

# Staff Report 08

**APPLICANT:**

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County of Tehama

**PROPOSED ACTION:**

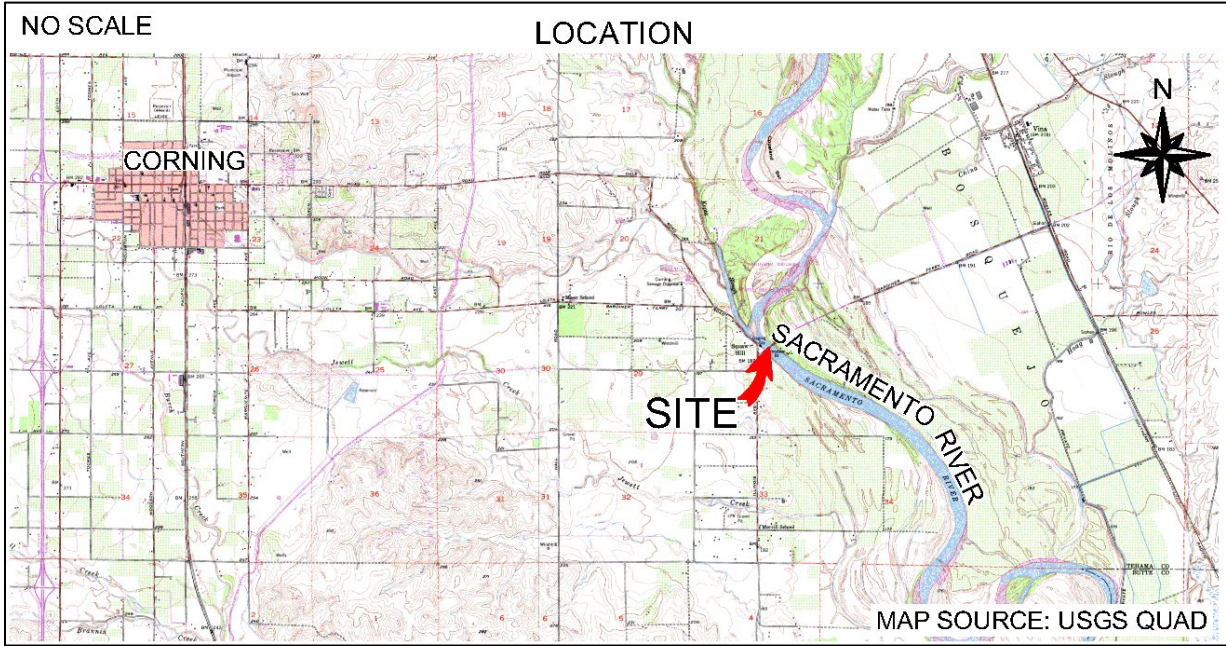
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Issuance of a General Lease – Public Agency Use

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

Sovereign land in the Sacramento River, adjacent to Gardiner Ferry Road, near Corning, Tehama County (as shown on Figure 1).

