

Staff Report 32

APPLICANT:

LS Power Grid California, LLC

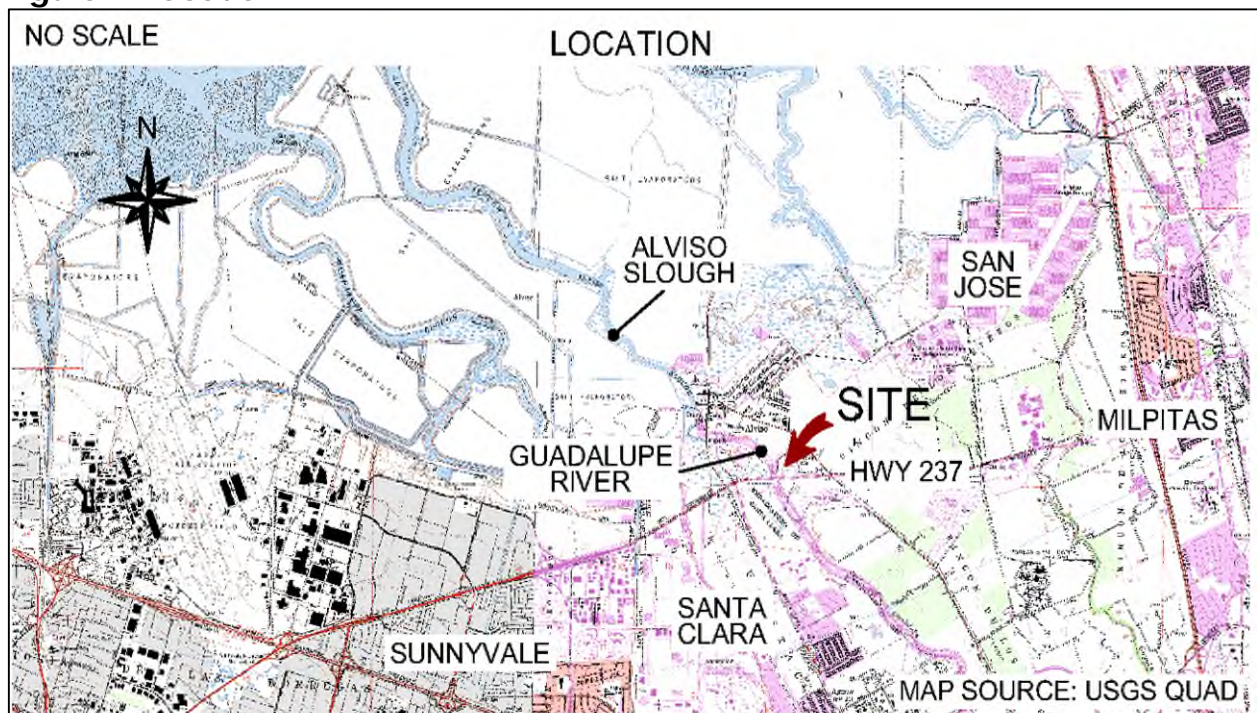
PROPOSED ACTION:

Issuance of a Non-Exclusive Geological Survey Permit.

AREA, LAND TYPE, AND LOCATION:

Sovereign land, Assessor's Parcel Number 015-39-014 in San Jose, located in Santa Clara County, adjacent to the Guadalupe River (as shown in Figure 1).

