

Staff Report 64

APPLICANT:

Valero Refining Company–California

PROPOSED ACTION:

Issuance of General Lease - Dredging

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Carquinez Strait at Valero Benicia Marine Oil Terminal, Benicia, Solano County.

AUTHORIZED USE:

Maintenance dredge of a maximum of 100,000 cubic yards (cy) of sediment annually over 10 years to maintain a navigable depth. Dredged material will be disposed of at a U.S. Army Corps of Engineers and Dredge Material Management Office-approved disposal site. The dredged material may be utilized for levee repair.

TERM:

10 years, beginning March 1, 2023.

CONSIDERATION:

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; dredged material may not be sold.

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:

On February 22, 2013, the Commission authorized a 10-year General Lease – Dredging, to the Applicant for maintenance dredging of a maximum of 80,000 cy per year of material over the duration of the lease, from the Carquinez Strait to maintain a navigable depth and allow safe navigation at the Valero Benicia Marine Oil Terminal (dock) ([Item 43, February 22, 2013](#)). The lease expired on February 21, 2023.

The Applicant has applied for a General Lease – Dredging for maintenance dredging of approximately 100,000 cy of material annually from the dock area within the Carquinez Strait. An increase in sedimentation rate at the dock has resulted in the need to dredge additional material. The removal of the material would allow for the continual navigation of vessels and mooring at the dock. The maintenance dredging is required to maintain safe navigable depths at the dock. Over the term of the lease, up to 1,000,000 cy of material may be dredged.

The material would be removed through clamshell dredge. The clamshell dredge consists of a clamshell bucket operated from a crane mounted on a barge. The material would be removed and placed on the barge. The dredged material would then be transported to an authorized disposal site.

The dredging would improve navigational depths facilitating operation of the dock and enhance navigation in the Carquinez Strait. Navigation is a recognized Public Trust use. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and requires the Lessee to insure the lease premises and 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 lease area is located along the north bank of the Carquinez Strait, west of the Benicia Martinez Bridge, near the town of Benicia, Solano County, in a tidally influenced site vulnerable to flooding at current sea levels that will be at high risk of flood exposure based on the projected scenarios of sea level rise in this area.

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.

Sea level rise will raise the total water levels of the Carquinez Strait and likely cause frequent inundation of the lease area if no measures are taken to control the flooding and elevate the shoreline. 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 storms and rain events, causing more flooding in low-lying areas. In rivers, creeks, and tidally influenced waterways, higher water levels from sea level rise and flooding may cause damage such as bank erosion to the lease area. Storm debris and water-borne contaminants may constitute additional hazards to the lease area and structures. Higher rates of erosion and sedimentation from flooding, storm flow, and runoff will likely increase scour and further decrease bank stability.

As the total water levels of the Carquinez Strait increase with sea level rise, the Valero Benicia Marine Terminal berth and tug moorage areas will be susceptible to increased accretion of sediments and sand with increased storms and droughts and will remain at a higher risk of accretion from the combined impacts of sea level

rise, storms, and rain events. The existing dock is used by Valero for refinery operations. The lessee is responsible for protecting the lands, resources, and values of the Public Trust within the lease area and should be aware that these changes are very likely to occur and impact not only the current footprint of the lease area, but the adjacent areas within the San Pablo Bay area as well, over the course of the lease.

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

ENVIRONMENTAL JUSTICE:

Staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in impacts to health such as asthma and cardiovascular disease. In addition, the same data showed groundwater threats and impaired water. As part of an environmental justice outreach and engagement effort, on December 21, 2022 staff reached out to environmental justice organizations in Solano County, providing notification of the proposed lease and requesting input. The letters included a brief description of the project and conveyed a desire to learn from the perspectives of the local community. No responses to the outreach were received.

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; is consistent with the Public Trust Doctrine; 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. The Applicant has no right to a new lease or to renewal of any previous lease.
2. The lease premises are adjacent to sovereign lands legislatively granted to the City of Benicia, Chapter 18, Statutes, 1964 and Chapter 2018, Statutes 1965.

3. This action is consistent with the “Meeting Evolving Public Trust Needs,” Prioritizing Social, Economic, and Environmental Justice,” and “Leading Climate Activism” Strategic Focus Area of the Commission’s 2021-2025 Strategic Plan.
4. 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, subdivision (g).

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

APPROVALS OBTAINED:

U.S. Army Corps of Engineers
San Francisco Bay Conservation and Development Commission
San Francisco Bay 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, subdivision (g).

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 to the Applicant beginning March 1, 2023, for a term of 10 years, to dredge a maximum of 100,000 cy of sediment annually from the Carquinez Strait at the Valero Benicia Marine Oil Terminal, Benicia, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration is 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 interest; 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; the dredged material may be utilized for levee repair, and the dredged material may not be sold.

