

Staff Report 58

APPLICANT:

Sacramento Area Sewer District

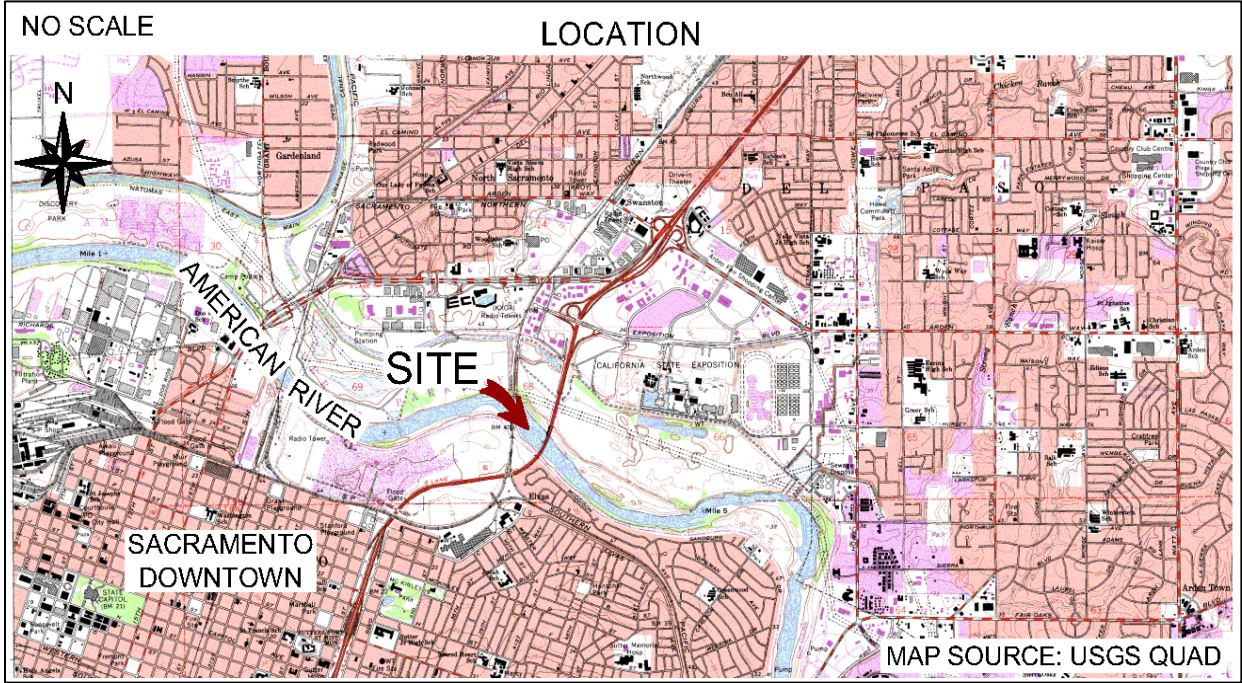
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the American River, adjacent to Assessor's Parcel Numbers 001-0170-005 and 277-0250-019, near Sacramento, Sacramento County (as shown in Figure 1).

