

Staff Report 38

APPLICANT:

Sacramento Area Sewer District

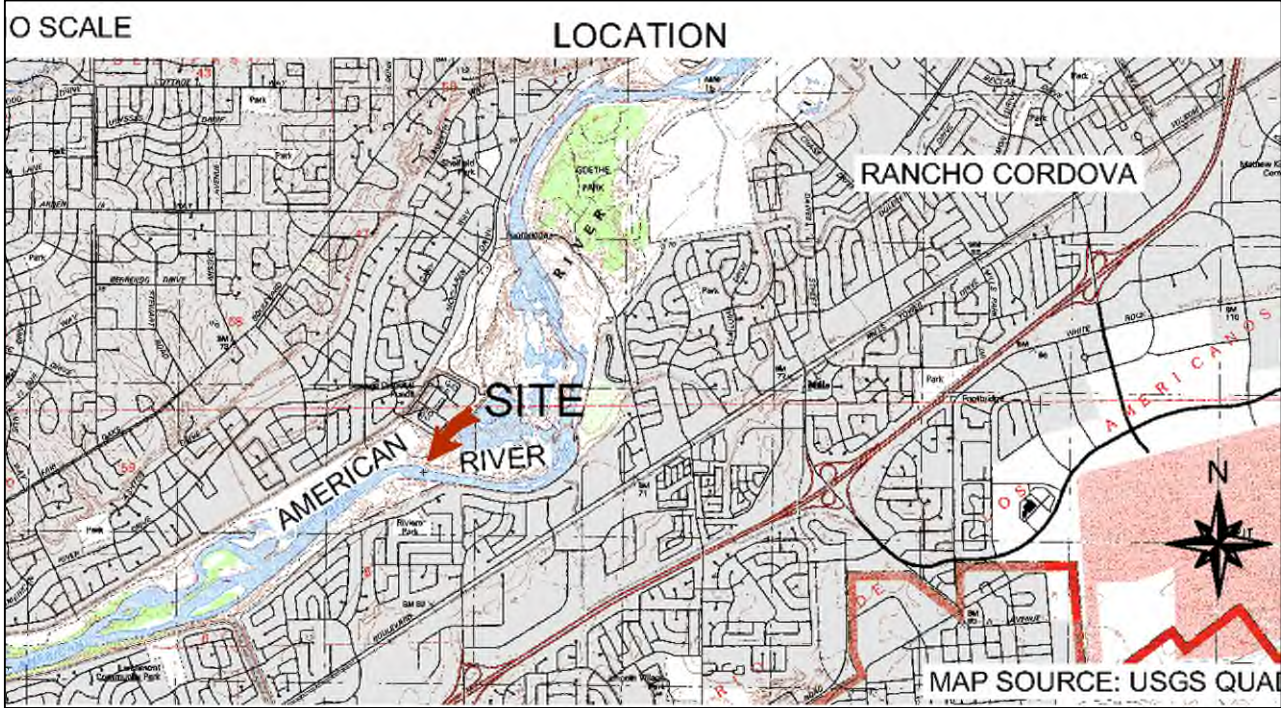
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the American River, adjacent to Assessor’s Parcel Numbers 289-0340-023 and 289-0340-024, near Rancho Cordova, Sacramento County (as shown in Figure 1).

