship calls offload 800,000 tons of raw sugar at the refinery each year. The sugar is stored in nine raw-sugar silos prior to being refined at the rate of more than 6 million pounds a day.

The C&H Sugar Crockett Refinery is a state-of-the-art facility with 32 packaging lines that produce 100 types, grades, and package sizes for home bakers, as well as liquid and bulk granulated sugar for industrial food makers. The finished products are shipped from the refinery in more than 30,000 truck trips a year.

C&H employs 465 people at the Crockett refinery and the refinery supports an additional 190 jobs provided through trucking companies, terminal operations, cargo handling, and ship piloting. C&H also invests in its local community by supporting many local foundations and organizations.

## **PROJECT DESCRIPTION:**

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C&H will be conducting repair and maintenance of the facility for three summer construction work-windows over a phased three- to five-year period. Approximately 2,625 square feet of deck will be repaired or replaced, 190 piles will be repaired, and 370 piles will be removed. The existing "Gantry Cranes," built in 1942, are outdated and unable to provide the necessary offloading capacity needed at the facility. 360 plastic buckets continually scoop 7 pounds of sugar each and carry it up the leg of the crane. The Applicant proposes to replace the four cranes with three mobile hoppers that will run along the 480 feet of dock rail. The three hoppers will allow up to three ship holds to be discharged simultaneously. The mobile

hoppers will be placed along the existing dock rail within the lease premises. These hoppers will each be equipped with dust collection devices to comply with the current air permit rules from the California Air Resources Board. All repair and maintenance work has been permitted by the required agencies.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

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

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

On September 23, 1992, the Commission authorized a 30-year General Lease – Industrial Use to California and Hawaiian Sugar Company for an existing sugar refinery and appurtenant facilities, expiring on September 23, 2022, and terminated older leases authorizing the refinery ([Item 75, September 23, 1992](#)). The Commission authorized an assignment of the lease on September 22, 1998, to C&H Sugar Company, Inc. ([Item 1, September 22, 1998](#)). On October 20, 2003, the Commission authorized an amendment of the lease for the payment of rent on a monthly basis ([Item 41, October 20, 2003](#)). On August 8, 2005, the Commission approved a Request for Approval and Transfer of Controlling Interest from C&H Sugar Refining, Inc., to American Sugar Refining, Inc., effective upon completion of corporate reorganization. Under the terms of the assignment, the Lessee is to remain known as C&H Sugar Company, Inc. ([Item 48, August 8, 2005](#)). The lease will expire on September 23, 2022. The Applicant is now requesting a new General Lease – Industrial Use.

An adjacent cogeneration facility produces electrical power for the community and steam used by the Applicant during its refining process. Crockett Cogeneration, L.P., operates this facility under Lease PRC 7691 ([Item 7, July 29, 1993](#)). The Applicant uses certain easements within the Cogen facility lease area, and agrees to maintain the following described easements under Lease PRC 7691:

1. Non-exclusive "Conveyor Easement" for the maintenance, use, and repair of the existing aerial "Sugar Conveyors" and required support towers which transport raw sugar.
2. Non-exclusive "Fire Line Easement" for the maintenance, use, and repair of the existing "Fire Control Facilities," for fire lines and risers in connection with the refinery fire protection system.
3. Non-exclusive "Maintenance Access Easement" for the maintenance, use, and repair of the existing "Warehouse No. 3," and to obtain access to the railroad

spur for receiving or shipping equipment supplies, inventory, and other items in connection with its refinery operations.

The proposed lease 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 State for the occupation of the public land involved. The Applicant proposes that a parental guaranty from ASR Group International (formerly American Sugar Refining, Inc.) may substitute for staffs proposed \$6,000,000 bond as security for rent and maintenance or removal of improvements. Staff has reviewed financial information of ASR Group and is satisfied that the parental guaranty provides sufficient security.

### **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 facilities are located on the Carquinez Strait, 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
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 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 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 bay levels and river flow for extended periods of time.

According to the Digital Coast Sea Level Rise Viewer (National Oceanic and Atmospheric Administration, Office of Coastal Management), the lease area could be inundated when sea level rise has exceeded approximately 3 feet, which is not expected until after 2080. Over the life of the 25-year lease, the lease would be subject to sea level rise from 1.3 to 1.9 feet as provided in Table 1. The refinery, dock, and appurtenant facilities are fixed and therefore vulnerable to sea level rise. These fixed features may need reinforcement over time to withstand higher sea levels and flood exposure. The current manufacturing facilities and sugar-extract processing equipment along the waterfront has been modernized and moved back from the water's edge and upland away from any potential storm surges. The warehousing and storage areas have been automated and built above and behind the processing facilities which is significantly away from the waterfront and away from any potential flooding from sea level rise.

