

# Staff Report 17

## APPLICANT:

Sonoma Resource Conservation District

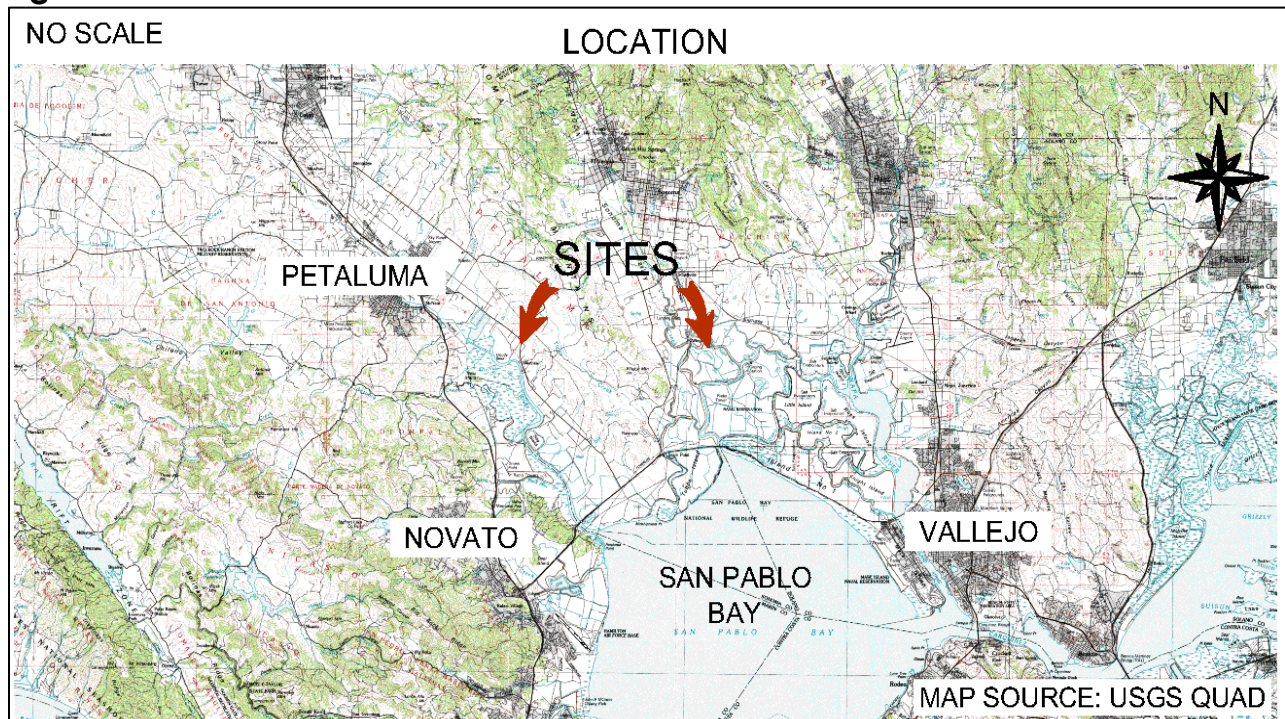
## PROPOSED ACTION:

