

Staff Report 40

APPLICANT:

Sacramento Regional County Sanitation District

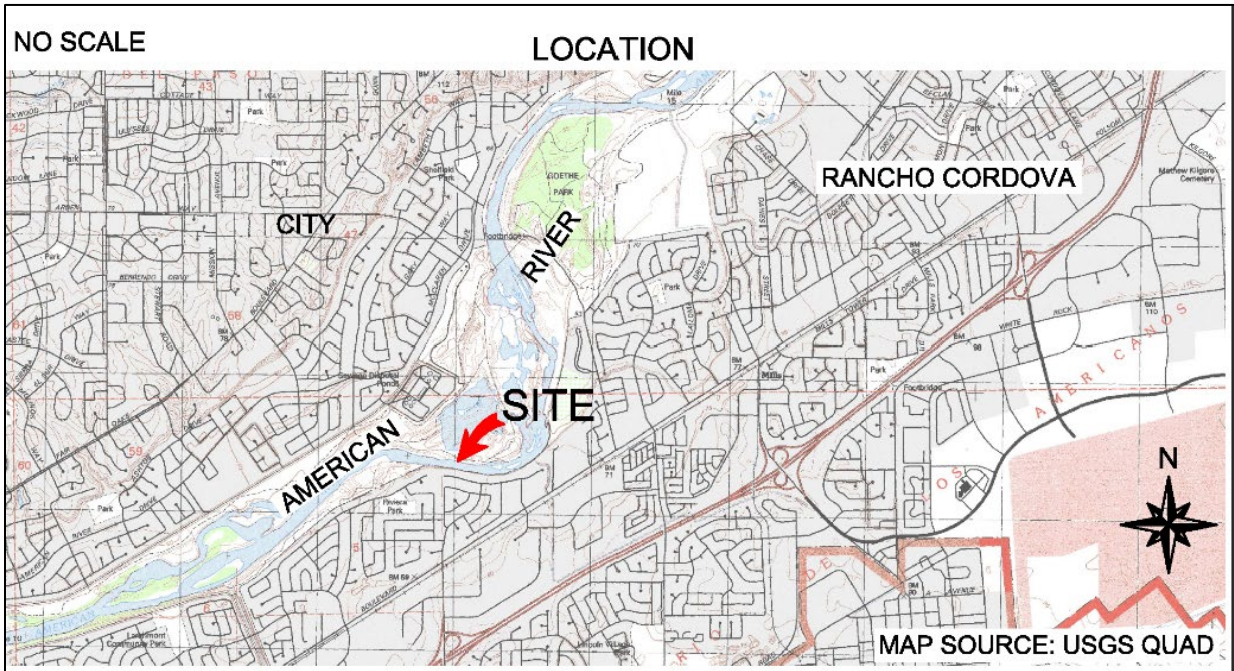
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the American River, adjacent to Assessor's Parcel Numbers 075-0370-037 and 289-0340-025, near Rancho Cordova, Sacramento County (as shown in Figure 1).

