

# Staff Report 18

## APPLICANT:

City of Stockton

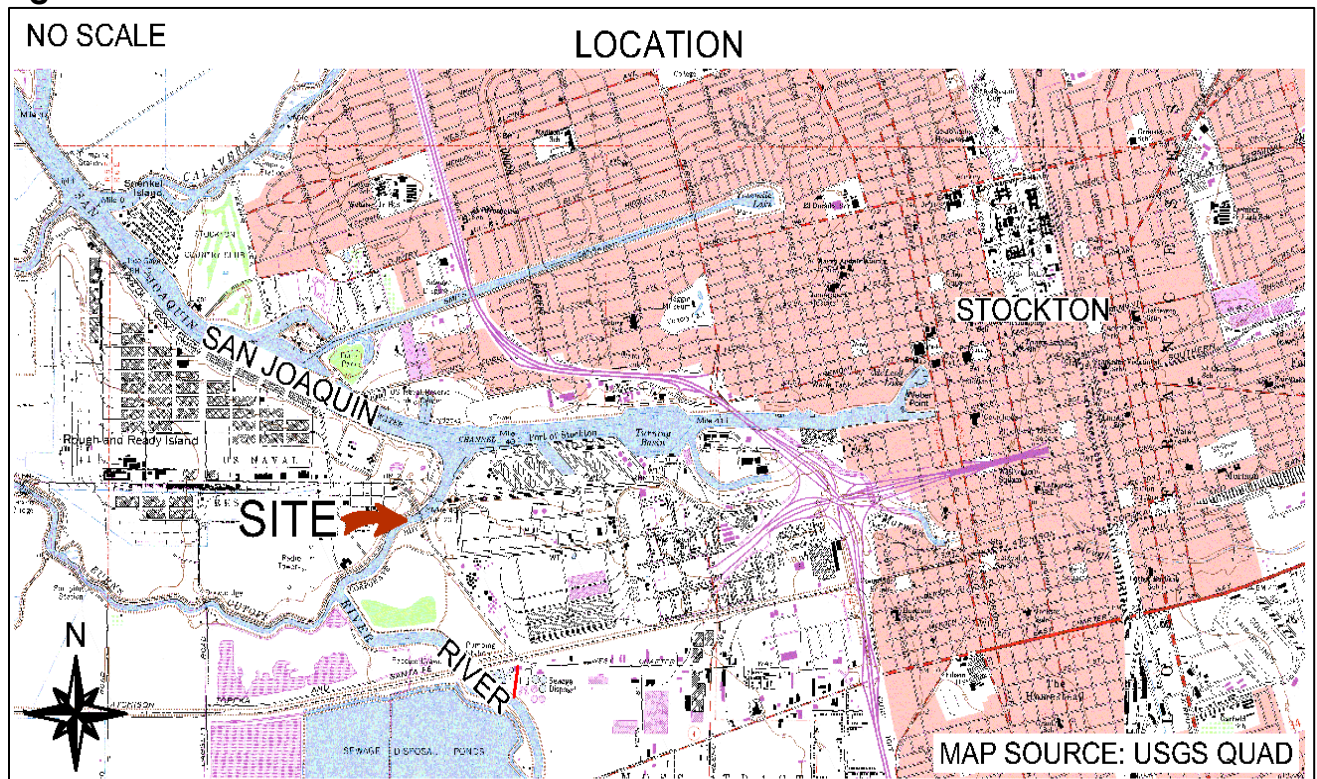
## PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Number 162-030-070 and 145-020-190, Stockton, San Joaquin County (as shown in Figure 1).