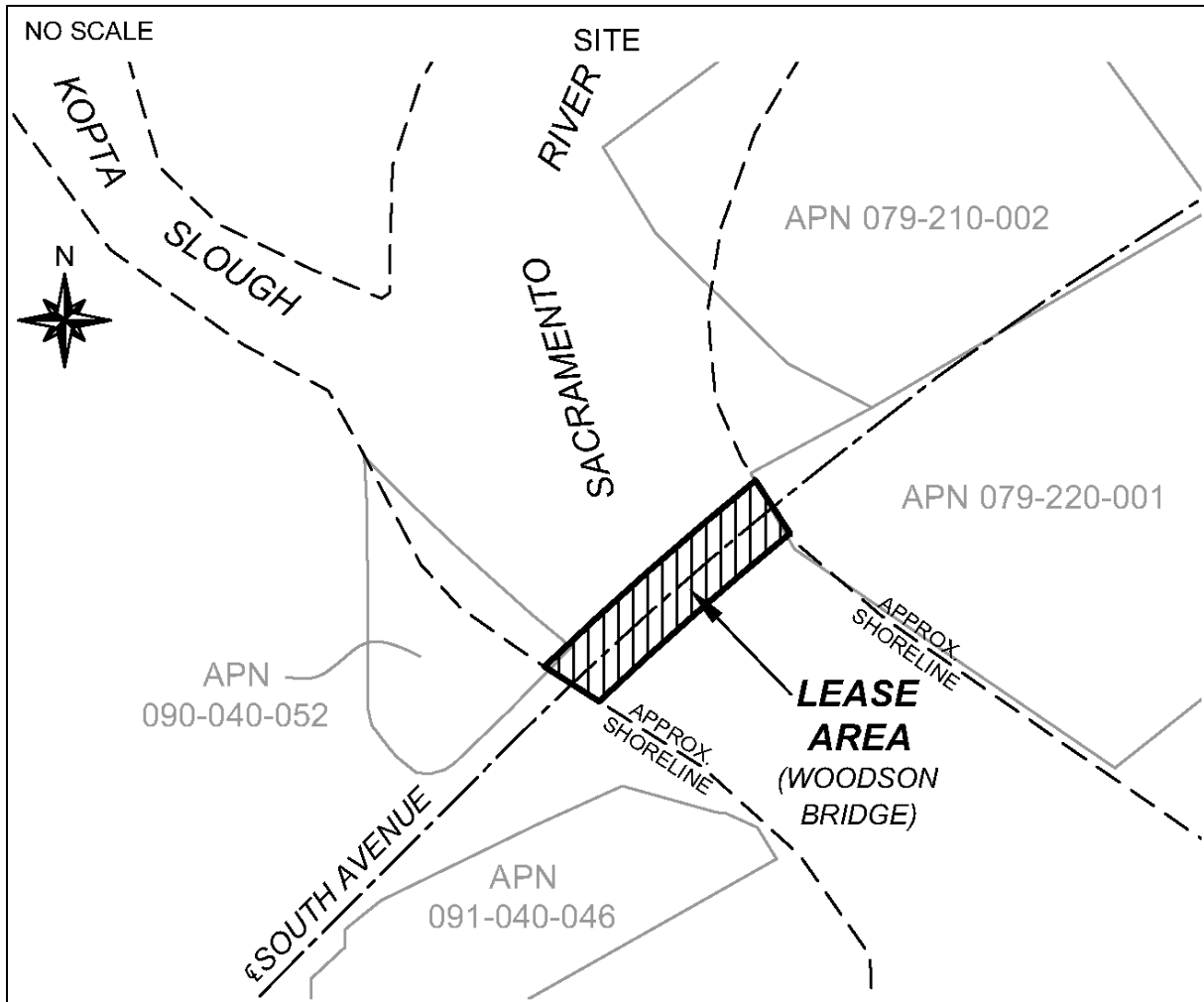
**Figure 1. Location**



**AUTHORIZED USE:**

Use and maintenance of an existing vehicle and pedestrian bridge (as shown on Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

5 years; beginning May 1, 2023.

**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 interest.

**SPECIFIC LEASE PROVISIONS:**

- Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor from all damages, injuries, or claims arising from the installation, maintenance, or operation of Lessee's facilities attached, suspended, or otherwise fixed to the Lessee improvements.
- Lessee shall not place, attach, or authorize placement or attachment of any utilities or other improvements on the subject bridge or within the Lease Premises without the Commission's prior review and approval. Separate leases or subleases are required and shall be obtained for all utilities not operated by the Lessee.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Lessee, or its qualified contractor, shall conduct an external inspection and condition assessment of the Lease Improvements at least once every two years, and when warranted by extraordinary circumstances that may undermine bridge stability or integrity.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**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 October 26, 1972, the Commission authorized issuance of a 49-year Public Agency Permit (Right-of-Way) to the Tehama County Road Department for construction and maintenance of a highway bridge to replace the existing Woodson Bridge ([Item 04, October 26, 1972](#)). That permit expired on October 31, 2021. The Applicant is applying for a General Lease – Public Agency Use, for the use and maintenance of an existing vehicle and pedestrian bridge in the Sacramento River. The subject facility has existed at this location for many years, as shown in the Applicant's lease application and Commission records.

The lease will require the Lessee to indemnify, hold harmless, and, at the option of Lessor, defend Lessor from all damages, injuries, or claims arising from the installation, maintenance, or operation of Lessee's facilities attached, suspended, or otherwise fixed to the lease improvements. Lessee shall also agree this condition and the related lease provisions regarding indemnity will extend to the period of

Lessee's unauthorized occupation of state-owned lands, from November 1, 2021 through May 1, 2023. Based on the age of this bridge, the Applicant is conducting a Feasibility Study to analyze the alternatives for rehabilitation or removal. Therefore, the proposed lease will have a term of 5 years, with a beginning date of May 1, 2023.

The subject bridge is vital infrastructure for the region and aids public transportation by operating as an east-west connector for the County. The bridge is located approximately 16 miles northwest of Chico and 5 miles east of Corning, California. Without the bridge, South Avenue would cease to exist as an important means of travel for traffic crossing between State Highway 99 and Interstate 5. It also serves the communities of Red Bluff, Corning, Chico, Los Molinos, and Gerber, California.

The bridge is inspected by Caltrans every two to three years. The bridge was last inspected by Caltrans in April 2020 and was deemed to be in working condition. The inspection included recommendations for repair work caused by wear-and-tear. The County plans to conduct a Feasibility Study to analyze rehabilitation and replacement options for the bridge. According to the County, the Feasibility Study will be completed in approximately three to five years. A short-term lease allows the County time to perform the study, while providing the state with liability protection through the lease. Importantly, the proposed lease would require the County to maintain the bridge during the term of the lease.

The subject bridge is raised more than 10 feet above the Sacramento River. The public can use the river for recreational Public Trust activities as conditions safely allow. Promotion of public access and use of California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of Statehood in the Act of Admission of the State of California into the Union (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. In addition, visitors may legally utilize public access easements around the bridge to access the river. The proposed lease includes certain provisions protecting the public use of the proposed lease area. Furthermore, the proposed lease will not substantially impede or impair Public Trust uses in this area, because the bridge height allows recreational users to pass beneath it.

The proposed lease will not interfere with navigation and does not substantially interfere with any Public Trust needs at this time or the foreseeable future. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 5-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 their original condition.

**CLIMATE CHANGE:**

The project area is not tidally influenced and therefore, would not be subject to sea level rise. However, as stated in the [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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate. Due to these potential changes, the existing bridge could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm 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 are located in an area that may be subject to effects of climate change.

**CONCLUSION:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs 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:**

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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 as authorized by law. The lessee has no right to a new lease or to renewal of any previous lease.
2. The bridge contains an attached gas pipeline and electric line owned by Pacific Gas & Electric Company (Lease 5438.1F).

3. This action is consistent with the “Meeting Evolving Public Trust Needs” and “Leading Climate Activism” Strategic Focus Areas 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084, California Code of Regulations, title 14, section 15300, and California Code of Regulations, title 2, section 2905.

## **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 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 the 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 May 1, 2023, for a term of 5 years, for the use and maintenance of an existing vehicle and pedestrian bridge; 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 interest.