

Staff Report 36

APPLICANT:

Marathon Petroleum

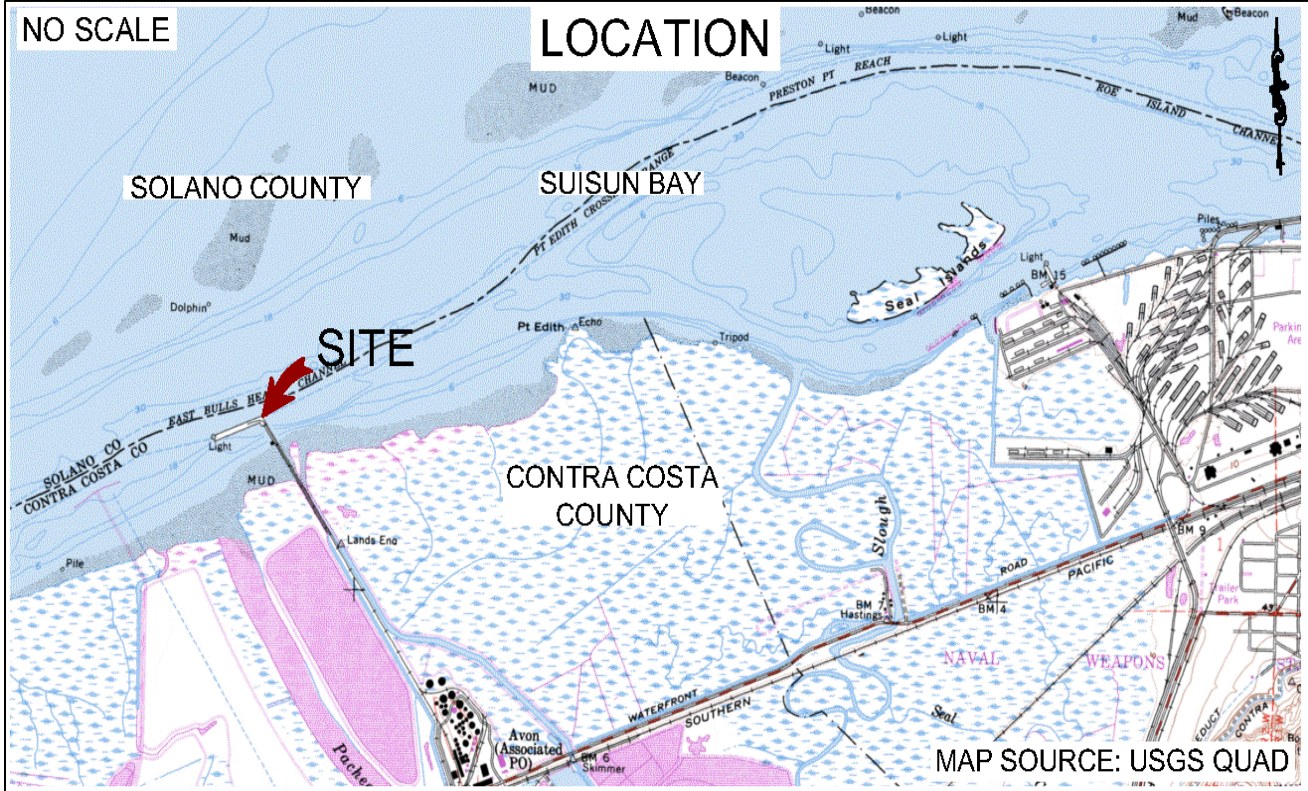
PROPOSED ACTION:

Issuance of General Lease – Dredging.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Carquinez Strait at Marathon Avon Marine Oil Terminal, near Martinez, Contra Costa County (as shown in Figure 1).

