

Staff Report 31

APPLICANT:

United States Fish and Wildlife Service

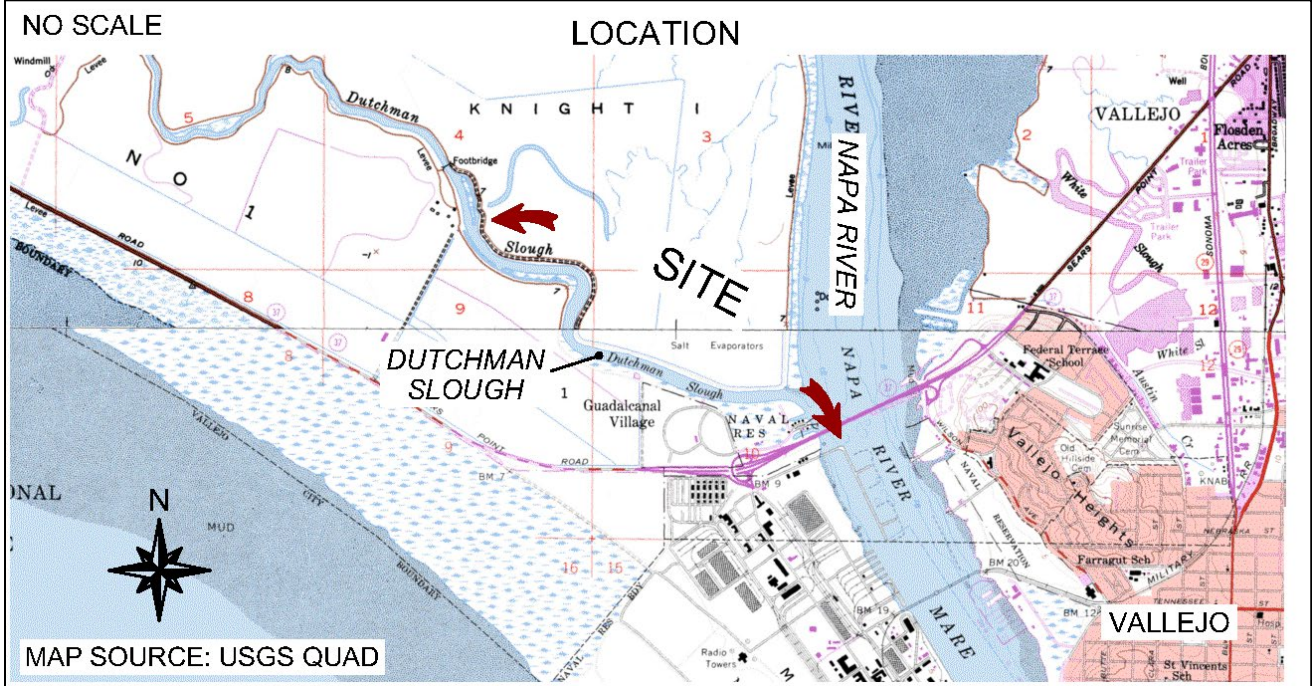
PROPOSED ACTION:

Amendment of General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Napa River and Dutchman Slough, near Vallejo, Solano County (as shown in Figure 1, below).

