

# Staff Report 12

**LESSEE/APPLICANT:**

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Napa Sanitation District

**PROPOSED ACTION:**

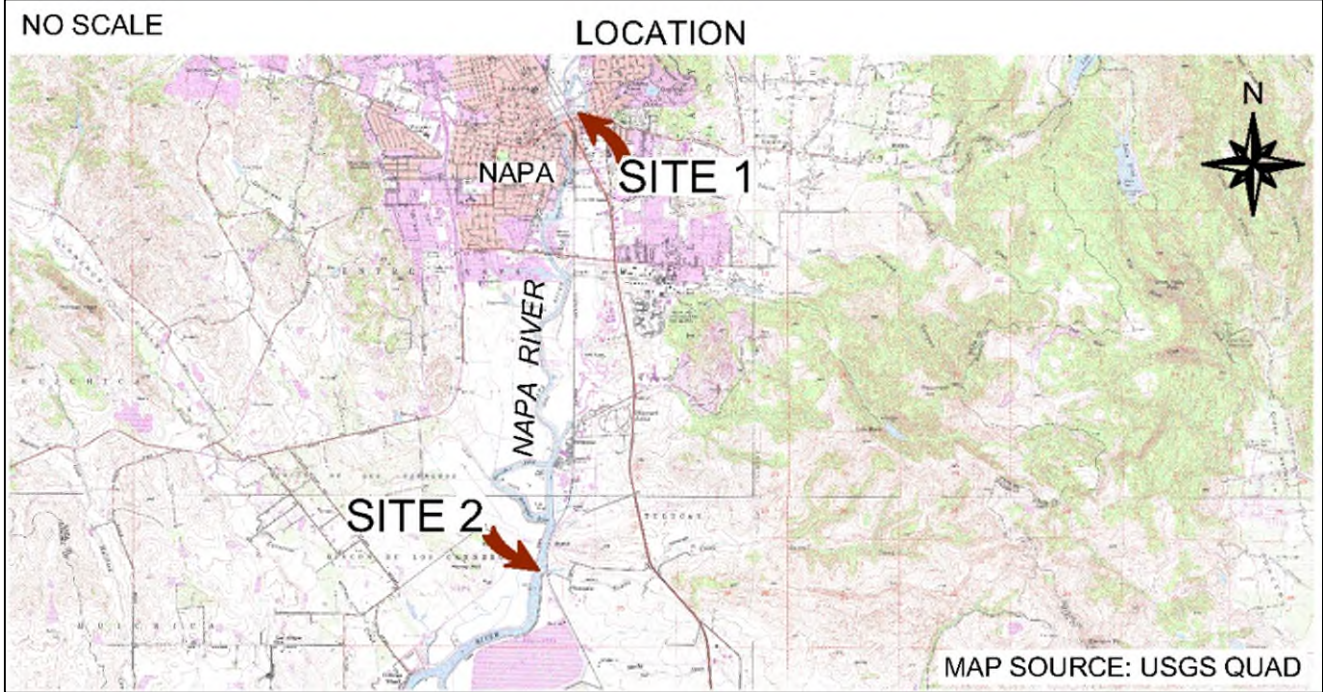
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Amendment of a General Lease – Public Agency Use.

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

Sovereign land in the Napa River, adjacent to Assessor's Parcel Numbers 047-240-024, 047-240-025, and 046-400-015, near Napa, Napa County (as shown in Figure 1).