Regular monitoring and 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 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 this lease will not substantially impair the public rights to navigation, fishing, and commerce; or substantially interfere with 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:**

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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. If the Commission denies the application, the Lessee may be required to remove its improvements and restore the premises to their original condition. 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 14, section 15301.

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

## **APPROVALS OBTAINED:**

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US Army Corps of Engineers  
National Marine Fisheries Service  
US Fish and Wildlife Service  
San Francisco Regional Water Quality Control Board  
San Francisco Bay Conservation & Development Commission

## **EXHIBITS:**

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- A. Land Description
- B. Site and Location Map
- C. Parent Guaranty

## **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 14, section 15301.

### **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:**

1. Authorize issuance of a General Lease – Industrial Use to the Applicant, beginning September 24, 2022, for a term of 25 years, for the use and maintenance of an of an existing sugar refinery, dock, 42-inch diameter outfall line, and appurtenant facilities, 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 \$593,958 per year, with the State reserving the right to fix a different rent on every fifth anniversary of the lease term, as provided in the lease; liability insurance in the amount of \$10,000,000 per occurrence; and a surety bond or other security in the amount of \$2,000,000.
2. Approve the Parental Guaranty, in substantially the form of Exhibit C, of ASR Group International, Inc., as security in lieu of a \$6,000,000 bond for Lessee's performance of all obligations under the Lease, including but not limited to, payment of rent and maintenance and removal of Improvements.

## EXHIBIT A

LEASE 7659

### LAND DESCRIPTION

Five (5) parcels of tide and submerged land, whether filled or unfilled, lying in the bed of the Carquinez Strait, near Crockett, Contra Costa County, California, more particularly described as follows:

#### PARCEL 1

A parcel of tide and submerged land in and adjacent to Carquinez Strait, City of Crockett, Contra Costa County, California and more particularly described as follows:

BEGINNING at a monument formerly set and marked by the California and Hawaiian Sugar Refining Corporation as Number 258, but since adopted by the United States Corps of Engineers as their Harbor Line Monument U.S.H.L. 33 and shown on their map entitled "Harbor Lines for Carquinez Strait, California", dated June 10, 1924 and marked File 4, Div. 4, Sheet 6, said monument being also shown on "Map of Re-Survey of Tideland Surveys Nos. 11 & 44 and Tideland Locations Nos. 196, 199, 206, 226 & 229 Contra Costa County, California" made under the provisions of Chapter 490, Statutes of 1915, to correct errors in original surveys Sheet 2, said monument bears North 435.28 feet and East 254.71 feet from the corner common to Sections 31 and 32 Township 3 North, Range 3 West and Sections 5 and 6, Township 2 North, Range 3 West, Mt. Diablo Base and Meridian, said monument also being on the northerly right-of-way line of the Southern Pacific Railroad Company and the corner common to previous Leases 19.1 and 9.1, said previous leases (9.1, 10.1, 11.1 and 19.1) were entered into between the State of California and California and Hawaiian Sugar Refining Corporation on September 19, 1929 and are on file with the California State Lands Commission, Sacramento Office, thence the following twelve (12) courses:

- 1) N 83°15'30" W 150.42 feet, along said northerly railroad right-of-way line and the southerly line of previous Lease 19.1 to the southwest corner of previous Lease 19.1, thence;
- 2) N 02°24' E 596.76 feet, along the westerly line of previous Lease 19.1 to the Corps of Engineers Pierhead Line as shown on said Corps of Engineers Map, said point also being the northwesterly corner of previous Lease 19.1, thence;
- 3) S 87°07'22" E 150.00 feet, along said Pierhead Line and the northerly line of previous Lease 19.1, to Corps of Engineers Monument Number 41 and the corner common to previous Leases 19.1 and 9.1 thence;
- 4) S 89°10'22" E 1160.17 feet, along said Pierhead Line and the northerly line of previous Lease 9.1, to Corps of Engineers Monument Number 39, thence;
- 5) S 86°56'09" E 601.69 feet, along said Pierhead Line and the northerly line of previous Leases 10.1 and 11.1 to Corps of Engineers Monument 37, thence;



