

Staff Report 17

APPLICANT:

City of Stockton

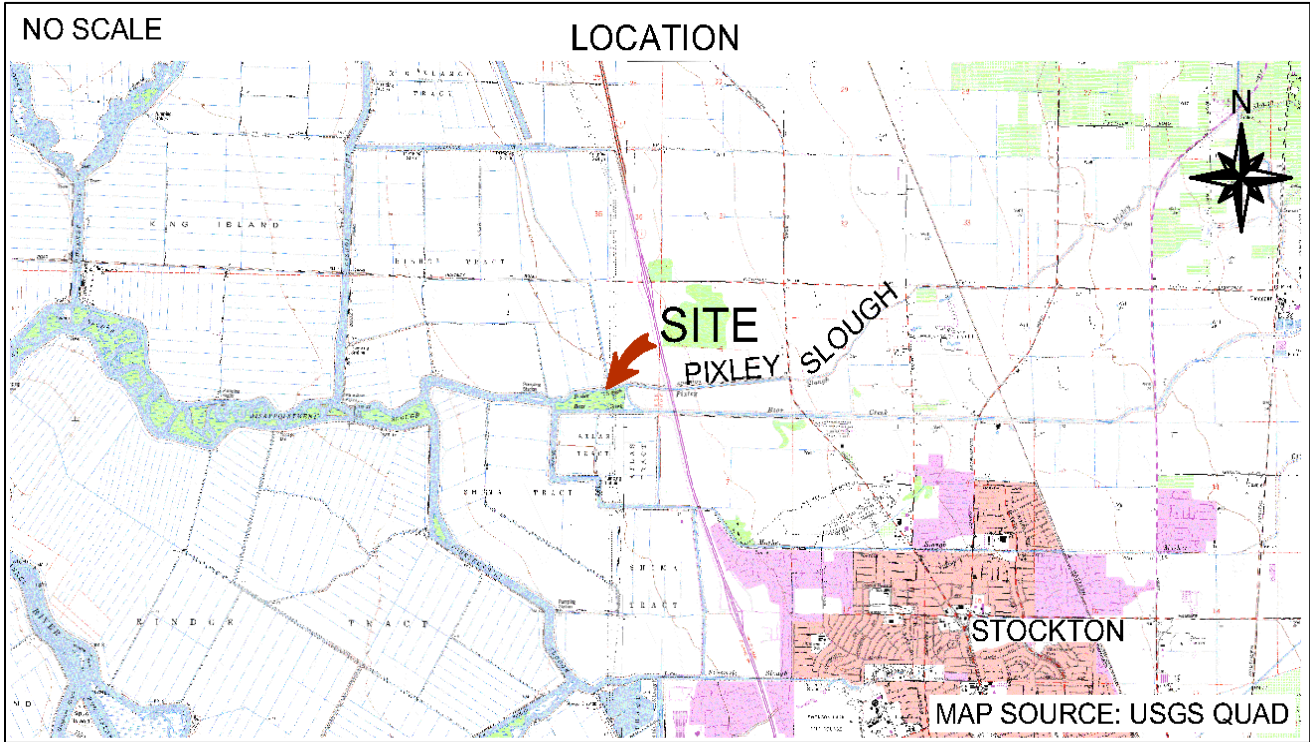
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Pixley Slough, adjacent to Assessor's Parcel Number 066-030-010, near Stockton, San Joaquin County (as shown in Figure 1).

