

Staff Report 18

APPLICANT:

California Department of Fish and Wildlife

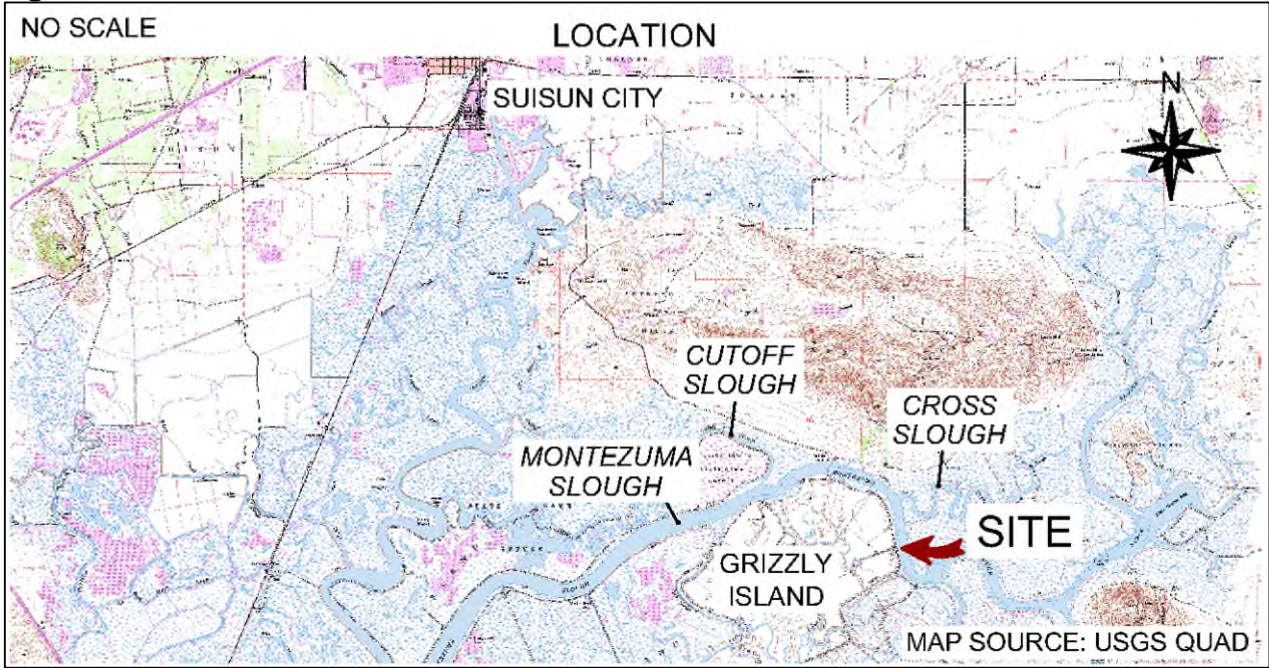
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Montezuma Slough, as part of the Island Slough Wetland Development, adjacent to 2899 Grizzly Island Road, near Suisun City, Solano County (as shown in Figure 1).