- 6) S 85°59'47" E 1212.57 feet, along said Pierhead Line and the northerly line of previous Lease 11.1, to the northeast corner of previous Lease 11.1, thence;
- 7) S 16°22'45" W 285.37 feet, along the easterly line of previous Lease 11.1, to the northerly right-of-way line of the Southern Pacific Railroad Company, thence;
- 8) N 73°37'15" W 451.73 feet, along said northerly railroad right-of-way line and the southerly line of previous Lease 11.1 as said line is depicted on said "Map of Re-Survey of Tideland Surveys Nos. 11 & 44 and Tideland Locations Nos 196, 199, 206, 226 & 229 Contra Costa County, California" made under the provisions of Chapter 490, Statutes of 1915, Sheet 3. Said point bears North 34.91 feet and East 11.44 feet from United States Harbor Line Monument 31, thence;
- 9) Westerly 852.08 feet, along a tangent curve concave to the south having a radius of 1189.78 feet through a central angle of 41°02', and along said northerly railroad right-of-way line and the southerly line of previous Leases 11.1 and 10.1, to a point that bears southwesterly 22.75 feet along said curve from the corner of previous Leases 11.1 and 10.1, thence;
- 10) S65°20'45" W 349.63 feet, along said northerly railroad right-of-way and the southerly line of previous Lease 10.1, thence;
- 11) Westerly 1189.74 feet, more or less, along a non-tangent (radial bearing N 20°22'02" W) curve concave northerly, having a radius of 2514.58 feet through a central angle of 27°06'32", along said northerly railroad right-of-way line and the southerly line of previous Leases 10.1 and 9.1, to California and Hawaiian Sugar Refining Corporation Monument 257, thence;
- 12) N 83°15'30" W 163 feet, more or less, along said northerly railroad right-of-way the southerly line of previous Lease 9.1, to the POINT OF BEGINNING.

EXCEPTING THEREFROM that parcel as described in Exhibit "A" – Description of Lease Premises found in State Lands Commission Lease 7691 file, Calendar Item 07 dated 7/29/1993.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Carquinez Strait.

ALSO EXCEPTING any validly patented tidelands.

The above description is based on that original description prepared by "SFBCC September 1992 as found in State Lands Commission Lease 7659 (W 24828) file, Calendar Item C75 dated 9/23/1992.

## PARCEL 2

A parcel of submerged land northerly of and adjoining PARCEL 1 of this lease in Carquinez Strait, City of Crockett, Contra Costa County, California, more particularly described as follows:

COMMENCING at Monument Number 37 on the United States Corps of Engineers Pierhead Line as shown on the United States Corps of Engineers Map entitled "Harbor Lines for Carquinez Strait, California", marked File 4, Div. 4, Sheet 6, dated June 10, 1924. Said Monument 37 also being on the northerly line of said Parcel 1 of this lease; thence S 85°59'47" E, 267.57 feet along the northerly line of said Parcel 1 and Pierhead Line to the POINT OF BEGINNING; thence the following four (4) courses:

- 1) N 04°00'13" E 159.00 feet;
- 2) S 85°59'47" E 745.00 feet;
- 3) S 04°00'13" W 159.00 feet to a point on the northerly line of the above described PARCEL 1 and the Corps of Engineers Pierhead Line, said point bears N 85°59'47" W, 200.00 feet from the northeasterly corner of said PARCEL 1, thence;
- 4) N 85°59'47" W 745.00 feet to the POINT OF BEGINNING.

The above description is based on that original description prepared by "SFBCC September 1992 as found in State Lands Commission Lease 7659 (W 24828) file, Calendar Item C75 dated 9/23/1992.

## PARCEL 3

A strip of submerged land 20 feet in width being a portion of the State-owned bed of Carquinez Strait in Section 32, T3N, R3W, MDM, Contra Costra County, California, and being 10 feet on each side of the following described line:

BEGINNING at a point on the U.S. Combined Pierhead and Bulkhead Line of Carquinez Strait as established by the United States Army Engineers and shown on Sheet 3 of 4 of said Engineers maps entitled "Harbor Lines for Carquinez Strait, California", dated August 31, 1965, said point of beginning lying N 85°50'06" W a distance of 297.50 feet from Harbor Line Point No. 37 and lying S 85°50'06" E from Harbor Line Point No. 39; thence N 04°09'54" E a distance of 200 feet to the point of termination.

