

# Staff Report 27

**APPLICANT:**

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Reclamation District 2140

**PROPOSED ACTION:**

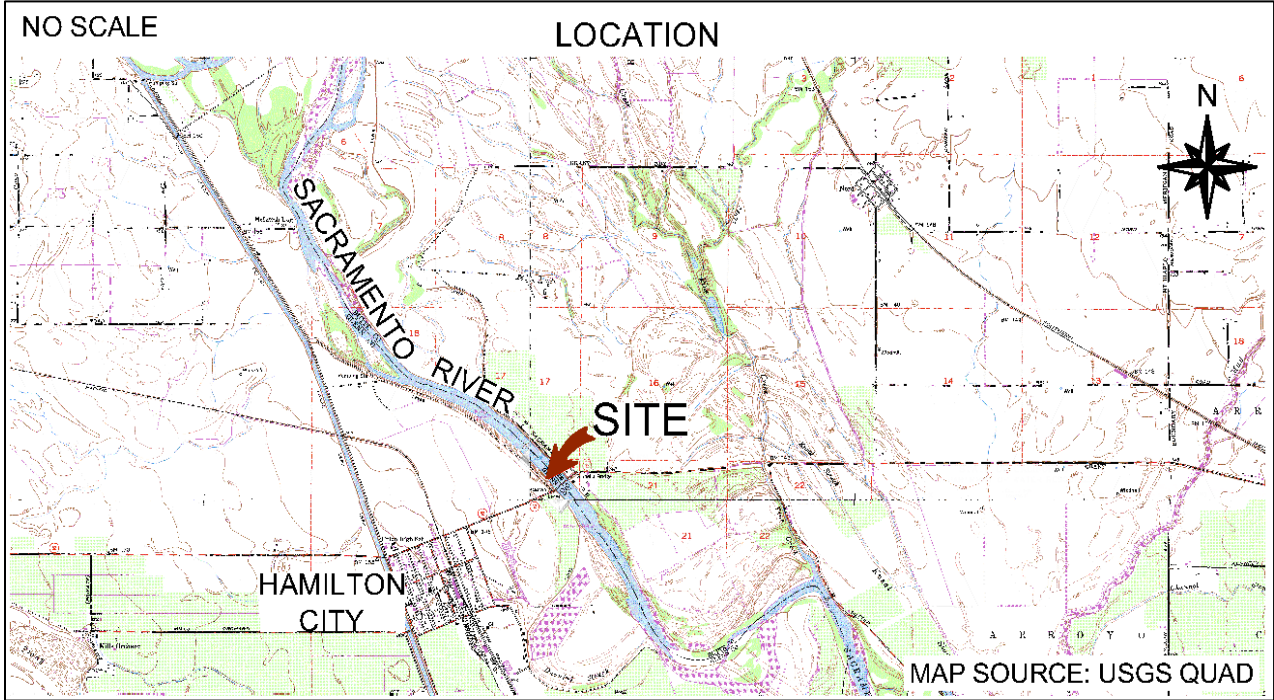
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Amendment of General Lease – Public Agency Use.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Numbers (APNs) 032-230-018, 032-240-008, and 032-240-010, along the west bank of the Sacramento River, near Hamilton City, Glenn County (as shown in Figure 1).