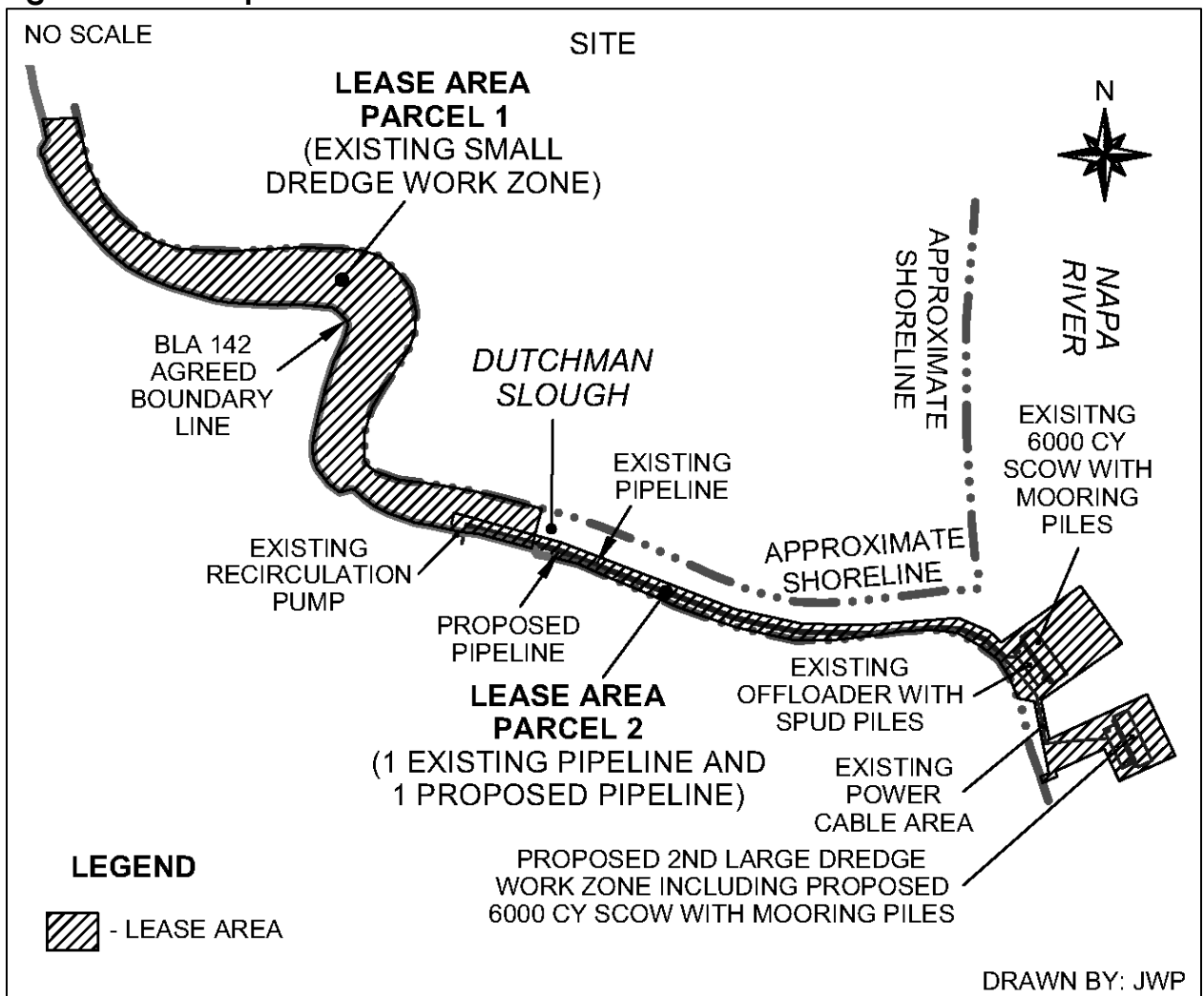
Figure 1. Location



AUTHORIZED USE:

Construction, use, and maintenance of one temporary sediment offloading facility with an optional power cable in the Napa River and a dredged material slurry pipeline from the Napa River into Dutchman Slough; and use and maintenance of an offloading zone in Dutchman Slough to aid in the disbursement of material within the Cullinan Ranch Restoration Project (CRRP) site. The Lessee may configure and operate up to three temporary offloading facilities at the same time, in a manner suitable for offloading activities, within the Lease Premises (see Figure 2 below).

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:

Beginning May 24, 2012, and ending December 31, 2030; unless sooner terminated as provided under this Lease.

CONSIDERATION:

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 interests.

PROPOSED AMENDMENT:

- Amend Lease Section 1 Basic Provisions, LAND USE OR PURPOSE, to allow the construction, use, and maintenance of one additional temporary sediment offloading facility; installation of one additional dredged material slurry pipeline; and use of one additional work zone (as shown in Figure 2, above).
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with a new Exhibit A, Land Description, and Exhibit B, Site and Location Map to the Lease (for reference purposes only).

All other terms and conditions of the lease remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On May 24, 2012, the Commission authorized issuance of a 3-year General Lease – Public Agency Use, for the construction of a new temporary sediment offloading facility and a dredged material slurry pipeline in the Napa River and Dutchman Slough ([Item 25, May 24, 2012](#)). On April 23, 2015, the Commission authorized an amendment of Lease Number 8993, for an extension of the lease term to accommodate delays in project initiation ([Item 64, April 23, 2015](#)). This amendment extended the lease expiration date to December 31, 2019. On December 3, 2018, the Commission authorized an amendment of Lease Number PRC 8993, to extend the lease term to December 31, 2030 for ongoing habitat restoration; expand the lease area in Dutchman Slough; modify the authorized improvements to include

one optional power cable for the previously authorized temporary offloading facility in the Napa River; and configure and operate up to three temporary offloading facilities at the same time within the Lease Premises ([Item 49, December 3, 2018](#)).

The proposed amendment is to allow for construction, use, and maintenance of one additional temporary sediment offloading facility; installation of one additional dredged material slurry pipeline; use of one additional work zone; and to replace Exhibit A, Land Description, and Exhibit B, Site Map of the lease. This amendment will add flexibility to the number of work locations within the River and aid in the disbursement of material within the larger project site. The temporary lease facilities will be disconnected and removed from the lease premises during periods of nonoperation. By removing temporary facilities and using best management practices, this project will not create a hazard or impact navigation or affect other Public Trust uses.