The above description is based on that original description prepared by "Roger Blake on 9/17/1975 as found in State Lands Commission Lease 7659 file, Calendar Item C50 dated 7/11/1997.

## PARCEL 4 – Conveyor Parcel

A parcel of tide and submerged land in and adjacent to Carquinez Strait, City of Crockett, Contra Costa County, California and more particularly described as follows:

COMMENCING at the most southeast corner of the above described “PARCEL 1”, also hereafter referred to as Station ‘A’, thence leaving said point of commencement westerly along the south line of said parcel, said south line being common with the north line of the aforesaid Southern Pacific Railroad right-of-way (25 Deeds 156) the following nineteen (19) courses and distances:

- 1) N 73°37’15” W, 451.73 feet to a point hereafter referred to as Station ‘B’;
- 2) thence continuing along said common line along a tangent curve, concave to the south and having a radius of 1189.78 feet, through a central angle of 2°41’14” an arc distance of 55.80 feet to the POINT OF BEGINNING;
- 3) thence leaving said point of beginning and continuing along said common line along a non-tangent curve, concave to the south and having a radius of 1189.78 feet, the center of which bears S 13°41’31” W through a central angle of 1°34’06” an arc distance of 32.57 feet;
- 4) thence leaving said common line N 9°59’27”, W 63.47 feet;
- 5) thence N 87°47’53” W, 115.92 feet;
- 6) thence N 85°59’51” W, 18.69 feet;
- 7) thence S 3°28’01” W, 46.16 feet to the aforesaid common line;
- 8) thence along said common line along a non-tangent curve, concave to the south and having a radius of 1189.78 feet, the center of which bears S 4°53’55” W through a central angle of 1°26’41” an arc distance of 30.00 feet;
- 9) thence leaving said common line N 3°28’01” E, 46.07 feet;
- 10) thence N 86°00’00” W, 70.30 feet to a point on the west line of said “PARCEL 1” ;
- 11) thence along the perimeter of said “Parcel 1” N 4°00’00” E, 20.00 feet;
- 12) thence S 86°00’00” E, 111.00 feet;
- 13) thence N 4°00’00” E, 6.98 feet;
- 14) thence leaving said perimeter line S 85°51’12” E, 25.60 feet;
- 15) thence S 2°12’07” W, 6.11 feet;
- 16) thence S 87°47’53” E, 93.11 feet;
- 17) thence N 9°59’27” W, 32.23 feet to the north line of said “PARCEL 1”;
- 18) thence along said north line S 86°00’00” E, 30.92 feet;
- 19) thence leaving said north line S 9°59’27” E, 121.60 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Carquinez Strait.

ALSO EXCEPTING any validly patented tidelands.

The above description is based on that original description described in Exhibit “B-1” – Conveyor Easement found in State Lands Commission Lease 7691 (W 23703) file, Calendar Item 07 dated 7/29/1993.

## PARCEL 5 – Fire line Parcel

A parcel of tide and submerged land in and adjacent to Carquinez Strait, City of Crockett, Contra Costa County, California and more particularly described as follows:

COMMENCING at said Station 'A', located at the most southeast corner of said "PARCEL 1"; thence leaving said point of commencement westerly along the south line of said parcel, said south line being common with the north line of the aforesaid the Southern Pacific Railroad right-of-way (25 Deeds 156) the following eight (8) courses and distances:

- 1) N 73°37'15" W, 451.73 feet to said Station 'B' being the POINT OF BEGINNING for this description;
- 2) thence leaving said point of beginning and continuing along said common line along a tangent curve, concave to the south and having a radius of 1189.78 feet, the center of which bears S 16°22'45" W through a central angle of 27°08'33" an arc distance of 563.63 feet to the southwest corner of said "PARCEL 1";
- 3) thence leaving said common line along the west line of said parcel N 4°00'00" E, 10.34 feet;
- 4) thence leaving said west line along a non-tangent curve, concave to the south and having a radius of 1199.78 feet, the center of which bears S 10°38'25" E through a central angle of 5°41'12" an arc distance of 119.08 feet to the north line of said "PARCEL 1";
- 5) thence along said north line S 86°10'52" E, 38.48 feet;
- 6) thence N 4°00'00" E, 5.30 feet;
- 7) thence leaving said north line along a non-tangent curve, concave to the south and having a radius of 1199.78 feet, the center of which bears S 3°05'41" E, through a central angle of 19°28'26" an arc distance of 407.79 feet;
- 8) thence S 16°22'45" W, 10.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Carquinez Strait.

