

Staff Report 34

APPLICANT:

Olympia of Vallejo, LLC

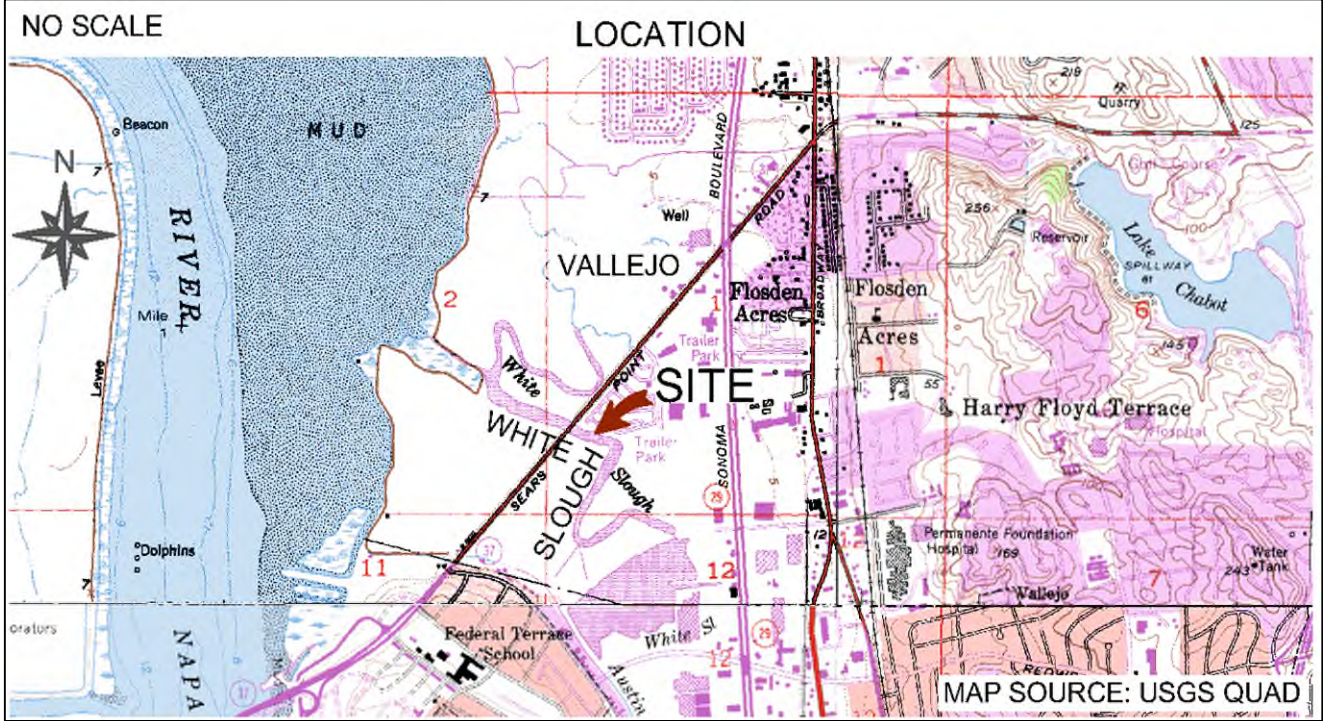
PROPOSED ACTION:

Issuance of a General Lease – Protective Structure Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in White Slough, adjacent to 1101 Enterprise Street, Vallejo, Solano County (as shown in Figure 1).