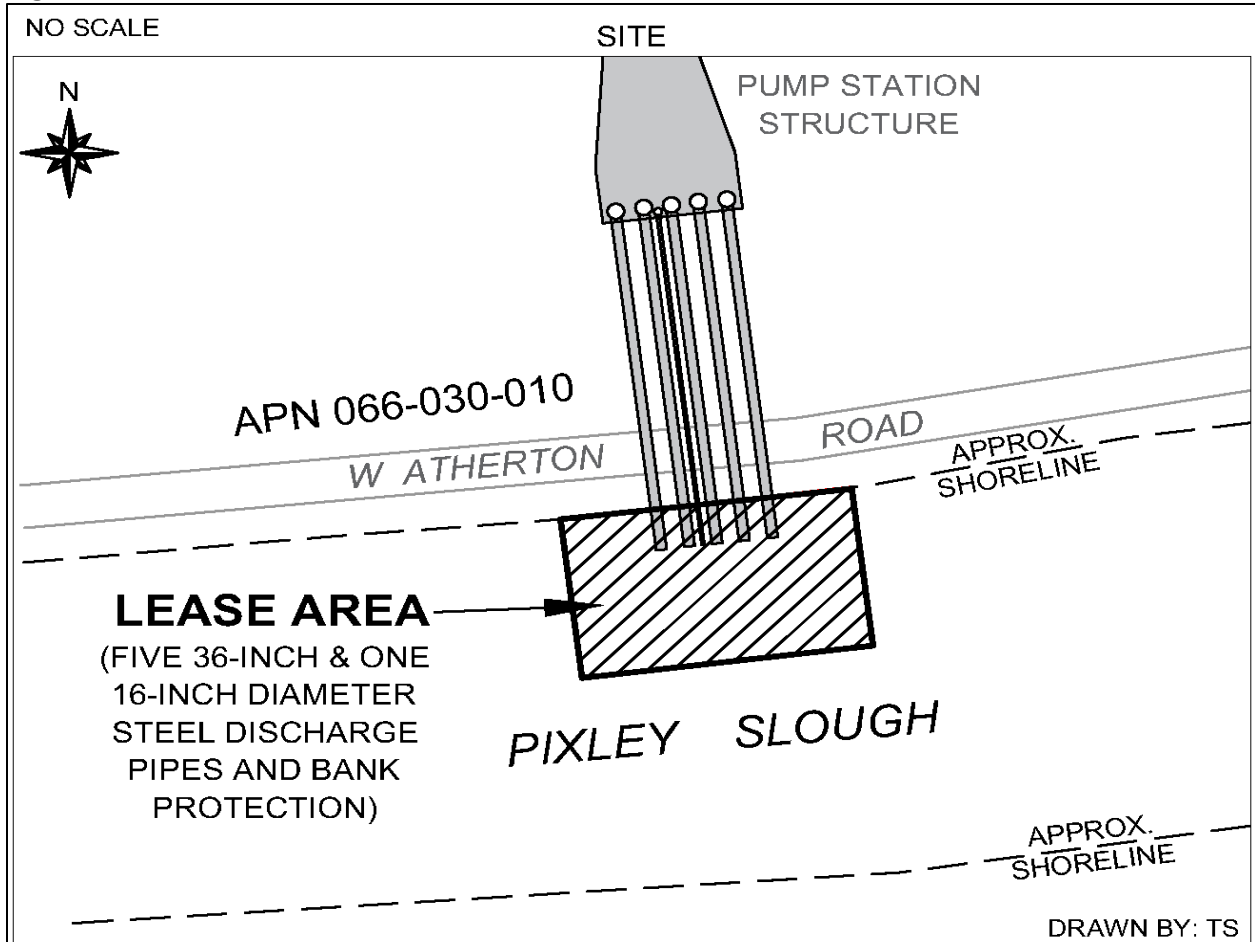
Figure 1. Location



AUTHORIZED USE:

Use of an existing stormwater outfall consisting of five 36-inch-diameter steel discharge lines, one 16-inch-diameter steel discharge line, and bank protection (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 October 19, 2023.

CONSIDERATION:

The public health, safety, 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 conduct a condition assessment, certified by a California registered Civil/Structural Engineer, of the discharge pipes, concrete spillway and its walls, rock protection and concrete mat within the Lease Premises to confirm their fitness for purpose and continued use. Additionally, Lessee shall conduct such condition assessment when warranted by extraordinary circumstances.
- Lessee shall install and maintain an adequate cathodic protection system for the discharge pipes within the Lease Premises. Lessee shall promptly provide Lessor, at no cost to Lessor, with copies of all periodic inspection results of the cathodic protection system operation including pipe to soil potential surveys of the pipeline within the Lease Premises.
- Lessee shall comply with all existing and subsequently enacted laws or regulations promulgated by the federal, state, and local agencies having lawful authority and jurisdiction over the improvements.
- 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.

BACKGROUND:

On April 24, 2001, the Commission authorized issuance of a General Lease – Industrial Use to A.G. Spanos Construction, Inc., for the construction, use, and maintenance of a stormwater outfall consisting of five 36-inch-diameter steel discharge lines, one 12-inch-diameter steel discharge line, and bank protection in Pixley Slough (Slough), adjacent to Assessor's Parcel Number (APN) 066-030-010, near Stockton, San Joaquin County ([Item 35, April 24, 2001](#)). That lease started on April 1, 2001, and expired on March 31, 2021. On October 6, 2004, the Commission authorized the termination of a General Lease – Industrial Use, acceptance of a quitclaim from the Lessee, and issuance of a General Lease – Public Agency Use to the Applicant ([Item 28, October 6, 2004](#)). That lease started on June 14, 2001, and ended on June 13, 2021. As-built plans submitted to the Commission show that a 16-inch-diameter discharge line was installed instead of the authorized 12-inch-diameter line, without notification to staff.

