

Staff Report 29

APPLICANT:

Sonoma-Marín Area Rail Transit

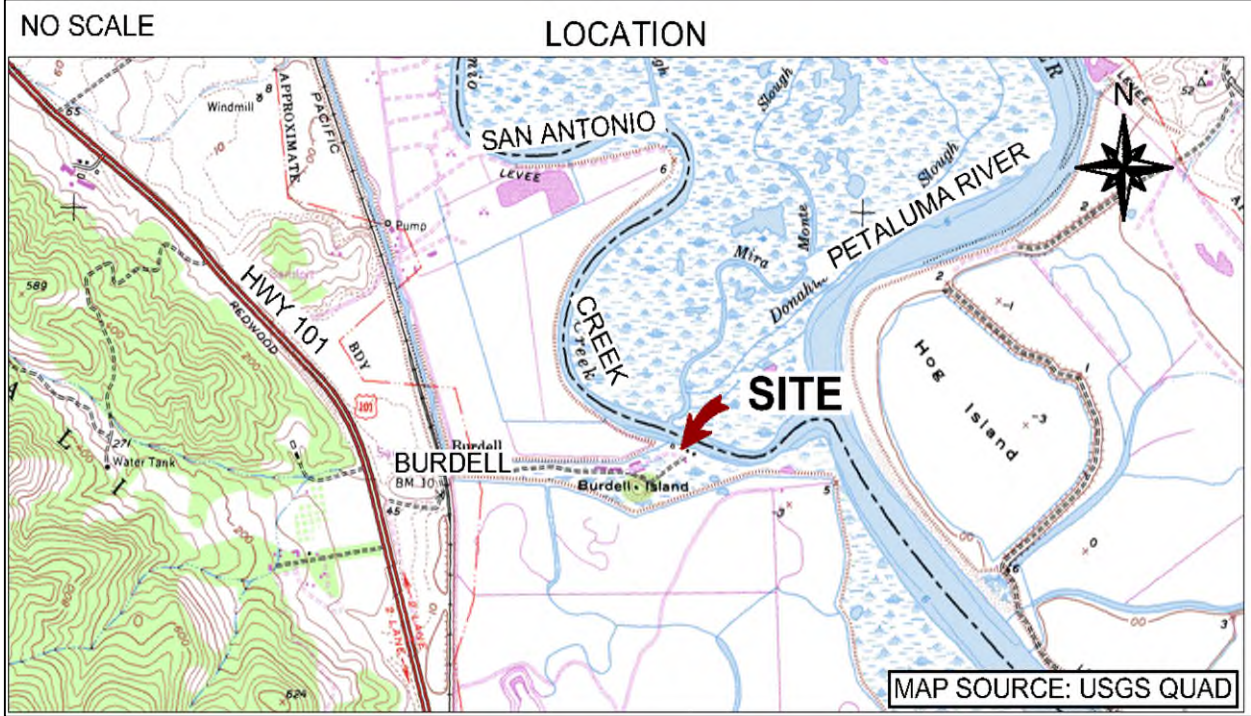
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in San Antonio Creek, adjacent to Assessor’s Parcel Number 125-160-14, Novato, Marin County (as shown in Figure 1).