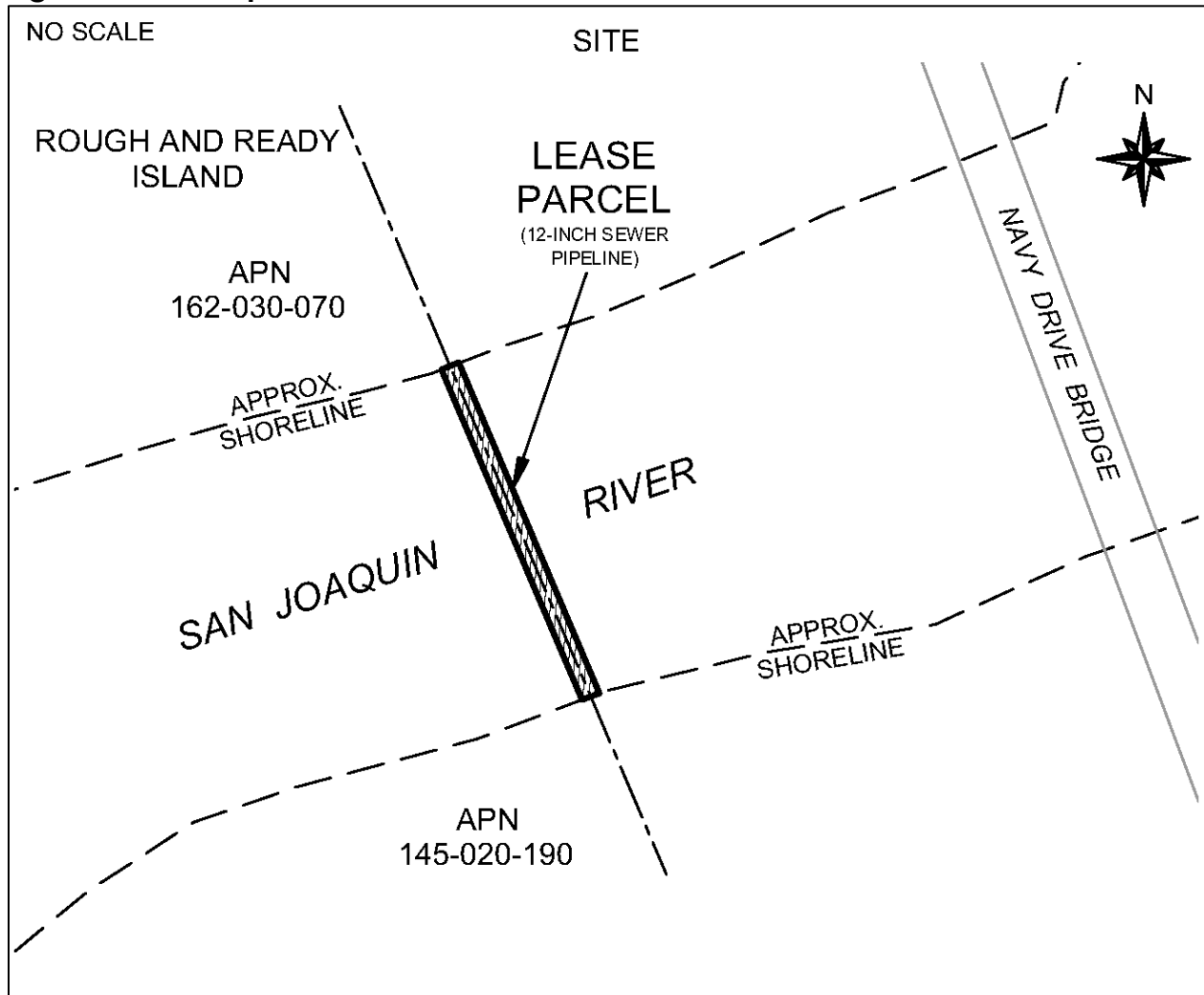
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing 12-inch-diameter sewer force main (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 agrees and acknowledges that the hazards associated with sea level rise may require additional maintenance or protection strategies regarding the improvements on 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 pipeline within the Lease Premises.
- Lessee shall conduct burial depth surveys of the existing pipeline within the Lease Premises and shall submit to Lessor for review copies of the survey results.
- Lessee shall conduct a condition assessment, certified by a California registered Civil/Structural Engineer, of the existing pipeline within the Lease Premises to confirm its fitness for purpose and continued use. Additionally, Lessee shall conduct such condition assessment when warranted by extraordinary circumstances.

**BACKGROUND:**

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On November 29, 1973, the Commission authorized issuance of a Public Agency Permit, for the construction and maintenance of a 12-inch-diameter sewer force main in the San Joaquin River ([Item 04, November 29, 1973](#)), adjacent to Assessor's Parcel Numbers 162-030-070 and 145-020-190 in San Joaquin County. That lease started on July 1, 1973, and expired on June 30, 2022. The Applicant is applying for a General Lease – Public Agency Use, for use of the existing 12-inch-diameter sewer force main in the San Joaquin River.

The pipeline crosses the river just south of the Navy Drive Bridge in Stockton. The use involves a small area of state sovereign land under the river. The portion which falls on state sovereign land is approximately 194-linear-feet. According to a 2023 depth of burial survey, the pipeline is buried at approximately 5.5 feet below the riverbed. The Applicant maintains a National Pollutant Discharge Elimination System permit for its larger conveyance and disposal system. The subject pipeline is one component of that system.

Based on the application package and use type, the pipeline offers a local, regional, and statewide benefit to the public. The benefits include providing essential infrastructure for wastewater conveyance; facilitating sanitation of wastewater; and enhancing public health and safety. The pipeline is associated with treatment operations at the City's Regional Wastewater Control Facility (RWCF). It conveys effluent wastewater from Rough & Ready Island to the RWCF.

The RWCF serves more than 116,000 residential, commercial, and industrial sewer connections in the city and San Joaquin County areas. The pipeline is maintained by the Applicant and its affiliates which include environmental and engineering specialists.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

The existing pipeline is essential for water treatment and conveyance and has a positive impact on the larger ecosystem, including increasing sanitation and mitigating contaminants in public waterways. The proposed lease enhances public health and safety. This action will not impair any other Public Trust uses in the area based on the buried nature of the pipeline. The subject pipeline does not impair public access to the river and therefore will not impede the Public Trust Doctrine. The public can still enjoy waterborne activities such as boating, rafting, kayaking, and fishing in the river through nearby access points. The public can fish in the San Joaquin River using watercraft such as kayaks and canoes.

The proposed lease includes certain provisions protecting the public's use of the lease area by requiring the Applicant to obtain all necessary permits. The lease also has a limited term of 20 years which allows the Commission flexibility to determine if the 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 subject facility is located on the San Joaquin River in a tidally influenced site 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 structure. 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.

Rising sea levels can lead to more frequent flood inundation in low lying areas and larger tidal events and could increase the San Joaquin River's inundation levels within the lease area over the term of the lease. 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 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 and decrease bank stability at a faster rate.

The combination of these projected conditions could affect the existing sewer force main during the term of the lease. While the pipeline is located at least five feet below the riverbed, scour from increased storm surges and flooding could expose any shallowly buried portions of the pipeline, impacting navigation and recreation within the San Joaquin River.

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 (not within the lease area) 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 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:**

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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. If the Commission denies the application, the Applicant will may be required to remove the improvements from state land. 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:**

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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 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 12-inch-diameter sewer force main; 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.