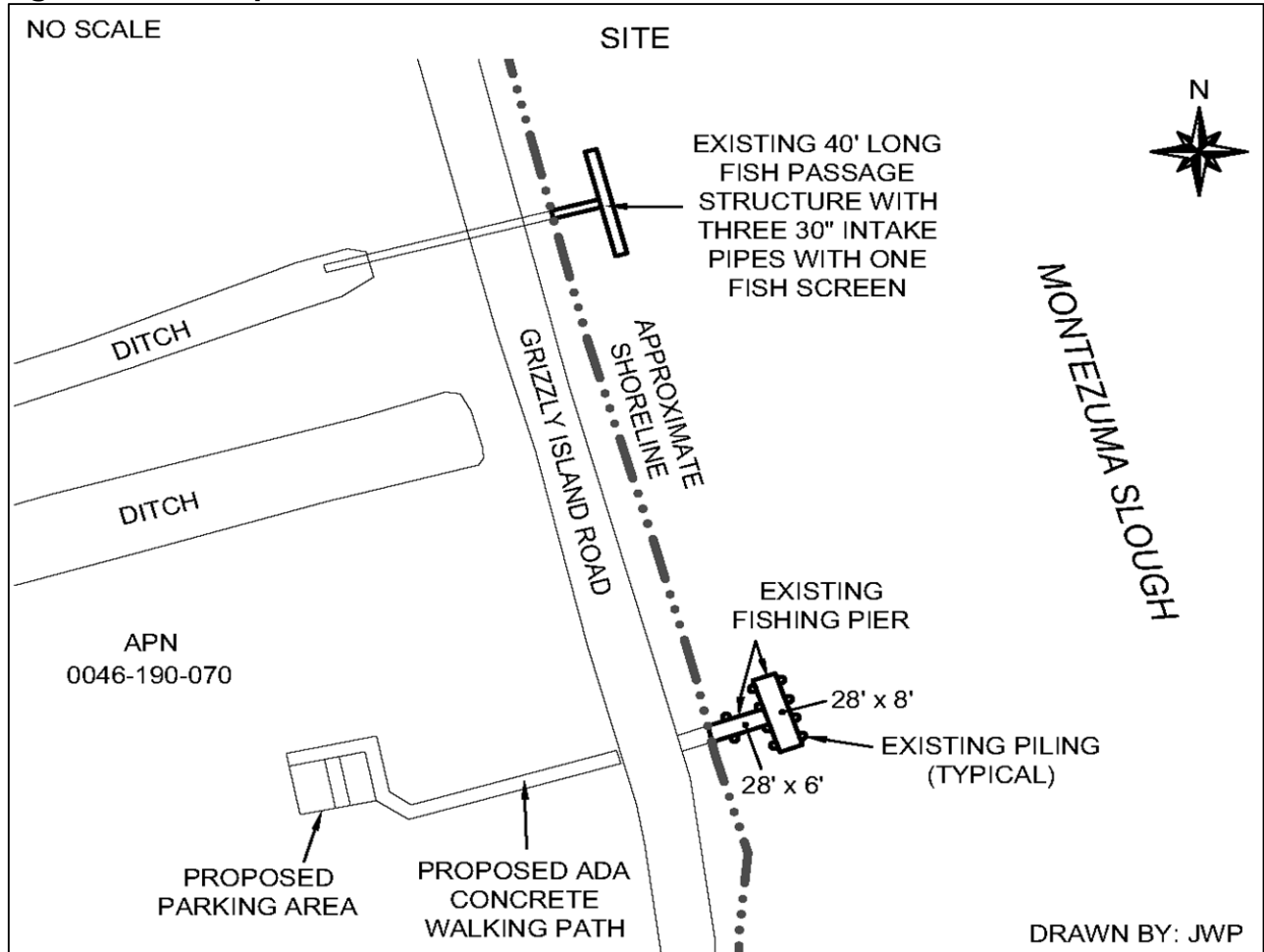
Figure 1. Location



AUTHORIZED USE:

Use of an existing fishing platform and three 30-inch-diameter intake pipes with fish screen (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 17, 2024.

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 an action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands prior to October 16, 2024.

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 April 28, 1993, the Commission authorized the issuance of a General Lease – Public Agency Use to the California Department of Fish and Game (since renamed the California Department of Fish and Wildlife) for the construction of a fishing platform and main intake pipes with fish screen ([Item 24, April 28, 1993](#)).

On April 6, 1994, the Commission authorized an amendment of the lease to extend the Lessee’s construction completion date and to acknowledge Lessee compliance in adopting a monitoring and reporting plan ([Item 39, April 6, 1994](#)). The lease expired April 15, 2023.

Since issuance of the previous lease, the fishing platform has been improved by replacing the structure’s material with new wood and stainless-steel screws and bolts. Additionally, a parking area with an ADA-accessible concrete walking path to the platform was constructed on the upland, outside of the Commission’s jurisdiction.

The Applicant is now applying for a General Lease – Public Agency Use for the use of the existing fishing platform and three 30-inch-diameter intake pipes with a fish screen.

The fishing platform is maintained by the Applicant and publicly accessible at no charge to the public. Tourists may use the public platform to participate in water recreation such as fishing. The three water intake pipes were constructed as part of the Island Slough Wetland Development Project in order to divert water for managing restored wetland habitat. The fish screen is in place across the opening of the intake pipes to prevent entrainment loss of fish. The intake pipes and fish

screen maintain the ecological integrity of the slough which in turn protects Public Trust resources for recreational enjoyment.

The proposed lease does not alienate the State’s fee simple interest or permanently impair public rights. The lease is limited to a 20-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the proposed lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee’s activities thereon.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities are located on the Montezuma Slough, 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 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.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. 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 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. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The intake pipelines and fish screen are fixed and fully submerged at high tide and fully exposed during low tide. The fishing pier is also fixed with pilings that are subject to fluctuating tidal elevations. These structures are vulnerable to sea level rise and more frequent flood events and may need maintenance due to increased flood exposure and more frequent storm events, to ensure they do not become dislodged or degraded, and to reduce risks to public safety and navigation.

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 located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

Find that the proposed 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.

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 does not authorize the lease, the Applicant, as prior lessee, may be required to remove

the improvements and restore the lease premises to their original condition. The Applicant has no right to a new lease or to renewal of any previous lease.

2. This action 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. 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 15061 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 lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning October 17, 2024, for a term of 20 years, for the use of an existing fishing platform and three 30-inch-diameter intake pipes with fish screen; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such an action to be in the State’s best interest.