

Staff Report 28

APPLICANT:

City of Stockton

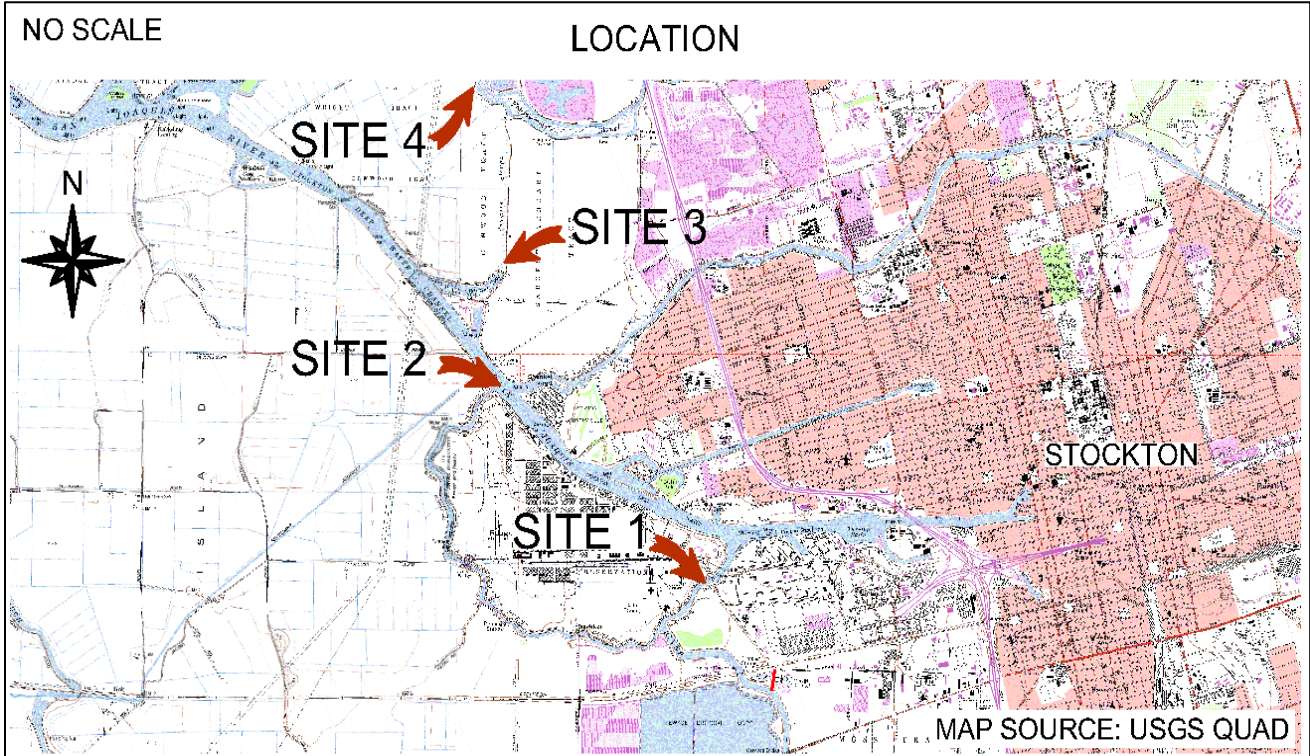
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Twelve Mile Slough, Ten Mile Slough, San Joaquin River, and the Stockton Deep Water Channel, Stockton, San Joaquin County (as shown in Figure 1).

