

# Staff Report 20

**LESSEE:**

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Cargill, Incorporated

**PROPOSED ACTION:**

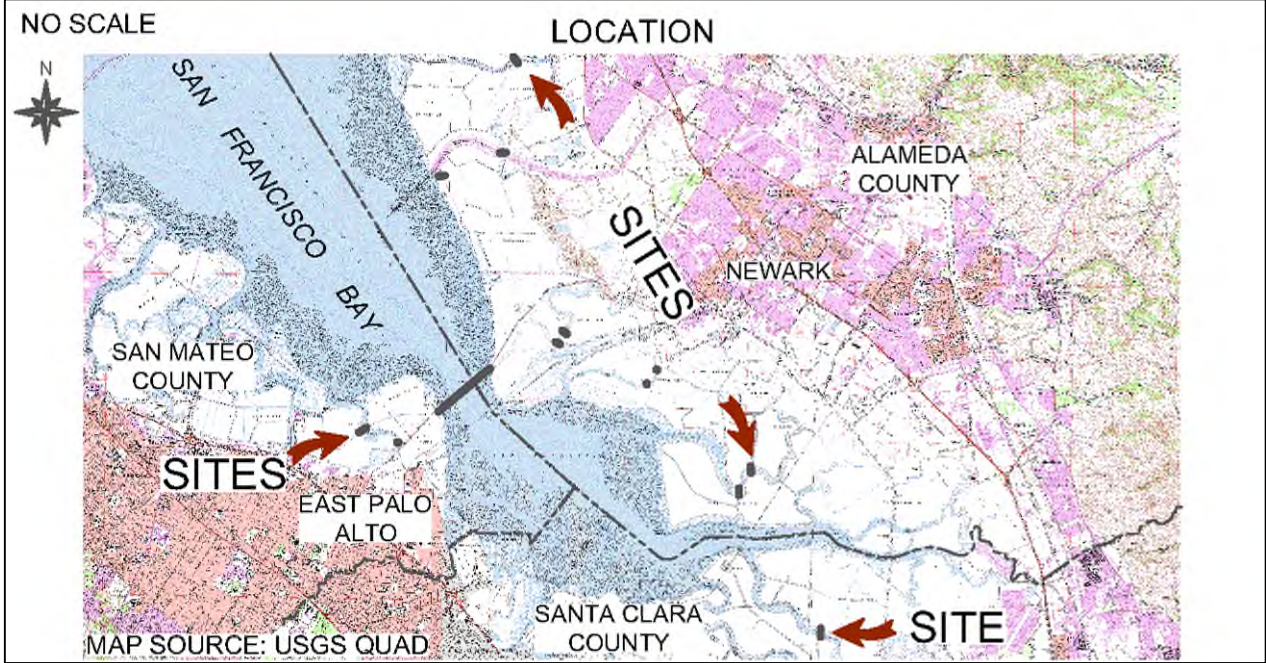
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Revision of Rent and Bond.

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

Sovereign land located in the San Francisco Bay and various creeks and sloughs in Alameda, Santa Clara, and San Mateo Counties (as shown in Figure1).