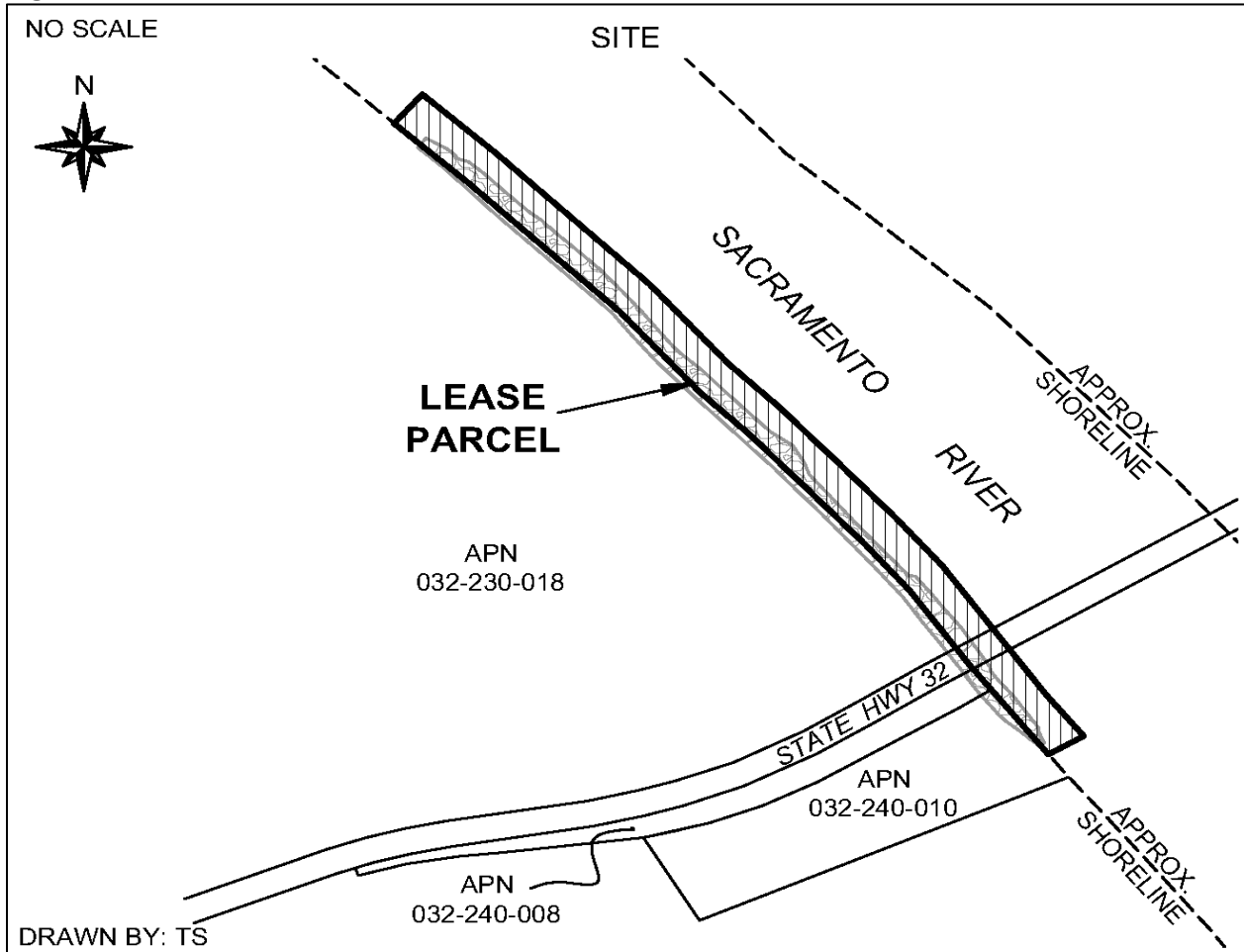
**Figure 1. Location**



**AUTHORIZED USE:**

Installation, use, and maintenance of rock slope protection and restoration of habitat on the waterside levee slope (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:**

25 years, beginning February 28, 2020.

**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 interest.

**PROPOSED AMENDMENT:**

Amend the lease to revise certain lease provisions related to maintenance and operation. All other terms and conditions of the lease shall remain in effect without amendment.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**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:**

On February 28, 2020, the Commission authorized a General Lease – Public Agency Use to Reclamation District 2140 (Lessee) for a 25-year lease term for installation, use, and maintenance of rock slope protection and restoration of habitat on the waterside levee slope along the west bank of the Sacramento River, near Hamilton City (Project) ([Item 14, February 28, 2020](#)). That lease will expire on February 27, 2045.