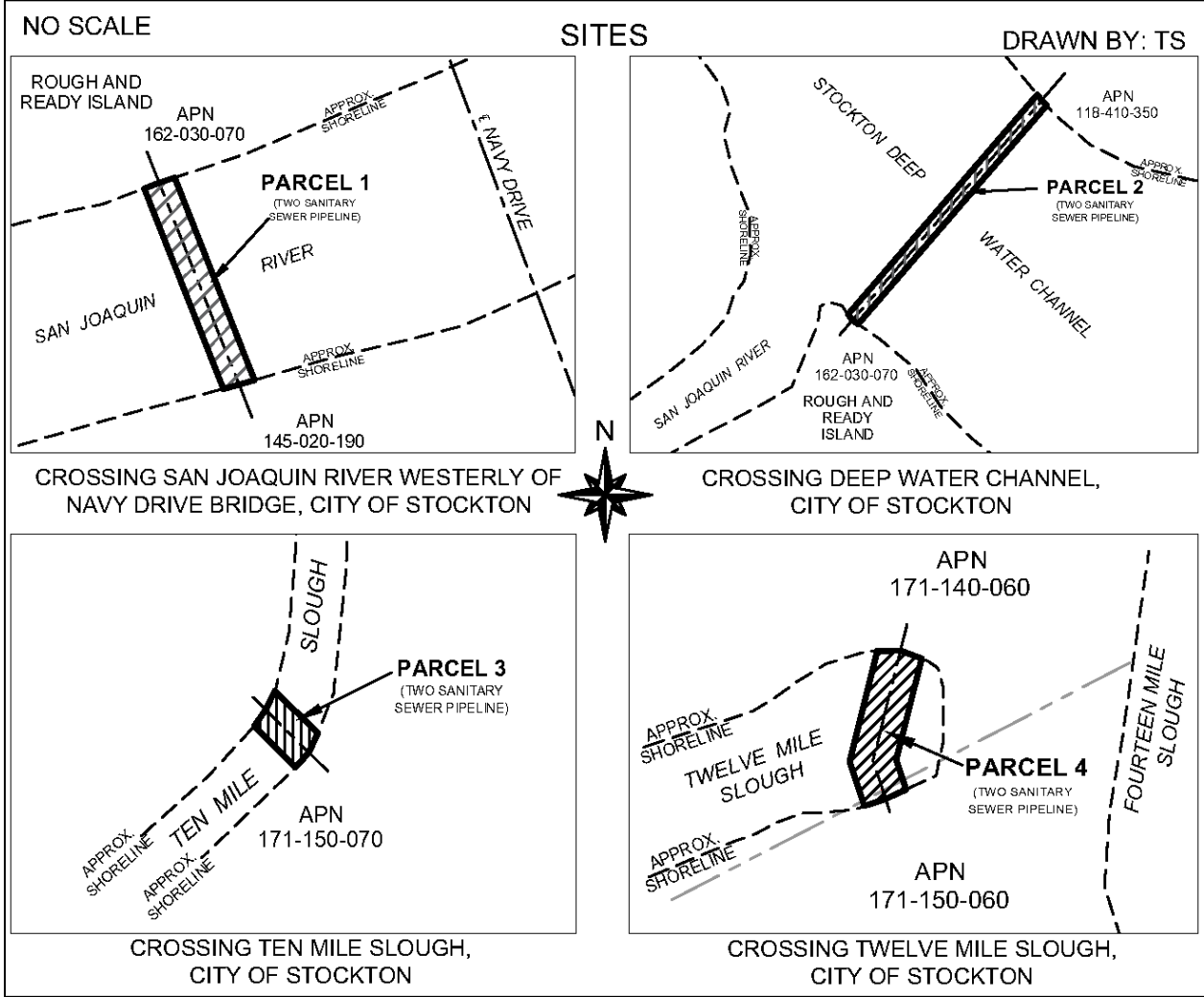
Figure 1. Location



AUTHORIZED USE:

Continued use of sewer pipelines (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:

20 years, beginning August 17, 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.

SPECIFIC LEASE PROVISIONS:

- Lessee shall provide Lessor copies of all periodic inspection results of the pipeline, including pipe-to-soil potential surveys of the pipeline.
- 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, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On May 5, 1992, the Commission authorized a 30-year General Permit – Public Agency Use to the Applicant for the installation, use, and maintenance of sewer pipelines in Twelve Mile Slough, Ten Mile Slough, Five Mile Slough, Mosher Slough, San Joaquin River, and the Stockton Deep Water Channel ([Item 51, May 5, 1992](#)). On July 11, 1997, the Commission authorized amendment of the permit to remove Mosher Slough and Five Mile Slough crossings from the authorized locations; and revise the pipeline diameter, alignment, and pipeline type ([Item 8, July 11, 1997](#)). The permit expired March 31, 2022. The Applicant is now applying for the continued use of the sewer pipelines.

The Applicant operates and maintains a sanitary sewer collection system which transports wastewater from within the City of Stockton and nearby County of San Joaquin areas to the Regional Wastewater Control Facility (RWCF). The sanitary collection system transports, treats, and appropriately disposes of wastewater. RWCF treats an average of 33 million gallons of wastewater per day for more than 116,000 residential, commercial, and industrial sewer connections within the city and county areas. The pipelines serve as a conveyance of wastewater flow from the north and west portions of the City’s sanitary sewer service area to RWCF treatment facilities. The sanitary sewer collection system provides a public benefit, which staff believes to be adequate consideration for the lease.

The Applicant will submit surveys, inspections, and maintain the pipelines. The proposed lease includes terms requiring periodic inspections of the pipeline, including pipe-to-soil potential surveys. The surveys and inspections will reduce the likelihood of structural pipeline degradation and potential hazards.

The sewer pipelines are buried beneath the beds of the waterways. Commission staff believes that the proposed lease for the pipeline crossings in the various waterways would not substantially interfere with the Public Trust needs and values at this location because the pipelines are located under the waterways allowing for continual recreational use and navigation of the waterways.

The proposed lease for the various pipeline crossings does not alienate the State's fee simple interest or permanently impair public rights. The lease has a limited 20-year term and does not grant the Lessee exclusive rights to the lease premises. Furthermore, the proposed lease requires the Lessee to indemnify the State for any liability incurred as a result of the Lessee's activities thereon. This indemnity will include the period of unauthorized occupation between the expiration of the prior permit and issuance of the proposed permit.

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 subject facility is located at several locations near the city of Stockton on the San Joaquin River in tidally influenced sites 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 lease area 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.

This effect could increase the San Joaquin River, Stockton Deep Water Channel, Ten Mile Slough, and Twelve Mile Slough's inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. 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 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.

The existing pipelines extend across the rivers, sloughs, and channels and are buried under the riverbed. More frequent and stronger storm events may cause the pipelines to be damaged or dislodged, exposing the public to hazardous materials as well as presenting danger for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, reducing navigability of the channel. Regular maintenance and inspection, as required by the lease, will reduce the likelihood of structural degradation.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not under lease) 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:

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 Area of the Commission's 2021-2025 Strategic Plan.

3. The proposed lease includes a lease maintenance agreement to cover staff costs to comply with the lease terms.
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 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:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 17, 2023, for a term of 20 years, for continued use of sewer pipelines in Twelve Mile Slough, Ten Mile Slough, San Joaquin River, and the Stockton Deep Water Channel, Stockton; and 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.