ALSO EXCEPTING any validly patented tidelands.

The above description is based on that original description described in Exhibit 'B' – Fire Easement found in State Lands Commission Lease 7691 (W 23703) file, Calendar Item 07 dated 7/29/1993.

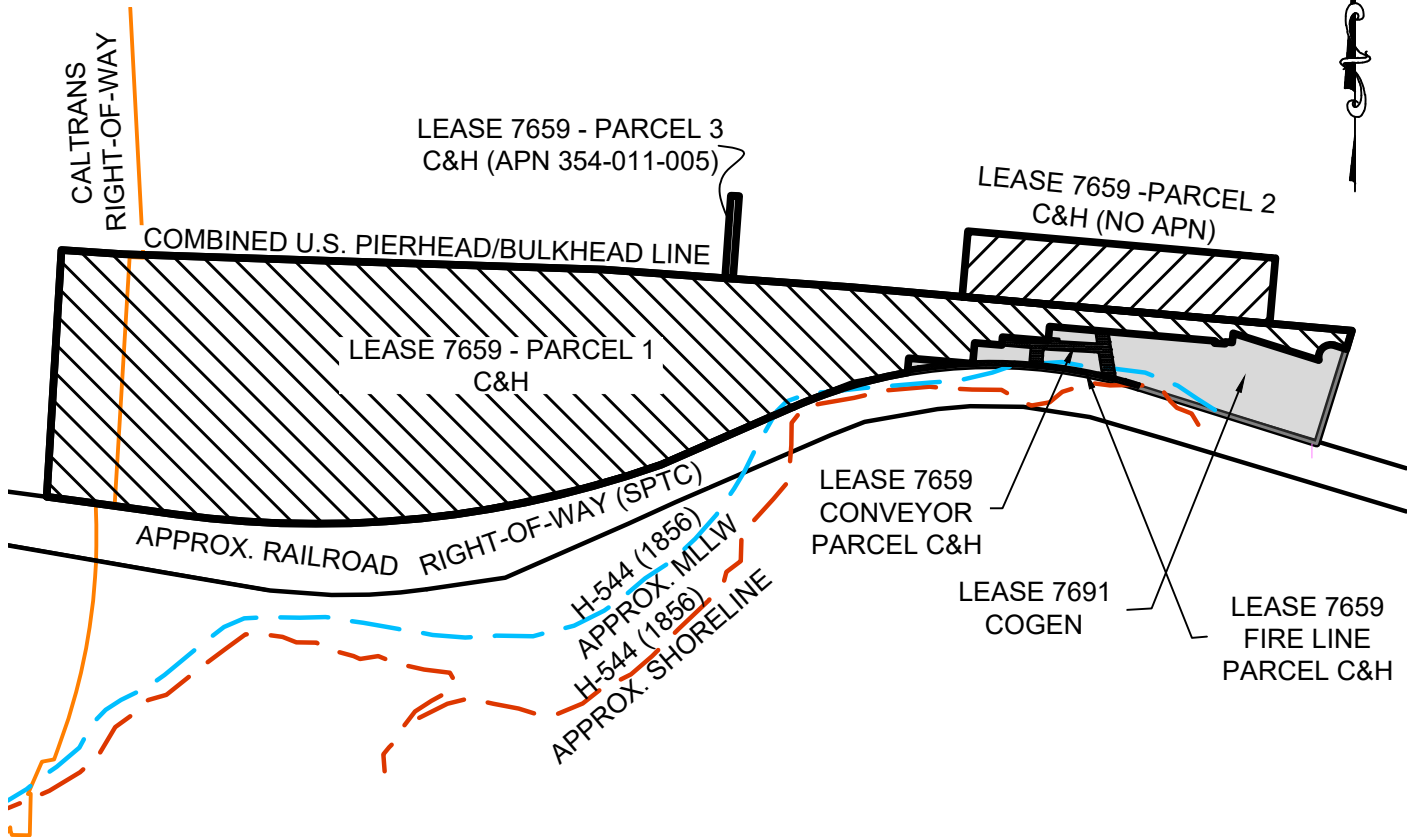
### END OF DESCRIPTION

REVISED ON 6/01/2022  
BY THE CALIFORNIA  
STATE LANDS COMMISSION  
BOUNDARY UNIT



NO SCALE

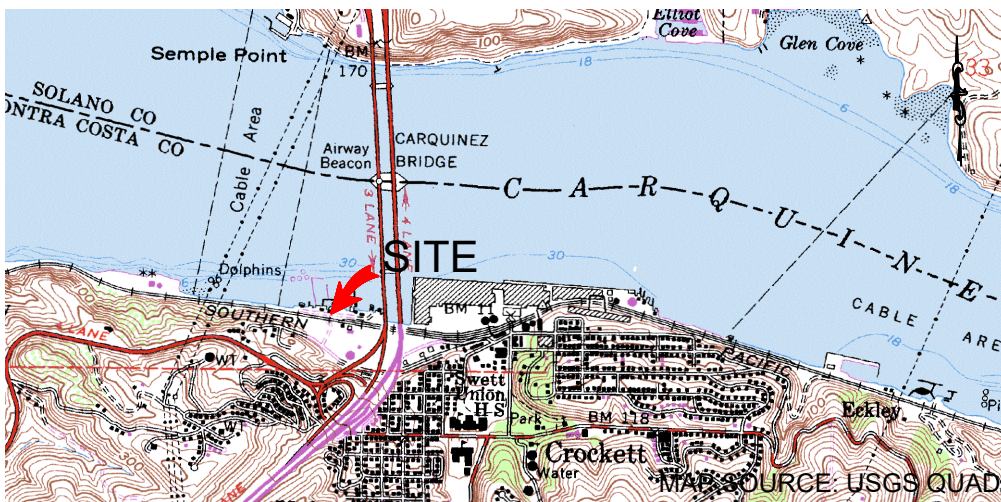
## SITE



## Crockett, Carquinez Strait

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 7659  
C&H SUGAR  
GENERAL LEASE -  
INDUSTRIAL USE  
CONTRA COSTA COUNTY



MJF 6/22/2022

**EXHIBIT C**  
**GUARANTY**

For valuable consideration, the receipt of which is hereby acknowledged, **ASR Group International, Inc. (ASR Group)** unconditionally guarantees to the State of California, acting by and through the State Lands Commission ("State"), the full performance by **C&H Sugar Company, Inc.**, of all C&H Sugar Company, Inc.'s obligations under Lease PRC 7659. ASR Group acknowledges that this Guaranty replaces an obligation to maintain a \$6,000,000 surety bond, or in an amount as may be adjusted under the terms of the Lease. Notwithstanding, the obligations under this Guaranty are not limited to any monetary amount but shall cover any and all obligations under Lease PRC 7659.

The rights afforded the State under this Guaranty are personal and not transferable by State.

This Guaranty shall be construed under and governed by the laws of the State of California.

ASR Group represents and warrants that this Guaranty is a legal, valid, and binding obligation of ASR Group, enforceable against ASR Group in accordance with its terms except as limited by bankruptcy or other laws of general application.