The CRRP's overarching goal is restoration of tidal marsh habitats for wildlife preservation, especially those on endangered species lists. The full scope of the project has several ecological and environmental benefits. These include the tidal restoration of over 1,500 acres of tidal habitat. The ecological benefits of vegetated tidal marsh for fish assemblages are myriad and well documented. Tidal marshes support benthic invertebrates and zooplankton. Seagrass beds at their margins provide escape cover for smaller fish and habitat for food sources such as mollusks and other invertebrates. Vegetation overhanging and growing in channels adds habitat complexity. If channels reform along historic patterns, the project will restore an estimated 8.8 stream miles for fish passage connected to surrounding sloughs and the Napa River. The CRRP will enhance spawning and rearing grounds for longfin smelt and Delta smelt, among others, and will expand existing habitat for diadromous species, including salmon, steelhead, and sturgeon migrating into and from the Napa River. In addition to its intrinsic value, restoration of Cullinan Ranch provides tangible benefits, including:

- Aiding recovery of listed and at-risk species, particularly diadromous fish.
- Re-establishment of coastal wetlands through hydrological reconnection.
- Improved coastal resiliency.
- Employment, education, and training opportunities.

Habitats that will be created by the restoration of Cullinan Ranch include floodplain habitat, estuarine tidal marsh, deep-water ponded habitat, channel habitat, and

upland transition habitat. Salt marsh harvest mouse currently uses the site. Restoration will create habitat suitable for use by winter-run Chinook salmon, steelhead, other salmonids, delta smelt, longfin smelt, and California clapper rail. Additionally, the CRRP has provided one of only two kayak launch points in San Pablo Bay and the proposed uses will not affect the availability of this important public access point.

The proposed amendment of the lease will not result in any significant changes in the use of the lease premises. The Lessee will promote best management practices during the restoration of environmental habitats; protect valuable state resources; ensure public health and safety; and allow navigation of sovereign waterways. The proposed use and maintenance of these facilities will not prohibit the passage of marine traffic in the waterways.

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 project area is located in the Napa River just north of San Pablo Bay, a tidally influenced area that includes salt and brackish water marshes that are vulnerable to flooding at current sea levels and at 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 structures. The San Francisco tide gauge was used for the projected sea level rise scenario for the lease area 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. 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. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow can increase scour, decreasing bank stability and structure.

The project activities include passive sediment accretion (i.e., tides will deliver sediment to the restoration area, raising it to marsh plain elevation) and dredge material placement to raise the final grade to marsh plain elevation. Both portions of the project area are designed to allow for tidal movement and sea level rise resiliency. The project area is also designed to experience flooding, storm surge, and wave action. The development of these tidal wetlands may improve flood risk management by providing future flood/storm resilience associated with similar tidal wetland habitat. Collectively, the improvements to hydrologic function and connectivity of floodplain area and processes will serve to offset the impacts of future flooding from and climate change related impacts to the Napa River.

CONCLUSION:

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.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the proposed 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 amendment is consistent with the “Leading Climate Activism” and “Meeting Evolving Public Trust Needs” Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. An Environmental Impact Report/Environmental Impact Statement (EIR/EIS), State Clearinghouse No. 2007092004, was prepared by the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) and certified on April 22, 2010, for this project. Commission staff reviewed the EIR/EIS and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

In 2012, Commission staff reviewed the Project's proposed changes and prepared an Addendum to the EIR/EIS pursuant to State CEQA Guidelines section 15164. The Commission considered the EIR/EIS and adopted the Addendum at its May 24, 2012, meeting ([Item 25, May 24, 2012](#)). As part of the Commission's approval of the lease, the Commission adopted an independent Mitigation Monitoring Program and Statement of Findings were made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091 and 15096), as contained on file in the Sacramento office of the Commission and incorporated by reference hereto.

No substantial changes to the project or to the circumstances in which the project occurs, as evaluated in the EIR/EIS and Addendum, or other new information requires a subsequent or supplemental CEQA document. The Applicant will be required by the terms of the proposed lease to continue to implement the Commission's previously imposed Mitigation Monitoring Program, which remains in full force and effect.

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 EIR/EIS and Addendum in 2012, 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:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR/EIS, State Clearinghouse No. 2007092004, was prepared for this project by CDFW and USFWS and certified on April 22, 2010. Then, an Addendum to the EIR/EIS was adopted on May 24, 2012, by the Commission. 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.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of lease 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 amendment of Lease Number PRC 8993, a General Lease – Public Agency Use, effective April 4, 2024; to allow for construction, use, and maintenance of one additional temporary sediment offloading facility; installation of one additional dredged material slurry pipeline; use of one additional work zone; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site Map of the lease; all other terms and conditions of the lease will remain in effect without amendment.