Issuance of General Lease – Dredging

## AREA, LAND TYPE, AND LOCATION:

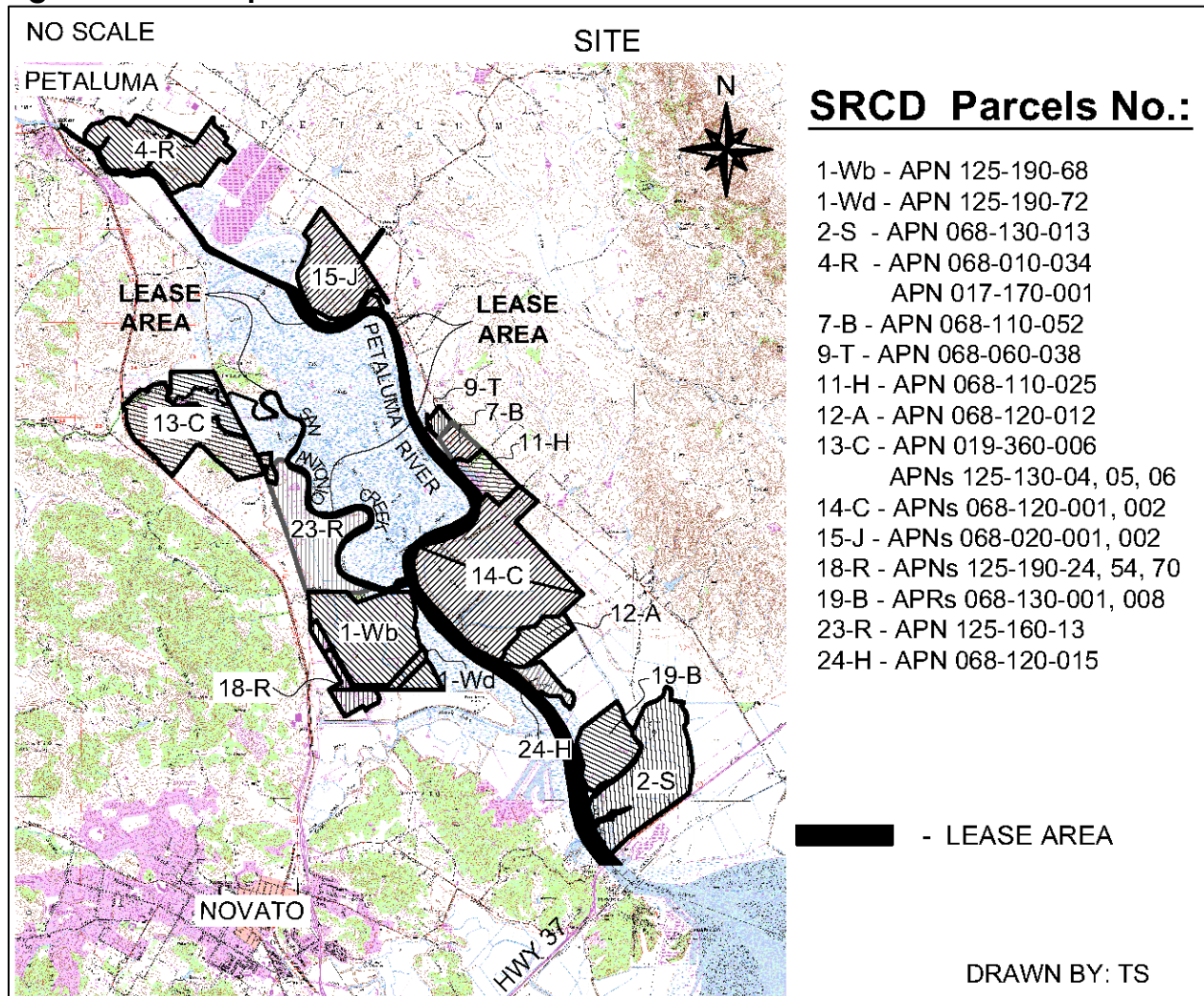
Sovereign land in the beds of San Pablo Bay, Petaluma River, San Antonio Creek, Novato Creek, Sonoma Creek, Tolay Creek, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Steamboat Slough, Schell Slough, and Railroad Slough in Marin and Sonoma Counties (as shown in Figure 1).