ASR Group agrees to provide to the State, upon request and 30 days' notice, financial information sufficient for the State to determine that this Guaranty secures the obligations of Lease PRC 7659. Such financial information may be provided in person at the offices of the State in order to protect confidentiality.

ASR Group agrees that any amendments, modifications, alterations or changes made in the Lease covered by this Guaranty or the giving by the State of any extension of time for the performance of any of the lease terms, or the giving of any other forbearance on the part of the State or C&H Sugar Company, Inc., to the other, shall not in any way release ASR Group, its successors or assigns, from any liability arising hereunder and notice to ASR Group of any such amendments, modifications, alterations or changes is hereby waived.

This Guaranty shall automatically terminate when 1) the lease terminates and C&H Sugar Company, Inc. has been released from its obligations under the lease by the State; or 2) when the lease has been assigned from C&H Sugar Company, Inc. to a party approved by the State and, as part of the assignment,

C&H Sugar Company, Inc. has been released from its obligations under the lease by the State; or 3) ASR Group sells, assigns, or conveys a majority of its interest in C&H Sugar Company, Inc. to an unaffiliated third party approved by the State.

IN WITNESS WHEREOF, ASR Group has executed this Guaranty as of this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ASR Group International, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTARIZATION OF SIGNATURE TO BE ATTACHED**