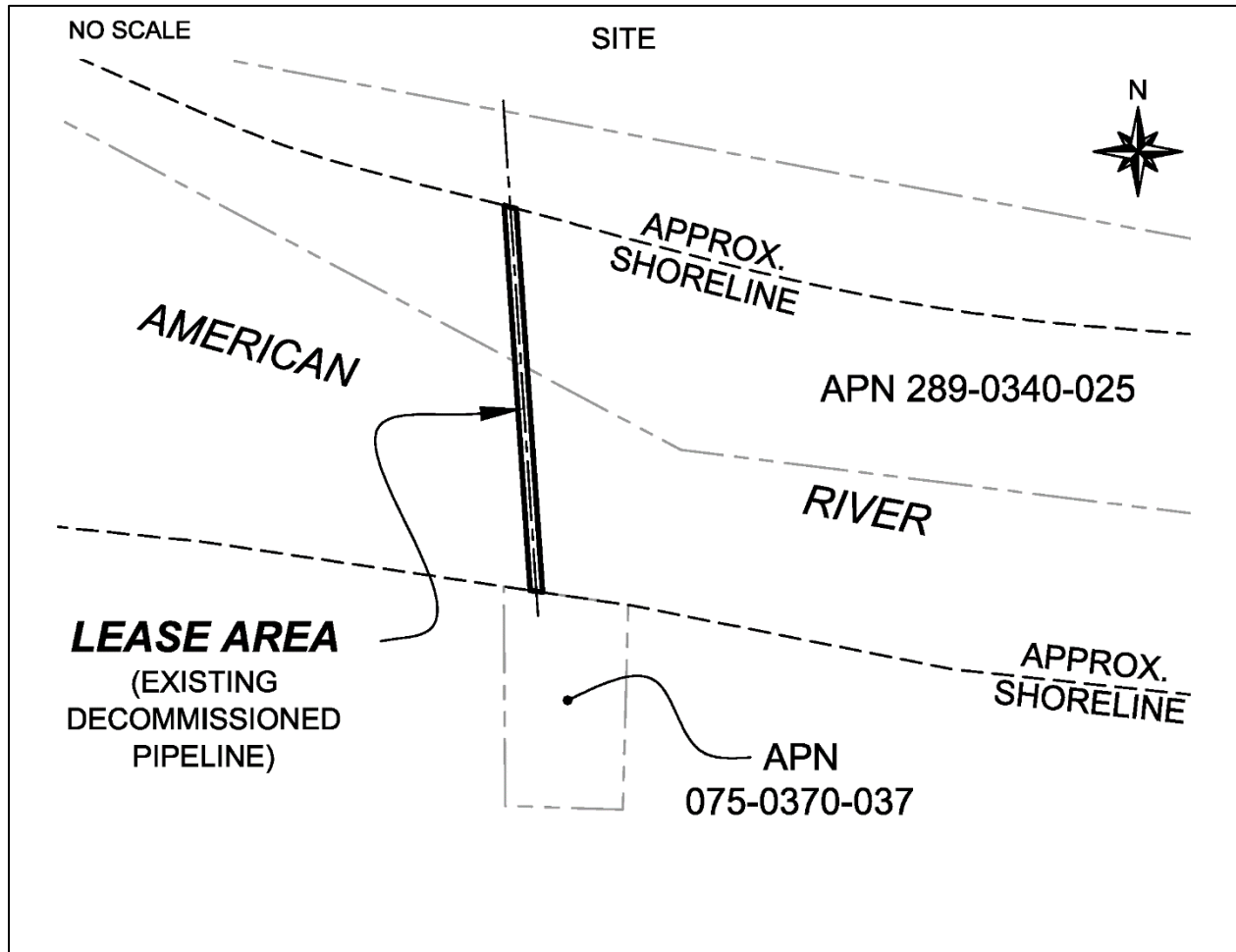
Figure 1. Location



AUTHORIZED USE:

Caretaker status, including maintenance of a non-operational 10-inch-diameter effluent pipeline (as shown in 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 April 1, 2023.

CONSIDERATION:

\$161 per year, with an annual Consumer Price Index adjustment; and \$803 to compensate for the unauthorized occupation of state sovereign land for the existing facilities for the period prior to April 1, 2023.

SPECIFIC LEASE PROVISIONS:

- Lessee shall provide a detailed work plan for the proposed removal of the non-operational effluent pipeline within the Lease Premises by April 1, 2026. Alternately, Lessee may submit an environmental assessment and justification for leaving in place the improvement otherwise required to be fully removed. Authorization for Lessee to either remove or leave any improvements on State land will require a separate discretionary action by the Commission.
- 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.

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 November 21, 1968, the Commission authorized a 49-year Public Agency Permit to Northeast Sacramento County Sanitation District for the construction of a 10-inch-diameter sanitary sewer pipeline in the American River (River) ([Item 7, November 21, 1968](#)). The lease expired March 31, 2017. The Applicant is now applying for the continued maintenance of the non-operational pipeline.

The pipeline was installed through directional boring under the River in 1969 to connect the Northeast Sacramento County Sewage Treatment Plant to the sewer collection system. In 1973, consolidation of several local sewer districts resulted in the Applicant obtaining the pipeline. The Applicant provides regional wastewater conveyance and treatment services to residential, industrial, and commercial customers throughout unincorporated Sacramento County.

In 1983, the installation of new sewer infrastructure facilitated decommissioning of the treatment plant and the pipeline. The Northeast Interceptor System Section 3 took the place of the prior system. The new system is located approximately a half a mile to the south and is authorized under Lease Number PRC 5370.

This proposed caretaker lease is for 5 years to provide the lessee time to develop and submit a plan for removal of the pipeline. The proposed lease contains language obligating the Applicant, by year 3 of the lease, to provide a plan to the Commission for removal of the pipeline and restoration of the Leased Lands.

The pipeline is in an area with moderate recreational usage. Commission staff believes that the proposed caretaker lease for the pipeline in the River will not substantially interfere with the Public Trust needs and values at this location because the pipeline is buried approximately 10 feet beneath the river bed. Public access to the River is located upstream and downstream of the pipeline at various points along the River.

The proposed lease for the pipeline does not alienate the State's fee simple interest or permanently impair public rights. In addition, the lease has a limited 5-year term and does not grant the lessee exclusive rights to the lease premises. Furthermore, the proposed lease for the pipeline will allow the Applicant to develop a plan to remove this pipeline.

Staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$803 for the period prior to April 1, 2023. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation prior to April 1, 2023, ensuring the State is protected. The proposed lease requires the lessee to indemnify the State for any liability incurred from the lessee's activities. The lease also requires the payment of annual rent to compensate the people of the State for occupying this public land.

CLIMATE CHANGE:

The 10-inch-diameter effluent pipeline is not operational and is buried approximately 10 feet beneath the bed of the River. The River is not tidally influenced at this location and therefore, would not be subject to sea level rise. However, as stated in [Safeguarding California: 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 as well as decreased bank stability and structure. Conversely, climate change induced droughts could decrease river levels and flow for extended periods of time.

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 that issuance of the proposed lease will not substantially interfere with the public rights to navigation and fishing; or substantially

interfere with the Public Trust needs and values at this location, at this time, for the foreseeable term of the 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. The lessee 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 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 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.

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 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$803 for the unauthorized occupation of State land prior to April 1, 2023.
2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 1, 2023, for a term of 5 years, for caretaker status including maintenance of a 10-inch-diameter directionally bored, effluent pipeline; annual rent in the amount of \$161, with an annual Consumer Price Index adjustment.