**Figure 1. Location**

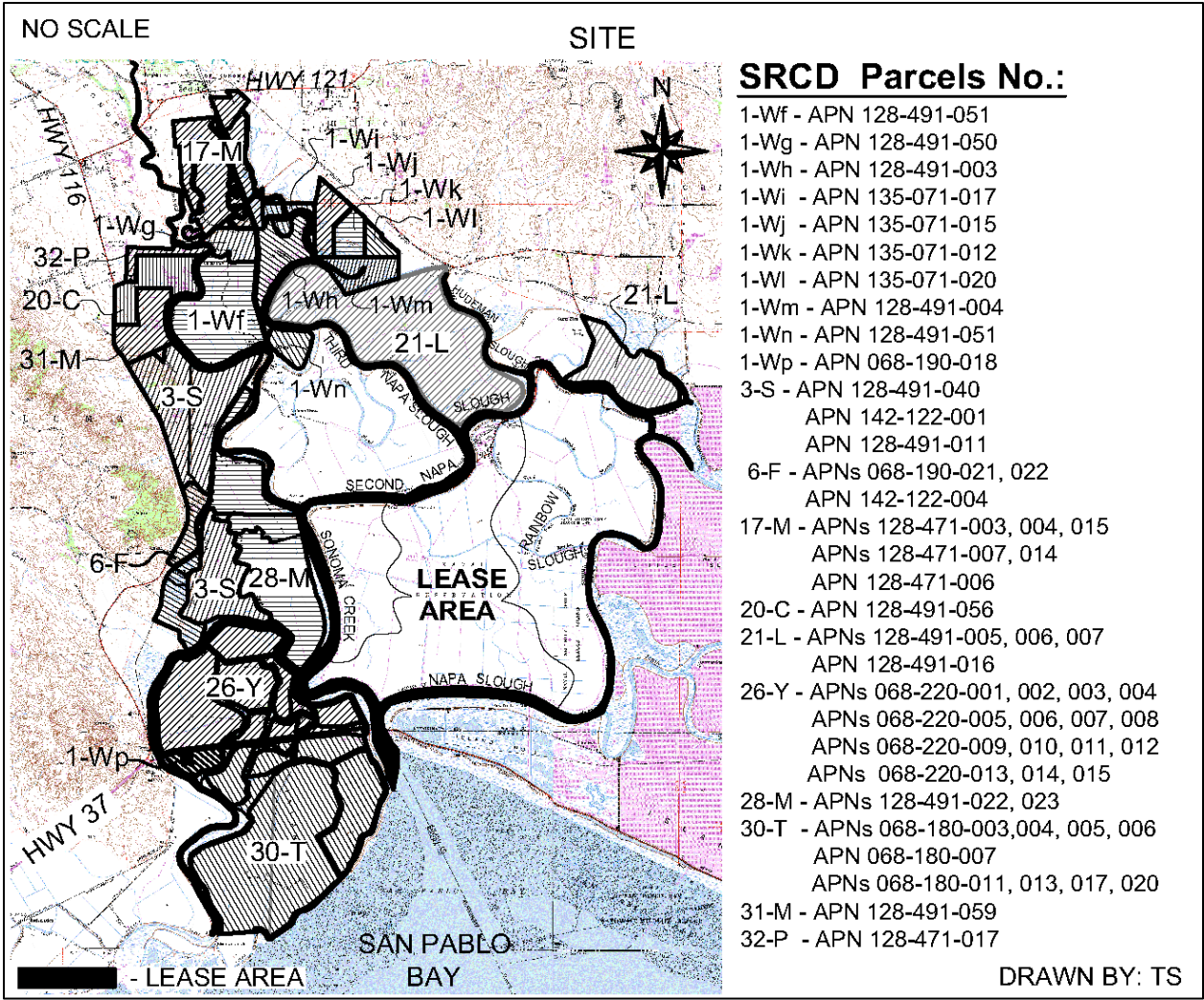


**AUTHORIZED USE:**

Maintenance dredge a maximum of 10,000 cubic yards (cy) of sediment per 2,500 linear feet of adjacent levee, per parcel, per year; but not to exceed a maximum of 75,000 cubic yards (cy) sediment annually over the 5-year lease term, for flood protection. Sediment will be placed on the adjacent levee crown. Material shall not be sold or used for any commercial purposes.

**Figure 2. Site Maps**





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 August 1, 2023.