The Applicant is applying for a General Lease – Public Agency Use, for use of the existing stormwater outfall consisting of five 36-inch-diameter steel discharge lines, one 16-inch-diameter steel discharge line, and bank protection in Pixley Slough. Staff recommends starting the new lease on the proposed authorization date of October 19, 2023. The Applicant will indemnify the Commission for the period of

occupation while not under lease noted as June 14, 2021 through October 18, 2023.

The improvements are located in Pixley Slough adjacent to Assessor's Parcel Number 066-030-010, near Stockton, California. The improvements occupy a small area of State-sovereign land in the Slough. The improvements are located below the ordinary high-water mark of the Slough and therefore fall under State jurisdiction. The Applicant maintains a Stormwater Management Program (SWMP) and National Pollutant Discharge Elimination System permit. According to the application package, the SWMP's overarching goal is to reduce the degradation of waters impacted by urban runoff and protect them for beneficial uses and to develop and implement a SWMP that is well understood and broadly supported by regional stakeholders. The core objectives include but are not limited to: identifying and controlling pollutants in urban runoff that pose significant threats to waters and protect beneficial uses; comply with federal regulations regarding the discharge of pollutants from urban runoff associated with stormwater drainage systems; meet compliance with water quality standards; develop a cost effective program which focuses on pollution prevention of urban stormwater; seek cost effective alternative solutions; and coordinate the implementation of control measures with other agencies.

Based on the application package and public benefits statement, the subject improvements offer a local, regional, and Statewide benefit to the public. The benefits include providing essential infrastructure for water conveyance and disposal purposes; facilitating sanitation for public health and safety; and reducing potential flood risks related to the effects of climate change. The improvements serve residential, commercial, and industrial connections within the city and nearby San Joaquin County areas. The improvements are maintained by the Applicant and its affiliates which include environmental and engineering specialists.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The existing improvements facilitate water conveyance and disposal of stormwater, thereby increasing flood protection measures. The existing bank protection provides support for the infrastructure by minimizing scouring from the discharged

water and bank degradation that could affect the structural stability of the infrastructure. The proposed lease will enhance water quality thereby improving public health and safety. Furthermore, the action will not impair any other Public Trust uses in the area based on the type and location of the improvements. The improvements do not impair public access to the Slough and will not impede the Public Trust uses. Waterborne activities such as rafting, kayaking, and fishing in the Slough are possible through nearby access points. The public can fish in the Slough using watercraft such as kayaks and canoes.

The proposed lease includes certain provisions protecting the public's use of the proposed lease area by requiring the Applicant to obtain all necessary permits. The lease also has a limited term of 20 years that allows the Commission flexibility to determine if Public Trust needs of the area have changed over time. Upon termination of the lease, the Lessee may be required to remove all improvements from State land and restore the lease premises to its natural condition.

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 existing stormwater discharge conduits are located on the Slough, which is a tidally influenced site 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 and structures. 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.

This effect could increase the Slough's inundation levels within the lease area. 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, creeks, 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 and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to the conduits, walking and biking trail upland of where these conduits drain into the Slough, as well as the protective structure along the Slough during the term of the lease. The conduits may need to be upgraded to avoid being below future water levels and prevent backups. Higher water levels might reduce the discharge rate and effectiveness of the stormwater infrastructure (see [Adapting to Rising Tides: Flood Control and Stormwater](#)). Vegetation on the bank provides additional stability and may reduce the amount of erosion and scour pressure experienced during future events because of the vegetation's underground root system; but the bank remains at risk of accelerated deterioration from currents and floods. As stated earlier, the existing bank protection also provides support for the stormwater discharge conduits by minimizing scouring from the discharged water and bank degradation that could affect the structural stability of the infrastructure.

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, including sea level rise.

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 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. If the Commission denies the

application, the Applicant will not be authorized to use the improvement as defined in lease documents. The Applicant has no right to a new lease or a renewal of any previous lease.

2. This action is consistent with the “Leading Climate Change Activism and “Meeting Evolving Public Trust Needs,” 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 term of the proposed lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning October 19, 2023, for a term of 20 years, for the use of an existing stormwater outfall consisting of five 36-inch-diameter steel discharge lines, one 16-inch-diameter steel discharge line, and bank protection; and consideration being the public health, safety, 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.