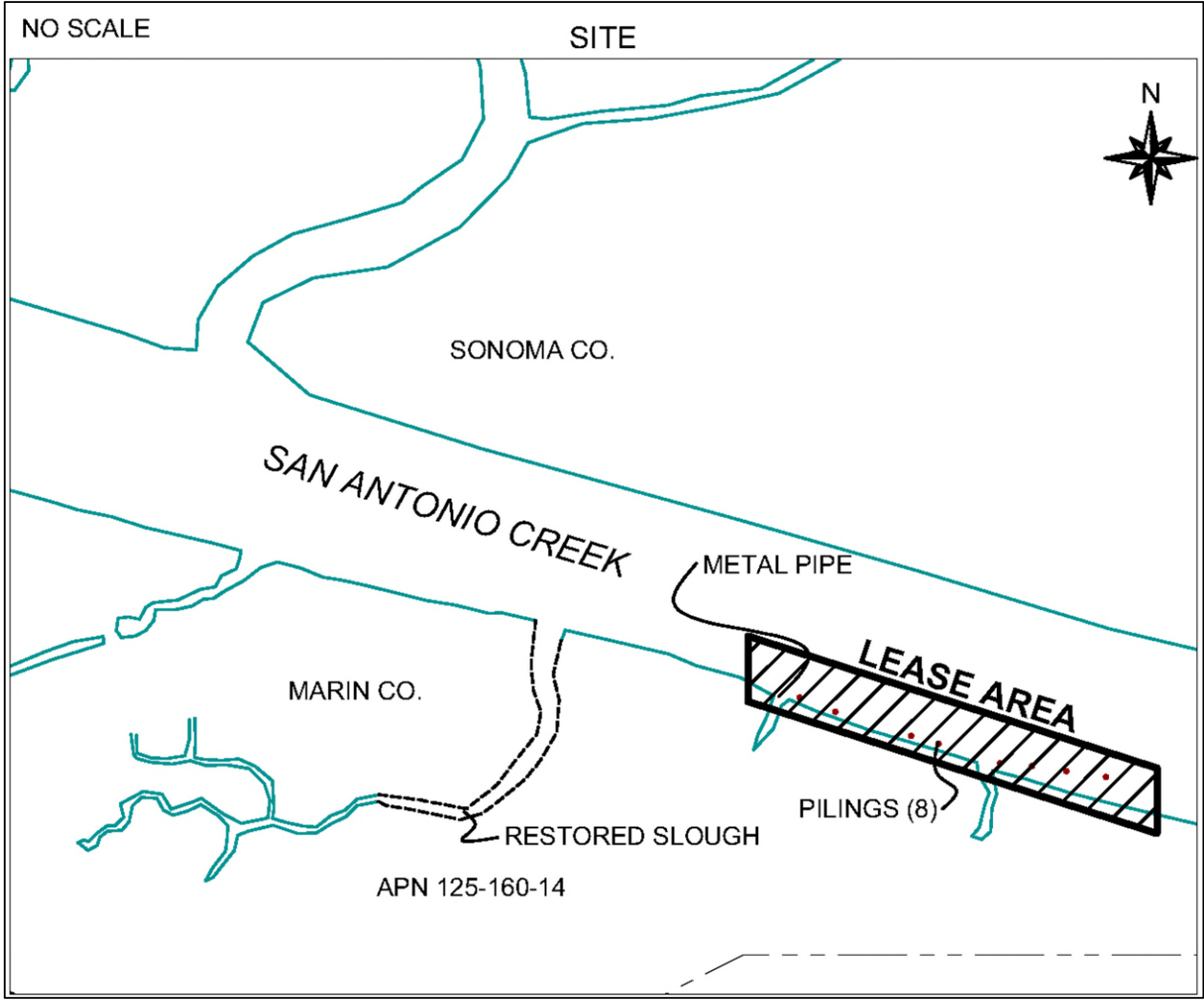
Figure 1. Location



AUTHORIZED USE:

Use of eight existing unattached pilings and one existing metal pipe (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 April 2, 2025.

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 acknowledges that the land is subject to the Public Trust and is presently available to members of the public for recreational, waterborne commerce, navigation, fisheries, open space, and any other recognized Public Trust uses. Lessee’s authorized activities and use of the Lease Premises shall not interfere or limit the Public Trust rights of the public.
- No additional improvements or structures shall be constructed or placed on the Lease Premises without Lessor’s prior approval.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands prior to April 2, 2025.

STAFF ANALYSIS AND RECOMMENDATION:

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 October 14, 2014, the Commission authorized a General Lease – Public Agency Use to Sonoma-Marin Area Rail Transit for the maintenance of eight existing unattached pilings not previously authorized by the Commission; and restoration and enhancement activities for the Mira Monte Marina Wetlands Mitigation Project adjacent to Assessor’s Parcel Number 125-160-14, Novato, Marin County ([Item 19, October 14, 2014](#)). The lease expired on October 13, 2024.

The restoration activities have since been completed and the Applicant is now applying for a new General Lease – Public Agency Use for the maintenance of eight existing unattached pilings, and one existing metal pipe not previously authorized by the Commission, in the San Antonio Creek, adjacent to Assessor’s Parcel Number 125-160-14, Novato, Marin County.

The removal of the eight unattached pilings and the metal pipe were considered in the previous Mira Monte project. However, California Department of Fish and

Wildlife staff identified endangered salt mouse habitat present at the site which precluded the piling and pipe removal. The work to remove these improvements would have occurred outside of the restoration project permit boundary, so they were allowed to remain in place. These improvements provide a regional benefit to the public and facilitate Public Trust uses in this location by allowing recreational boaters to utilize the improvements to tie off their watercrafts.

The lease provisions regarding indemnity will apply for the entire period of unauthorized occupation from October 14, 2024, the day after the lease expiration date, through April 1, 2025, the day before the beginning of the proposed lease.

The proposed lease does not alienate the State’s fee simple interest in the underlying land, nor will it permanently impair public rights. The lease is limited to a 10-year term and requires the lessee to keep and maintain the eight unattached pilings and metal pipe in good order and repair. 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.

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 San Antonio Creek, 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 the San Antonio Creeks'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 and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The 8 unattached pilings and metal pipe are fixed structures and therefore vulnerable to sea level rise and more frequent flood events. These structures may need maintenance, due to increased flood exposure and more frequent storm events, to ensure they do not become dislodged or degraded and to reduce risks to public safety and navigation. In particular, the metal pipe may need to be examined to determine burial and, with future increased storm frequency and severity, whether it may become dislodged or pose a navigational hazard.

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 believe the issuance of this lease will not 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 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 use and maintain the improvements as defined in the lease documents. The Applicant has no right to a new lease or a 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:

Find that the existing and, for a limited period, continuing use of the existing eight unattached pilings and metal pipe will not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 2, 2025, for a term of 10 years, for the use of eight existing unattached pilings and one existing metal pipe; 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 interests.