The Lessee partnered with the U.S. Army Corps of Engineers (Army Corps) on the Project to improve flood protection for Hamilton City and environmental conditions of the Sacramento River. The Army Corps designed the Project to construct a 6.8-mile set-back levee and restore 1,361 acres of native riparian habitat. Less than 2 acres of the Project is located on sovereign land in the Sacramento River. The Army Corps managed construction of the Project, and the Lessee owns, operates, and maintains the levee.

After the lease was executed on March 5, 2020, the Army Corps contacted the Lessee in January 2021 to advise modifications to the lease were required to meet federal funding requirements. Specifically, the Army Corps advised that the lease term needed to be extended to a 49-year term and certain provisions concerning maintenance and operation of the improvements needed to be revised. In April 2022, the Lessee submitted an application requesting an amendment of the lease.

With the exception of the request for a 49-year lease term, the revisions are relatively minor and language agreeable to all parties was developed. Army Corps staff requested modifications to the provisions pertaining to operation and maintenance to define the activities being performed by the Lessee and to further

define the Lessee's ability to operate and maintain the rock slope protection located on State sovereign land. Additionally, Army Corps staff requested the ability to limit public use of the lease premises during active work on the levee. Outside of periods of active work, the public will be able to enter and enjoy the lease premises. Lastly, Army Corps staff requested a revision to the lease provision regarding restoration of the lease premises that would not require removal of congressionally authorized project improvements so long as they continue to fulfill a flood control function.

Staff does not recommend amending the lease to include a 49-year term. Shorter lease terms allow the Commission to assess the impacts of climate change, reassess best management practices, and make any additional land management decisions that are in the state's best interest. Leases with longer lease terms would not allow opportunities for such a reassessment. Therefore, Commission staff recommends the Commission amend certain lease provisions related to maintenance and operation only.

#### **CLIMATE CHANGE:**

The project area is not tidally influenced and therefore, would not be subject to sea level rise. However, 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, existing facilities could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement.

#### **CONCLUSION:**

For all the reasons above, staff believes the issuance of this lease amendment is consistent with the common law Public Trust Doctrine; will not substantially interfere

with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the lease amendment 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 lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. An Environmental Impact Statement/Environmental Impact Report (EIS/EIR), State Clearinghouse No. 2002122048, was prepared for this Project by the Central Valley Flood Protection Board and certified on July 16, 2004. In 2005, the Reclamation District 2140 (District) was formed to own, operate, and maintain this levee. The District adopted an Addendum to the EIS/EIR dated June 20, 2019, to address any new or additional impacts to the proposed Project. Commission staff reviewed the EIS/EIR and Mitigation Monitoring and Reporting Program pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

The Commission considered the EIS/EIR and Addendum at its February 28, 2020, meeting ([Item 14, February 28, 2020](#)). As part of the Commission's approval of the lease, the Commission adopted an independent Mitigation Monitoring Program and Statement of Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, and 15096), as contained on file in the Sacramento office of the California State Lands Commission and incorporated by reference hereto. The Commission's previously adopted Mitigation Monitoring Program remains in full force and effect.

The proposed lease amendments do not create substantial changes to the project, to the circumstances in which the project occurs, or other new information that would require a subsequent or supplemental CEQA document. The Applicant is required by the terms of the amended lease to continue to implement the Commission's previously imposed Mitigation Monitoring Program.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. At the time the Commission considered the EIS/EIR and Addendum in 2020, staff concluded that such activity would not affect those significant lands and the Commission found the activity to be consistent with its use classification pursuant to Public Resources Code section 6370 et seq.

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that an EIS/EIR , State Clearinghouse No. 2002122048, was prepared for this project by the Central Valley Flood Protection Board and certified on July 16, 2004. Then, an Addendum to the EIS/EIR was adopted on June 20, 2019, by the Reclamation District 2140. The Commission has reviewed and considered the information contained therein; that in the Commission's independent judgement, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Find that the Commission's previously adopted Mitigation Monitoring Program remains in full force and effect.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **AUTHORIZATION:**

Authorize the amendment of Lease Number 9606, a General Lease – Public Agency Use, effective February 1, 2023, to revise certain lease provisions related to maintenance and operation; all other terms and conditions of the lease will remain in effect without amendment.