**CONSIDERATION:**

\$140 per year, with an annual Consumer Price Index adjustment. Dredged material may not be sold or used for any commercial purpose.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence

- Lessee acknowledges that material dredged from the Lease Premises is the property of the State of California and shall not be sold or used for other purposes, 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:**

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### **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 June 21, 2018, the Commission authorized a 5-year General Lease – Dredging to the Sonoma Resource Conservation District for maintenance dredging in multiple waterways in Marin and Sonoma Counties ([Item 26, June 21, 2018](#)). That lease expired on July 31, 2023. In February 2023, the Applicant applied for a 5-year General Lease – Dredging, for maintenance dredging in the beds of San Pablo Bay, Petaluma River, San Antonio Creek, Novato Creek, Sonoma Creek, Tolay Creek, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Steamboat Slough, Schell Slough, and Railroad Slough in Marin and Sonoma Counties. The Applicant represents more than two dozen upland parcel owners in Marin and Sonoma Counties. The proposed activity is needed to protect the upland parcels from flooding and also reinforces adjacent levees. Additionally, the dredging helps maintain a navigable depth in the waterway which allows for safe boating. After performing the dredge activity, the materials will be placed on the levee crown and compressed for density. The dredging seeks to prevent levee failure and catastrophic flooding in the surrounding area which includes agriculture land.

According to the application package, the project activities include: Dredging up to 75,000 cubic yards (cy) of sediment from tidal waterways annually over a 5-year period, to maintain existing flood protection levees. The dredged sediment shall be placed directly on the adjacent levee crown for drying and grading purposes. The dredging shall not exceed four cubic yards of sediment per linear foot of levee. Additionally, the dredging for maintenance of each levee shall not exceed 10,000 cy of sediment per 2,500 linear feet per parcel per year.

The material would be removed through mechanical clamshell dredge with placement of material into a scow. The mechanical clamshell dredge consists of a

crane mounted on a barge, with a clamshell bucket on the end of the crane boom. The scows are open barges that can carry large quantities of sediment. The dredged material would be removed from the waterway and placed on the scow. The dredged material would then be placed on the crown of the adjacent levee. The dredging will occur during the in-water work windows between August and October, as directed by permits from all regulatory agencies.

The proposed dredging would enhance navigational depths and facilitate continued navigation in the waterways. 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 5-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 levees are located on San Pablo Bay, Petaluma River, San Antonio Creek, Novato Creek, Sonoma Creek, Tolay Creek, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Steamboat Slough, Schell Slough, and Railroad Slough, in tidally influenced sites consisting of low-elevation reclaimed floodplains that are 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 locations. 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 and are subject to change.

In addition, 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, fire, drought, extreme heat, and storms (especially when coupled with sea level rise). In rivers and 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 river levels and flow for extended periods of time. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour leading to decreased bank and levee stability and excessive sediment accretion within the channels.

Regular maintenance dredging of the lease areas will decrease the occurrences of elevated wave crests, severe bank and levee degradation, and excessive sediment accretion within the channels in the event of a severe storm. The lease area dredging depth varies based on the depth of the channel as built when constructed.

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, including sea level rise.

### **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:**

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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 Applicant 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 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:**

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U.S. Army Corps of Engineers  
U.S. Fish & Wildlife Service  
National Marine Fisheries Service  
California Department of Fish & Wildlife  
SF Regional Water Quality Control Board  
San Francisco Bay Conservation & Development Commission

## **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 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 to the Applicant beginning August 1, 2023, for a term of 5 years, to dredge a maximum of 10,000 cubic yards (cy) of sediment per 2,500 linear feet of adjacent levee, per parcel, per year; but not to exceed a maximum of 75,000 cubic yards (cy) sediment annually over a 5-year period from San Pablo Bay, Petaluma River, San Antonio Creek, Novato Creek, Sonoma Creek, Tolay Creek, Napa Slough, Second Napa Slough, Third Napa Slough, Hudeman Slough, Steamboat Slough, Schell Slough, and Railroad Slough; annual rent in the amount of \$140, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; and the dredged material may not be sold or used for any commercial purpose.