EXHIBIT A

LEASE 4941

LAND DESCRIPTION

A parcel of tide and submerged lands lying in the bed of the Carquinez Strait adjacent to those lands granted to the City of Benicia, as shown on Map of Grant to City of Benicia Chapter 2018 Statutes of 1965 amended by Chapter 329 Statutes of 1967 Vicinity of the City of Benicia, said map on file at the Sacramento Office of the California State Lands Commission, County of Solano, State of California, described as follows:

BEGINNING at a point on the Grant Line of said map lying distant N 31°43'46" E 245.94 feet from Station 10 of said Grant Line; thence leaving said Grant Line the following 25 courses:

- 1) S 41°25'18" E 84.66 feet;
- 2) S 48°34'42" W 1169.82 feet;
- 3) N 41°25'18" W 132.39 feet;
- 4) N 40°47'11" E 101.25 feet;
- 5) N 20°04'40" E 49.66 feet;
- 6) N 34°25'27" E 109.50 feet;
- 7) N 70°39'42" E 48.26 feet;
- 8) N 55°24'49" E 48.14 feet;
- 9) N 81°26'19" E 64.49 feet;
- 10) S 44°02'34" E 38.10 feet;
- 11) N 48°41'47" E 351.34 feet;
- 12) N 40°32'56" W 32.93 feet;
- 13) N 17°56'47" E 49.58 feet;
- 14) N 25°52'34" E 61.72 feet;
- 15) N 44°28'59" E 45.46 feet;
- 16) N 55°25'35" E 119.91 feet;
- 17) N 81°20'36" E 64.69 feet;
- 18) N 31°41'21" E 31.23 feet;
- 19) N 73°08'59" E 17.78 feet;
- 20) S 69°33'40" E 13.41 feet;
- 21) S 58°14'33" E 16.61 feet;
- 22) S 26°11'13" E 8.23 feet;
- 23) N 54°30'28" E 21.84 feet;
- 24) N 73°26'34" E 26.74 feet;
- 25) S 41°25'18" E 2.74 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying within the Grant to the City of Benicia as described in Chapter 18, Statutes of 1964, and Chapter 2018, Statutes of 1965 amended by Chapter 329, Statutes of 1967.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1927, Zone 2. All distances are grid distances.

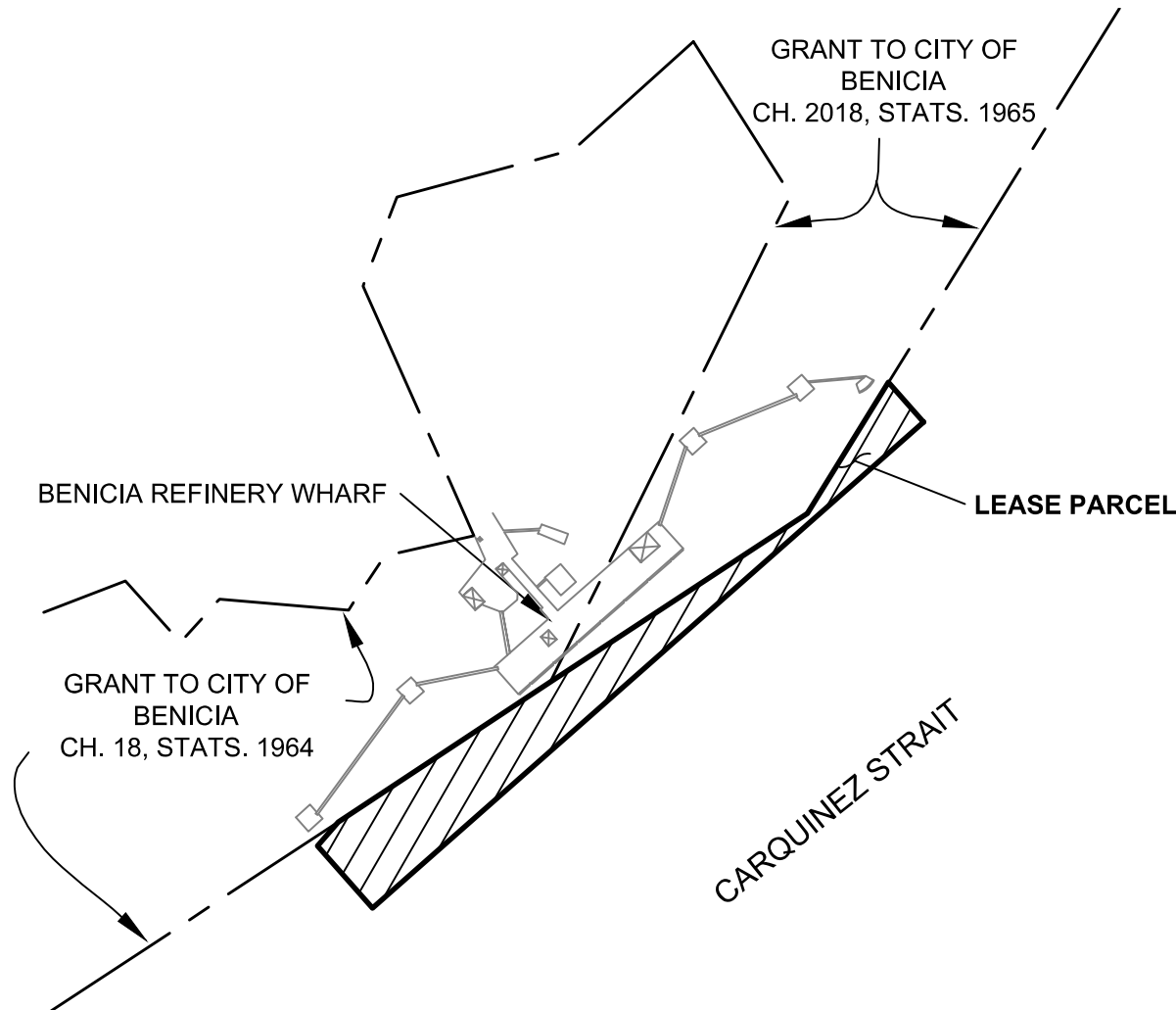
END OF DESCRIPTION

Prepared 2/1/2023 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



CARQUINEZ STRAIT, NEAR BENICIA

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 4941
VALERO BENICIA
REFINERY DOCK
GENERAL LEASE -
DREDGING
SOLANO COUNTY



DJF 2/1/2023