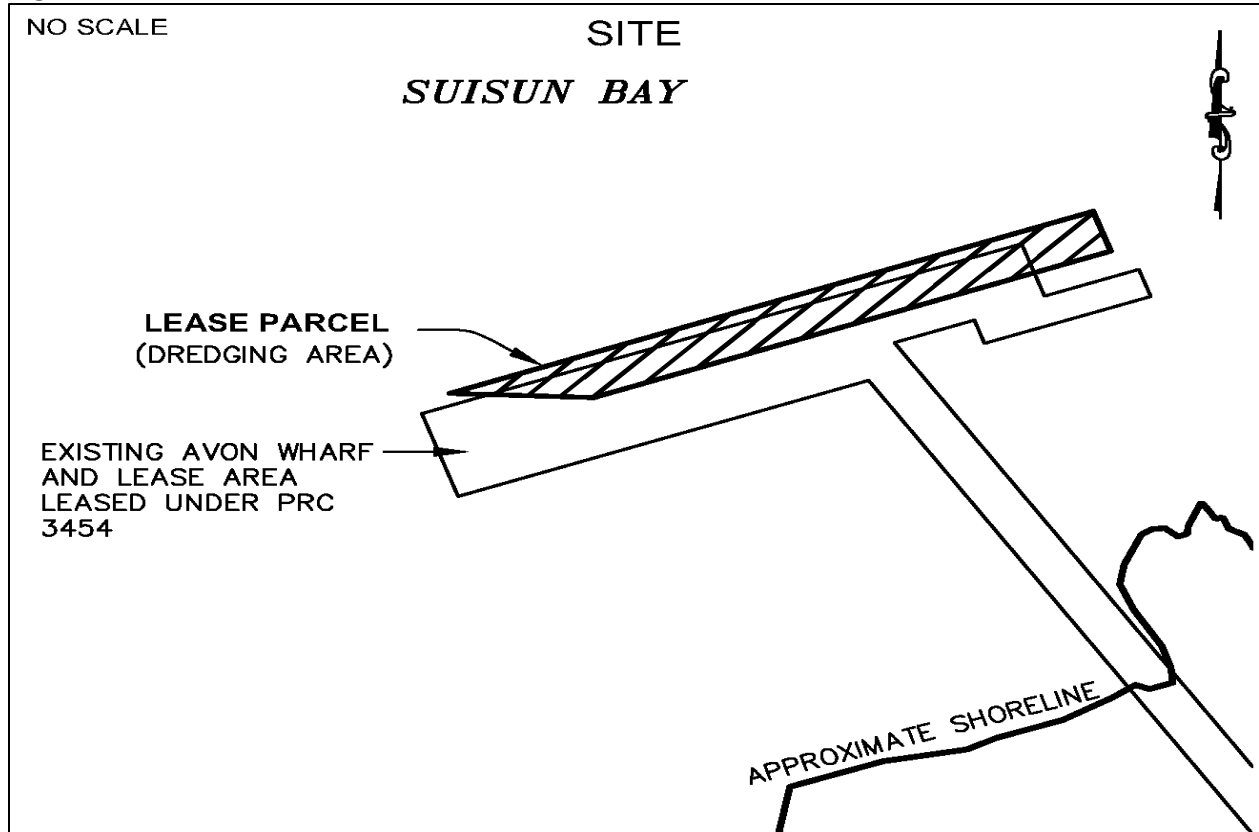
Figure 1. Location



AUTHORIZED USE:

Maintenance dredge of a maximum of 25,000 cubic yards (cy) of sediment over the duration of the lease to maintain a navigable depth at the location shown in Figure 2. Dredged material will be disposed of at one of the U.S. Army Corps of Engineers and Dredge Material Management Office-approved disposal sites identified as Carquinez Disposal Site (SF-09), the Cullinan Ranch Restoration Project, or the Montezuma Wetlands Restoration Project.

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:

10 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; 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 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.
- Dredging may only occur between August 1 and November 30 of any year.

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 August 14, 2012, the Commission authorized a 10-year General Lease – Dredging, to Tesoro Refining and Marketing Company (Tesoro) for maintenance dredging of a maximum of 25,000 cy of sediment over the duration of the lease, from the Carquinez Strait to maintain a navigable depth and allow safe navigation at the Avon Marine Oil Terminal (wharf) ([Item C54, August 14, 2012](#)). The lease expired on August 13, 2022.

In 2017, Tesoro changed its name to Andeavor following its acquisition of Western Refining. Then in 2018, Andeavor entered into a definitive merger agreement with Marathon Petroleum under which Marathon Petroleum acquired all of Andeavor's outstanding shares. The merger closed on October 1, 2018 with Marathon assuming all of Andeavor's lease obligations.

The Applicant has applied for a General Lease – Dredging for maintenance dredging of approximately 25,000 cy of sediment over the duration of the lease from the wharf area within the Carquinez Strait. The dredging is in support of the safe mooring of vessels at the Avon Marine Oil Terminal (PRC 3453.1). The maintenance dredging is required to maintain safe navigable depths at the wharf.

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 will occur

during the in-water work windows between August 1 through November 30 for the in-Bay and out-of-Bay placement sites. There is not an established work window for the fish known as the longfin smelt. The longfin smelt is listed as a threatened species under the California Endangered Species Act. The Applicant does not anticipate impacts to the longfin smelt from dredging.

The dredging provides public benefit by improving navigational depths facilitating operation and safety of the dock and enhances navigation in the Carquinez Strait. The Avon wharf, while under private use as a Marine Oil Terminal, provides a safe mooring location in the event a large passing vessel requires assistance. Dredging ensures the terminal can operate in this capacity. 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 near Martinez in the Carquinez Strait, which is a tidally-influenced site with improvements that may be vulnerable to flooding at current sea levels.

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. 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.

In the foreseeable future, this area will be at a higher risk of flood exposure given future projection scenarios of sea level rise. Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events. 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 tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris.

The combination of these projected conditions could increase the likelihood of damage to structures adjacent to the lease premises during the term of the lease. The facilities adjacent to this lease area include a marine oil terminal pier and causeway within the Carquinez Strait. For example, the potential for more frequent and stronger storm events may cause future exposure to the lease area by increasing sediment accretion adjacent to the pier and pilings presenting hazards to public safety, as well as dangers for navigation within the channel.

The application is for a dredging lease and may require more frequent dredging events in the future to ensure continued functionality of the wharf area during and after storm seasons. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises may be subject to effects of climate change, including sea level rise.

ENVIRONMENTAL JUSTICE:

Consistent with the Commission's Environmental Justice Policy, 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, low birth weight, and cardiovascular disease. In addition, the same data showed groundwater threats, hazardous waste, and impaired water. As part of an environmental justice outreach and engagement effort, on July 3, 2023, staff reached out to environmental justice organizations in Contra Costa County, providing notification of the proposed lease and requesting input. The letters included a brief description of the proposed lease activities and conveyed a desire to learn from the perspectives of the local community. In addition, the letters mentioned the adjacent Avon wharf and that the dredging would allow for the continual navigation of vessels and mooring at the wharf. Commission staff sent follow-up email and phone calls to the environmental justice organizations. As of the posting of this staff report, no responses to the outreach letters have been 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. 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.
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:

U.S. Army Corps of Engineers
San Francisco Bay Conservation and Development Commission
San Francisco Bay Regional Water Quality Control Board

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.

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 17, 2023, for a term of 10 years, to dredge a maximum of 25,000 cy of sediment over the duration of the lease from the Carquinez Strait at the Marathon Avon Marine Oil Terminal, near Martinez; 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; and the dredged material may not be sold.