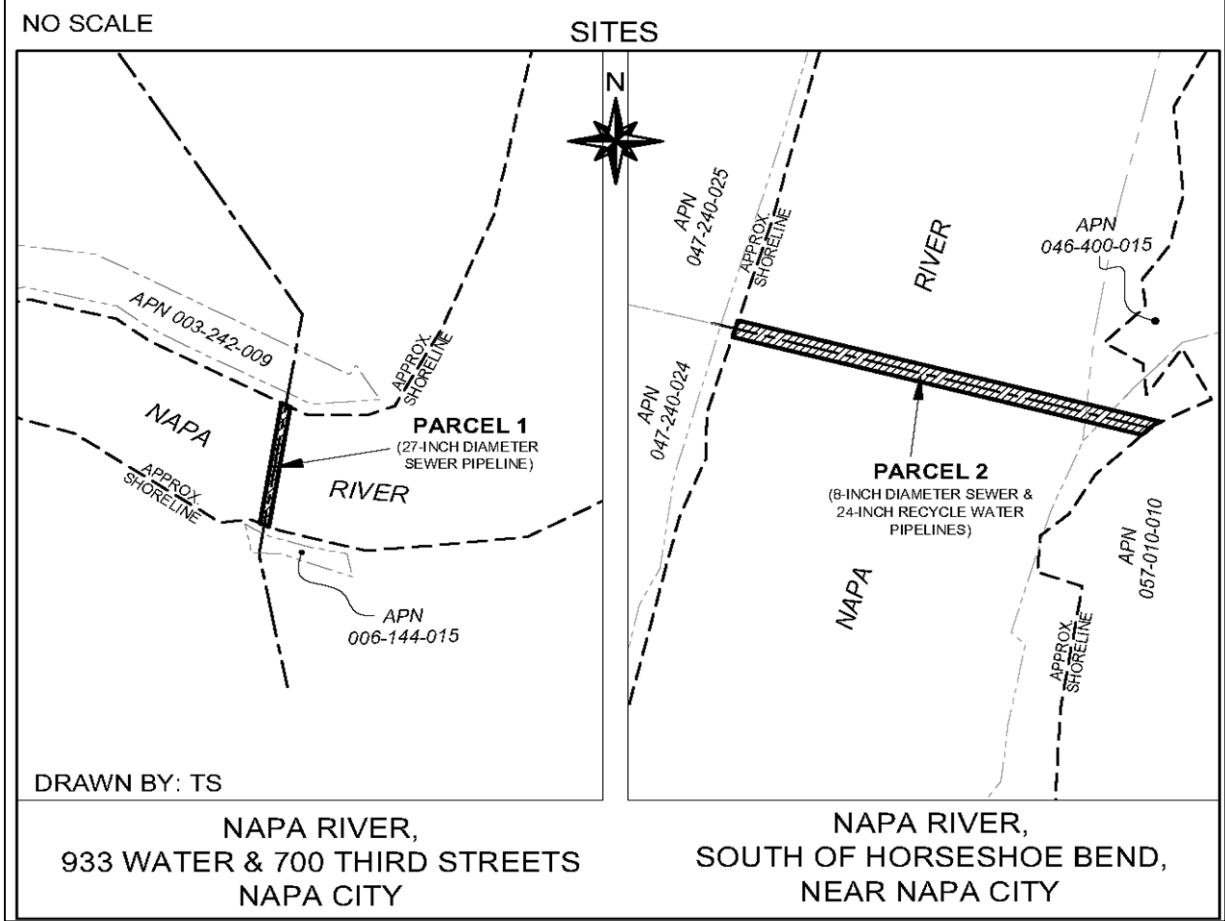
**Figure 1. Location Map**



**AUTHORIZED USE:**

Continued use and operation of an existing 20-inch inside diameter (ID) recycled water pipeline and a 6-inch ID sanitary sewer force main (as shown in Figure 2 below).

**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:**

35 years, beginning February 20, 2015.

**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.

**PROPOSED AMENDMENT:**

- Add an existing non-operational 27-inch-diameter sanitary sewer force main, previously authorized under Permit 3966, as an authorized improvement effective December 17, 2024.
- Include a special provision to require submission of periodic burial depth surveys and to provide a remediation plan for Commission review if the buried non-operational pipeline suffers a loss of cover or becomes exposed.
- Include annual rent of \$196 per year, with an annual Consumer Price Index adjustment for the non-operational 27-inch-diameter sanitary sewer force main.
- Include payment of \$968 for the unauthorized occupation of State-owned land for the period prior to December 17, 2024, for the non-operational 27-inch-diameter sanitary sewer force main.
- Include special provisions relating to the modification of the annual rent.
- Lessee agrees the provisions of Section 3, Paragraph 8, INDEMNITY, shall also extend to the period of Lessee's unauthorized occupation of State-owned lands, from June 1, 2017 to December 16, 2024.
- Amend the diameter of the currently authorized facilities to an existing 24-inch-diameter recycled water pipeline and an 8-inch-diameter sanitary sewer force main.
- Replace the existing Exhibit "A", Land Description, and Exhibit "B", Site and Location Map, with a new Exhibit "A", Land Description, and Exhibit "B", Site and Location Map (for reference purposes only), in the lease.

All other terms and conditions of the lease shall remain in effect without amendment.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

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

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On June 19, 1968, the Commission authorized a 49-year Public Agency Permit (Right-of-Way), Permit 3966, to the Napa Sanitation District (District) for the installation of a 27-inch-diameter sanitary sewer force main ([Item 37, June 19, 1968](#)). The force main was used to convey sanitary sewer to the Napa San Wastewater Treatment Plant (WWTP) for treatment. It is now inactive following the installation of new infrastructure in 2007. The lease expired on May 31, 2017.