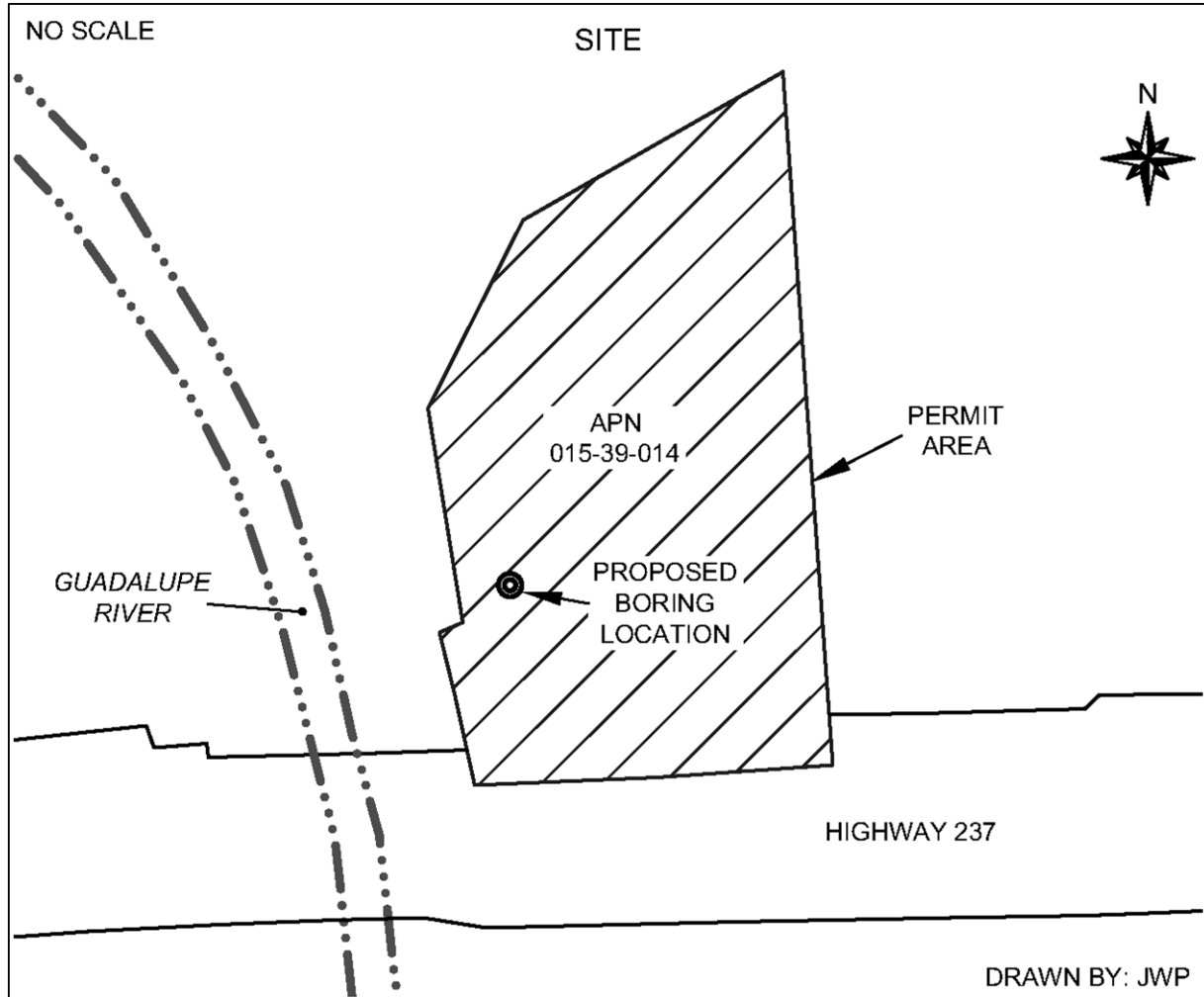
Figure 1. Location



AUTHORIZED USE:

Collection of geological data by hollow stem auger and/or mud rotary drilling consisting of one 2- to 3-inch-diameter boring up to a depth of 80 feet (as shown in Figure 2).

Figure 2. Site Map



TERM:

1 year beginning October 17, 2024.

SPECIFIC PERMIT PROVISIONS:

The general terms of this Geological Survey Permit require the permittee to provide staff with advance notification of operations and the specifications of the equipment to be employed. Staff may obtain copies of all geological data derived from any and all surveys under this permit upon request.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6212.2, 6216, and 6301; California Code of Regulations, title 2, section 2100.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

LS Power Grid California, LLC has applied for a 1-year Geological Survey Permit to collect geological and geotechnical data from sovereign land in Santa Clara County, located in San Jose, adjacent to the Guadalupe River. The permit will enable the drilling of one boring to conduct geotechnical soil sampling to evaluate the geological and geotechnical feasibility of a future high voltage transmission line associated with the Power the South Bay project, which will be permitted separately.

The boring will be drilled with a truck-mounted drill rig using hollow stem auger and/or mud rotary drilling method to a depth of up to 80 feet. The work is expected to take no more than 1 to 1.5 days. The drilling fluid is not harmful to aquatic life and is not expected to bioaccumulate or pose significant environmental persistence.

The boring will be backfilled with cement grout. Upon completion of drilling, excess dry cuttings from the hollow stem auger boring may be dispersed on site, unless contamination is detected through visual, olfactory, or instrument observations and dispersion of the cuttings do not create obstructions. If contamination is suspected, the excess dry cuttings shall be drummed and prepared for disposal.

California courts have recognized the collection of data for scientific study on lands subject to the Public Trust as a use consistent with the common law Public Trust Doctrine. (See e.g., *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.) Additionally, California Public Resources Code section 6212.2 expressly permits the Commission to issue permits for the taking of cores or other samples by means of drilling operations for the purpose of obtaining geological information so long as the activity is not for the purpose of commercial exploration or exploitation. The proposed permit contains restrictions to safeguard public rights and environmental resources. For example, the permit grants non-exclusive use of the permit area to the permittee, and the defined work must be completed within 1 year. Furthermore, all work must be conducted in an environmentally conscientious manner.

Given these considerations, staff believes authorizing the permit will not substantially interfere with the Public Trust needs at this location at this time or for the term of the permit.

For all the reasons above, staff believes that approving the permit application does not substantially interfere with Public Trust needs and values; and is in the best interests of the State. Staff recommends approval of this Non-Exclusive Geological Survey Permit application.

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 denies the application, the Applicant will not be authorized to conduct geological surveys on sovereign land. Upon expiration or prior termination of the permit, the applicant has no right to a new permit or to renewal of any previous permit.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area 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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(3).

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 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(3).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that proposed Permit will not substantially interfere with Public Trust needs and values and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a Non-Exclusive Geological Survey Permit to the Applicant to conduct geological surveys for one year, beginning October 17, 2024, to gather geological and geotechnical data by drilling up to one boring on sovereign land in San Jose, adjacent to the Guadalupe River in Santa Clara County.