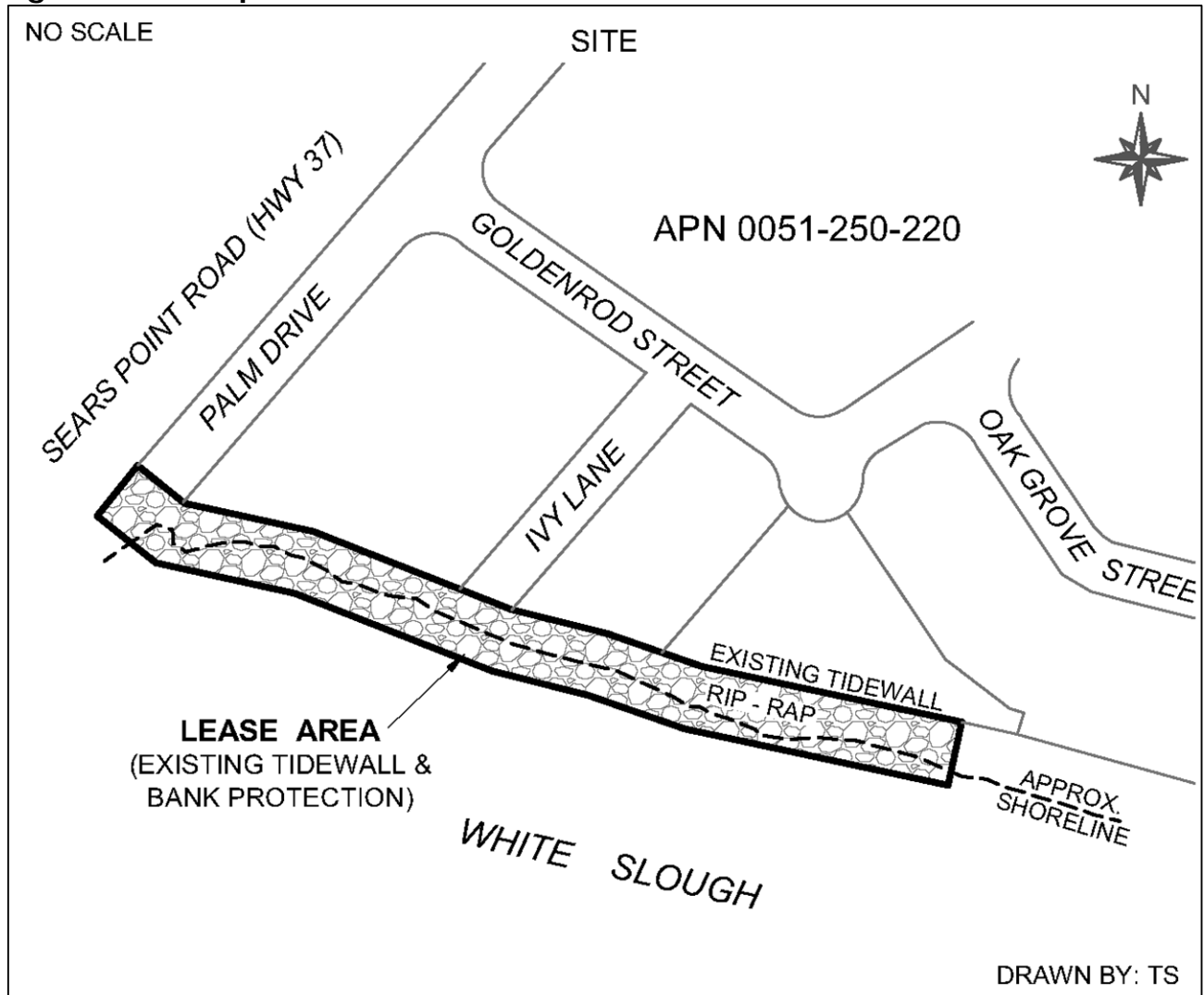
Figure 1. Location



AUTHORIZED USE:

Use of an existing tidewall and bank protection (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:

10 years, beginning October 17, 2024.

CONSIDERATION:

\$167 per year, with an annual Consumer Price Index adjustment; and \$158 for the unauthorized occupation of State land for the period prior to October 17, 2024.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands, from November 8, 2023 to October 16, 2024.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On September 20, 2013, the Commission authorized issuance of a General Lease – Protective Structure Use to Olympia of Vallejo, LLC, for the use of an existing tidewall and bank protection ([Item 08, September 20, 2013](#)). This lease expired on November 8, 2023.

The Applicant is now applying for a General Lease – Protective Structure Use, for the use of a tidewall and bank protection in White Slough, adjacent to 1101 Enterprise Street, Vallejo, in Solano County. Staff recommends issuance of a General Lease - Protective Structure Use to the Applicant to take effect on October 17, 2024.

The Applicant will pay \$158 in compensation for the unauthorized occupation of State land by the tidewall and bank protection for the period prior to October 17, 2024. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, from November 9, 2023 through October 16, 2024, ensuring the State is protected.

The tidewall and bank protection will mutually benefit both the public and the Applicant. The bank of White Slough will have additional protection from wave action provided at no extra cost to the public. The bank protection will protect the upland property and maintain and improve the integrity of the slough, which helps protect Public Trust resources for recreational use by the public.

The subject facilities are located directly waterward of the upland property, which is improved with a mobile home park, and occupy a relatively small area of the

slough. The proposed lease will not interfere with navigation or substantially interfere with any Public Trust needs at this time or for the foreseeable future.

The proposed lease does not alienate the State’s fee simple interest or permanently impair public rights. The lease is limited to a 10-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 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. 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 facilities are located in White 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 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.

Sea level rise could increase White Slough's inundation levels within the lease area. 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. The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, sea level rise combined with more frequent and stronger storm events may expose the lease area structures to higher flood risks, erosion, and bank instability, resulting in damage or dislodgement of the structures.

According to the [White Slough Specific Area Plan](#) from 1995, the tidewall and riprap were designed to provide protection from 100-year flood events and were constructed in response to extensive flooding of the slough and surrounding development in 1983. The effectiveness of these flood control structures could diminish as sea levels rise and stronger storm events occur, increasing the vulnerability of the structures and upland properties. These structures may need additional fortification or repair and maintenance to ensure they can withstand the future conditions created by climate change. As discussed in section 4.2 of the Commission's report, [Shoreline Adaptation and the Public Trust](#), alternative bank protection strategies, such as ecotone levees and restoration of the marsh vegetation, may be more effective and provide complimentary benefits, such as improvements to the scenery, water quality, tidal marsh habitat. [Solano County's 2022 Hazard Mitigation Plan](#) recognizes that the White Slough Specific Area Plan and the County's Climate Action Plan are decades old and need to be updated. The lease applicant is encouraged to participate in the City and County's planning updates and development of long-term flood protection strategies for White Slough and the upland properties.

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:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the proposed 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. If the Commission denies the application, the Applicant may be required to remove the improvements and return the premises to their original condition. The lessee 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 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

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:

1. Find that the existing and, for a limited period, continuing use of the tidewall and bank protection will not substantially interfere with the Public Trust needs and values at this location.
2. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Accept compensation from the Applicant in the amount of \$158 for the unauthorized occupation of State land for the period prior to October 17, 2024.
2. Authorize issuance of a General Lease – Protective Structure Use to the Applicant beginning October 17, 2024, for a term of 10 years, for the use of a tidewall and bank protection in White Slough; annual rent in the amount of \$167, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.