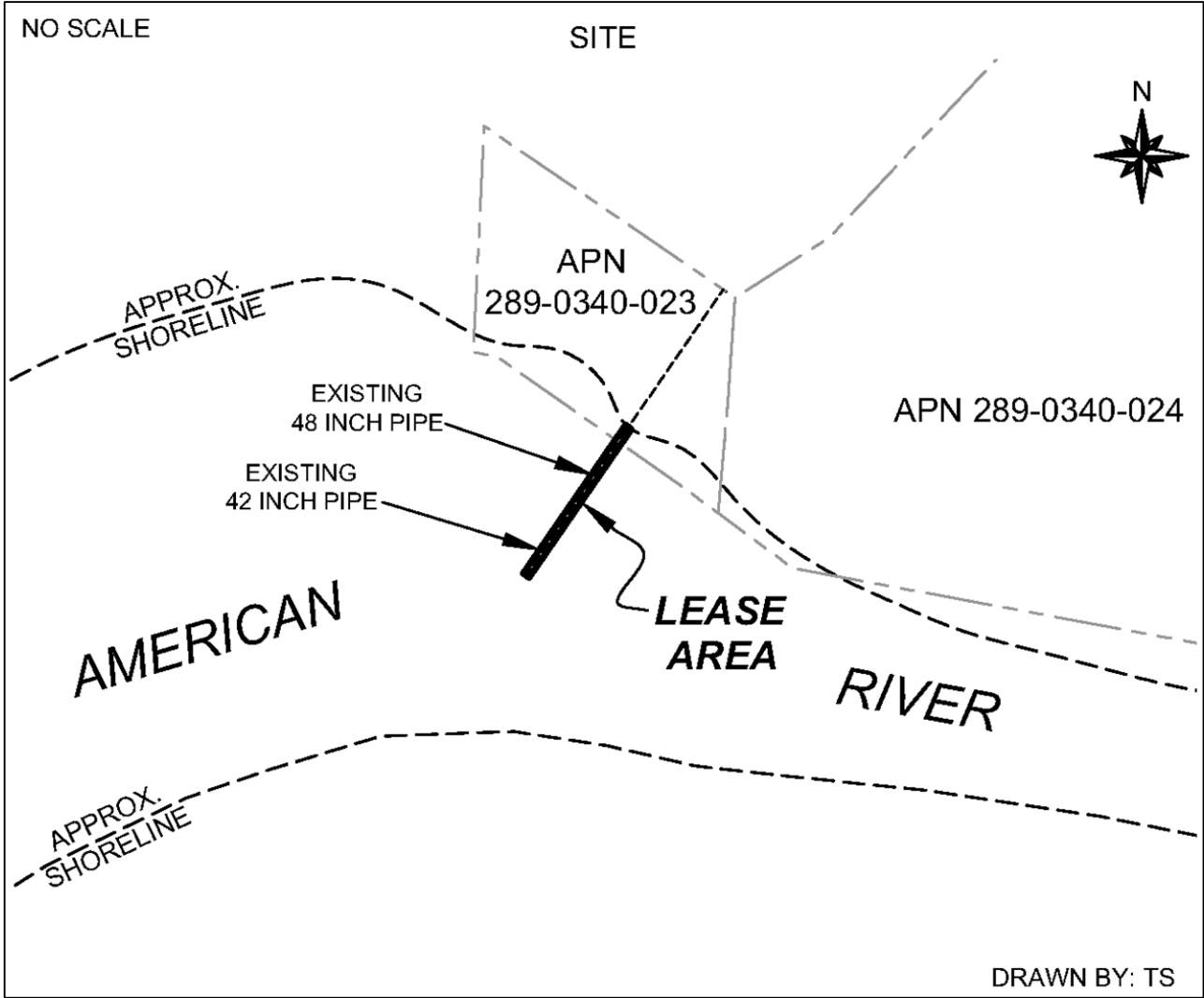
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing stormwater discharge pipeline (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 action to be in the State’s best interest.

SPECIFIC LEASE PROVISIONS:

- Lessee shall provide copies of all periodic condition/integrity assessments and inspection results of the pipelines.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of State-owned land from May 4, 2016 through October 16, 2024.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

BACKGROUND:

In 1961, the outfall pipeline was constructed to discharge both treated effluent and stormwater runoff. The Commission issued Lease 2734 for a term of 49 years to the Sacramento Regional County Sanitation District (District). In 1992, the Commission sent a notice to lessees with sewer infrastructure, requiring the entities to provide information on structure maintenance. In response, the District sent a letter that said the pipeline was “abandoned” in 1983 when the flow was redirected to the regional wastewater treatment plant near Freeport for treatment. However, in the same letter, they notified staff that the pipeline was still used to discharge stormwater. Between the original lease and the 2011 lease, part of the discharge pipe was replaced. Approximately 340 feet of the pipeline on state land is 48 inches in diameter, while the final 30 feet of the pipeline on state land is 42 inches in diameter.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On April 6, 2011, the Commission authorized a six-year General Lease – Public Agency Use to the District for the maintenance of an existing, decommissioned

sewer outfall pipeline in the American River ([Item 26, April 6, 2011](#)). That lease expired May 3, 2016.

Although the expired lease was issued for maintenance of a decommissioned pipeline, the Applicant does not have any plans to decommission the pipeline as it is still used for stormwater discharge. The Applicant is applying for a General Lease – Public Agency Use for an existing stormwater discharge pipeline in the American River.

The stormwater discharge pipeline is maintained by the Applicant and serves the public by redirecting stormwater away from public infrastructure, such as the Sacramento County Sheriff’s training field.

The pipeline is in an area near Gristmill Recreational Area, Harrington Way Point, and is down river from River Bend Park. Commission staff believes that the proposed public agency lease for the pipeline in the American River will not substantially interfere with the Public Trust needs and values at this location because the pipeline is buried below the bed of the river. Public access to the river is located upstream and downstream of the pipeline at various points along the American River.

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.

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 on the Sacramento River, 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 (below).

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 the Sacramento River’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. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage to the submerged pipeline within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the pipeline and cause it to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. However, the existing pipeline is buried under the riverbed and is less vulnerable than exposed infrastructure to either the impacts from sea level rise or from frequent and intense storms that are the result of climate change.

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 (not within the lease area) are located in an area that may be subject to effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values 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 an 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 restore 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 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; 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 stormwater discharge pipeline; 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 action to be in the State’s best interest.