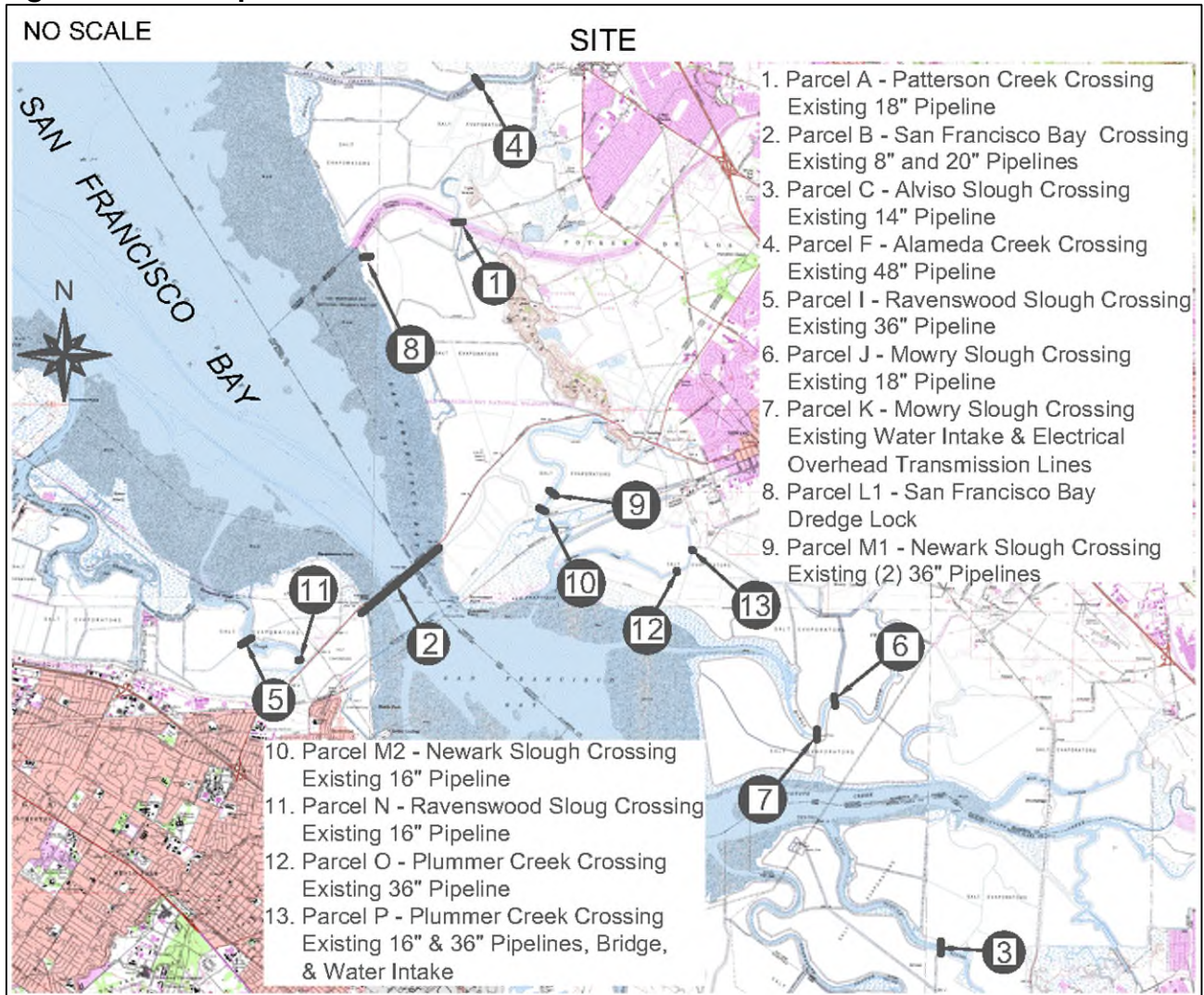
**Figure 1. Location Map**



**AUTHORIZED USE:**

Continued use and maintenance of existing water, water intake, and brine pipelines, dredge lock, inspection bridge, and an overhead electrical transmission line (as shown in Figure 2).

**Figure 1. 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 December 1, 2004.



**CONSIDERATION:**

The lease provides that Lessor may modify the rent and bond periodically during the lease term. Pursuant to this provision, the staff has conducted a review of the rent and bond under this lease and recommends that the rent be revised from \$7,225.93 per year to \$12,597 per year, adjusted annually by the Consumer Price Index and the bond increased from \$100,000 to \$5,000,000, effective December 1, 2024.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the revision of rent and bond is a discretionary action by the Commission. Each time the Commission approves or rejects a revision of rent and bond, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Lands as authorized by law. The Lessee has no right to a new lease or to renewal of any previous lease.
2. On April 26, 2005, the Commission authorized a 25-year General Lease – Right of Way Use ([Item 33, April 26, 2005](#)) to Cargill, Incorporated for the consolidation of 14 leased parcels into one master lease with improvements consisting of existing water intakes, brine pipelines, dredge locks, inspection bridge, and an overhead electrical transmission line. The lease parcels are sovereign land located in the South San Francisco Bay area in Patterson Creek, San Francisco Bay, Alviso Slough, Coyote Creek, Mud Slough Alameda Creek Mallard Slough, Ravenswood Slough, Mowry Slough, Newark Slough, and Plummer Creek in Alameda, Santa Clara, and San Mateo Counties. On June 19, 2014, the Commission authorized an amendment of lease ([Item 52, June 19, 2014](#)) to remove six parcels from the lease and added an additional three parcels that were found to be on sovereign land. The Commission authorized a quitclaim deed and an abandonment agreement with the lessee for the abandoned-in-place pipelines on the six parcels removed from the lease and required a surety bond in the amount of \$5,000,000 associated with the agreement. The amendment of lease included an increase in the liability insurance from \$1,000,000 to \$2,000,000, effective June 19, 2014, and the annual rent was revised from \$6,127 to \$5,062, adjusted annually by the Consumer Price Index, effective December 1, 2013. The lease provides for a rent review each 10-year period and will expire on November 31, 2029.
3. Under the terms of the current lease, the lessee holds a surety bond in the amount of \$100,000. This amount is subject to increases over the lease term and

serves the purpose of being able to mitigate costs that might otherwise be shouldered by the state, including where the state must take restorative actions with the leased premises upon lease termination or lease premises abandonment. A bond adjustment is currently appropriate with an increase in rent and to keep it consistent with the financial security required by the abandonment agreement. Staff recommends increasing the bond from \$100,000 to \$5,000,000 to minimize the gap between ability to pay and protecting the state's potential liability.

4. This action is consistent with the “Address current and future risk and liabilities” in the “Meeting Evolving Public Trust Needs” Strategic Focus Area of the Commission’s 2021-25 Strategic Plan.
5. Revision of rent and bond is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **AUTHORIZATION:**

Approve the revision of rent for Lease PRC 8596 from \$7,225.93 per year to \$12,597 per year, adjusted annually by the Consumer Price Index, and an increase in the bond from \$100,000 to \$5,000,000, effective December 1, 2024.