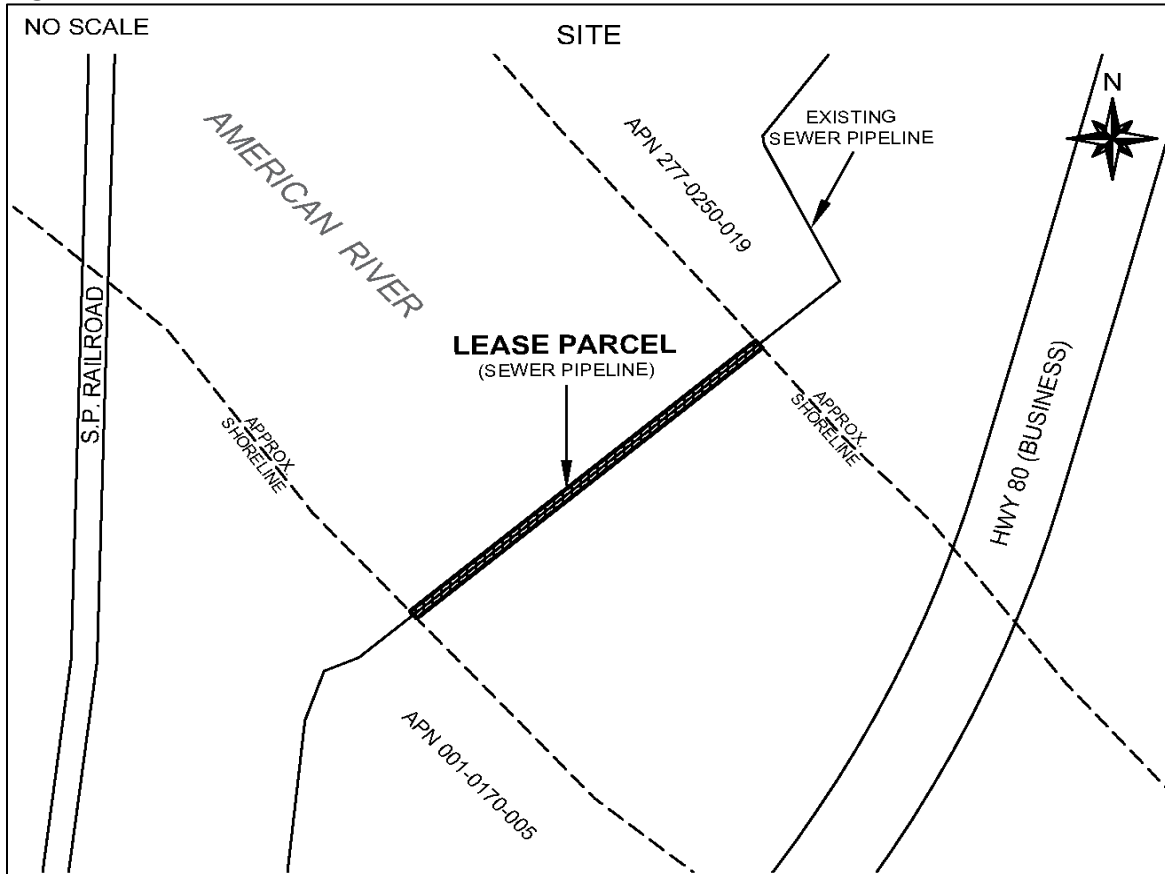
Figure 1. Location



AUTHORIZED USE:

Caretaker status, including maintenance of an existing non-operational sewer force main pipeline (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:

5 years, beginning February 1, 2024.

CONSIDERATION:

\$475 per year, with an annual Consumer Price Index adjustment; and \$2,373 to compensate for the unauthorized occupation of state-sovereign land for the existing facilities for the period prior to February 1, 2024.

SPECIFIC LEASE PROVISIONS:

- No later than January 31, 2027, Lessee shall provide assessment reports and a depth of burial survey for the subject pipeline performed within the past six months, for review by Lessor.
- No later than January 31, 2027, Lessee shall provide to Lessor a detailed work plan for the proposed removal or decommissioning in place of the existing non-operational pipeline within the Lease Premises and submit a complete application and minimum expense deposit which includes restoration of the Lease Premises.
- If Lessee proposes to decommission in place, Lessee must submit a detailed report on proposed justification prepared by a third party for not removing the improvements as otherwise required in this Lease, along with a complete application and minimum expense deposit. Approval of such an alternative will be subject to Commission consideration and approval, and the Commission will exercise its full discretion in deciding whether to approve or disapprove.
- 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, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On March 25, 2008, the Commission authorized a 10-year General Lease – Public Agency Use to the Sacramento Regional County Sanitation District (District) for the maintenance of an 18-inch-diameter buried sewer force main pipeline in the American River ([Item 26, March 25, 2008](#)). That lease expired May 24, 2017. The pipeline was originally constructed in 1949 and transferred to the District by another sanitation district. In the late 1970s, newer infrastructure was constructed that removed the need to use the subject pipeline except for standby service (emergency and maintenance use). In 2017, the District decided to deactivate and decommission the pipeline. Since 2017, several onshore sections of the pipeline

have been removed for the purpose of widening Business 80/Capital City Freeway. At some point, the District updated its name to the Sacramento Area Sewer District. The Applicant is applying for a new General Lease – Public Agency Use for the continued maintenance of the existing non-operational sewer force main pipeline, to allow for continued caretaker status and assessment of final decommissioning options.

During the limited 5-year lease term, the District will assess the condition and future disposition of this pipeline. On completion, the District will provide the assessment and survey results to Commission staff for review as noted in the proposed lease. Additionally, the District will submit to the Commission for its review and approval a removal plan or decommissioning in place plan at least two years prior to expiration of the proposed lease.

The pipeline is in an area with moderate recreational usage. Commission staff believes that the proposed caretaker lease for the pipeline in the American River will not substantially interfere with the Public Trust needs and values at this location because the pipeline is buried below the bed of the river. Public access to the river is located upstream and downstream of the pipeline at various points along the American River.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. In addition, the lease has a limited 5-year term and does not grant the lessee exclusive rights to the lease premises. Furthermore, the proposed lease for the pipeline will allow the District to develop a plan to remove or decommission the pipeline, consistent with its lease obligations.

Staff recommends that the Commission accept compensation from the District for the unauthorized occupation of State land in the amount of \$2,373 for the period prior to February 1, 2024. The proposed lease will require the District to indemnify the State for the entire period of occupation prior to February 1, 2024, ensuring the State is protected. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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 pipeline is located in the American 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,” “low 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/region as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

Year	Projection (feet)
2030	0.5
2040	0.8
2050	1.1
2100	3.4

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 American River’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. 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 submerged pipeline within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the pipeline and cause it to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. However, the existing pipeline is located between one and four feet below the American riverbed and, during the 5-year caretaker lease, is not likely to be

vulnerable either to the impacts from sea level rise or from frequent and intense storms that are the result of climate change.

Regular maintenance and updated depth of burial survey, as referenced in the lease, may reduce the likelihood of exposure and associated 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 that issuance of the proposed lease will not substantially interfere with the public rights to navigation and fishing; or substantially interfere with the Public Trust needs and values at this location, at this time, for the term of the 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 lessee 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 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

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 14, section 15301.

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 lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,373 for the unauthorized occupation of State land prior to February 1, 2024.
2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning February 1, 2024, for a term of 5 years, for caretaker status including maintenance of the existing non-operational sewer force main pipeline; annual rent in the amount of \$475, with an annual Consumer Price Index adjustment.