On February 20, 2015, the Commission authorized a 35-year General Lease – Public Agency Use, Lease Number PRC 9074, to the District for the continued use and operation of an existing 20-inch inside diameter (ID) recycled water pipeline and a 6-inch ID sanitary sewer force main ([Item 27, February 20, 2015](#)). The as-built plans show the outer diameter of the recycled water pipeline as 24-inches and the sanitary sewer force main as 8-inches. The lease will expire on February 19, 2050.

The District is now applying to amend Lease Number PRC 9074 to include authorization of the existing non-operational 27-inch-diameter sanitary sewer force main that was authorized under the expired permit.

The District plans to clean any residual sewage material from the section of the non-operational pipeline crossing through the Commission's jurisdiction. This would be done by accessing existing manholes on either side of the Napa River. Water would be pumped into one of the manholes, through the pipeline, and pumped out of the opposite manhole and into a holding tank. The collected material would be trucked to the WWTP for treatment. Concrete plugs would be installed at both manholes, sealing the pipeline and blocking any residual material from entering. The plugs would be installed by filling the pipeline at the manholes with concrete or brick and mortar to a specified thickness. This process is expected to take 3 to 5 days without work vehicle activities occurring within the Commission's jurisdiction.

In 2022, a survey indicated the depth of cover over this pipeline to be between 4 feet to 7 feet below the riverbed. The amendment of the lease would require the District to conduct periodic burial depth surveys and to provide a remediation plan for Commission staff's review if the pipeline suffers a loss of cover or becomes exposed.

Staff recommend the Commission not issue a new permit to replace Permit 3966 and to instead authorize an amendment of Lease Number PRC 9074, as requested, effective the date of this Commission meeting. Staff further recommend an annual rent of \$193 for the non-operational pipeline since it no longer provides a public

benefit. Staff also recommend acceptance of compensation from the District for the unauthorized occupation of State land in the amount of \$968 for the period prior to December 17, 2024, the day the proposed amendment of lease would become effective.

Staff believe the proposed amendment of the lease to add the existing buried non-operational pipeline will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease.

The proposed amendment of lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 35-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 amendment of lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved and for the District to indemnify the State for the entire period of occupation between the expiration of Permit 3966 and the effective date of the amendment of lease.

**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 lease area is in the Napa River, which at this location is a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area would be at a higher risk of flood exposure given future projection 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.

This effect could increase the Napa River's inundation levels within the lease area. In addition, as stated in [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 27-inch pipeline is buried approximately 4 to 7 feet under the Napa River. The 24-inch and 8-inch pipelines were installed by horizontal directional drilling and are approximately 48-feet beneath the riverbed. Therefore, during the term of the caretaker lease, these structures are not likely to be vulnerable to the impacts from sea level rise or frequent and intense storms that are the result of climate change. However, over time, the increased intensity and frequency of river flows could erode the bed of the River and expose the 27-inch submerged pipeline within the area. Further climate change impact analyses on the leased facilities would be assessed during any future lease term and would be based on projected climate change and sea level rise scenarios at that time.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are in an area that may be subject to the effects of climate change, including sea level rise.

**CONCLUSION:**

For all the reasons stated above, Staff believes approval of the proposed amendment of 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, or for the term of the lease; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the proposed amendment is a discretionary action by the Commission. Each time the Commission approves or rejects the use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. The lessee has no right to a new lease or to a renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs," and "Leading Climate Activism" Strategic Focus Areas of the [Commission's 2021-2025 Strategic Plan](#).
3. Staff recommend that the Commission find that amendment of the lease 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:**

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It is recommended that the Commission:

**CEQA FINDING:**

Find that amendment of the lease 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:**

Find that the proposed amendment of the 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; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$968 for the unauthorized occupation of State sovereign land for the period prior to December 17, 2024.
2. Authorize amendment of Lease 9074, a General Lease – Public Agency Use, effective December 17, 2024; to authorize an existing non-operational 27-inch-diameter sanitary sewer force main as an authorized improvement with an annual rent of \$193 per year, with an annual Consumer Price Index adjustment; to amend the authorized facilities to an existing 24-inch-diameter recycled water pipeline and a 8-inch-diameter sanitary sewer force main; include special provisions regarding burial depth surveys, rent, and indemnity; replace the existing Exhibit “A”, Land Description, and Exhibit “B”, Site and Location Map, with a new Exhibit “A”, Land Description, and Exhibit “B”, Site and Location Map (for reference purposes), in the lease; all other terms and conditions of the lease will remain in effect without amendment.