

Staff Report 39

APPLICANT:

Union Pacific Railroad Company

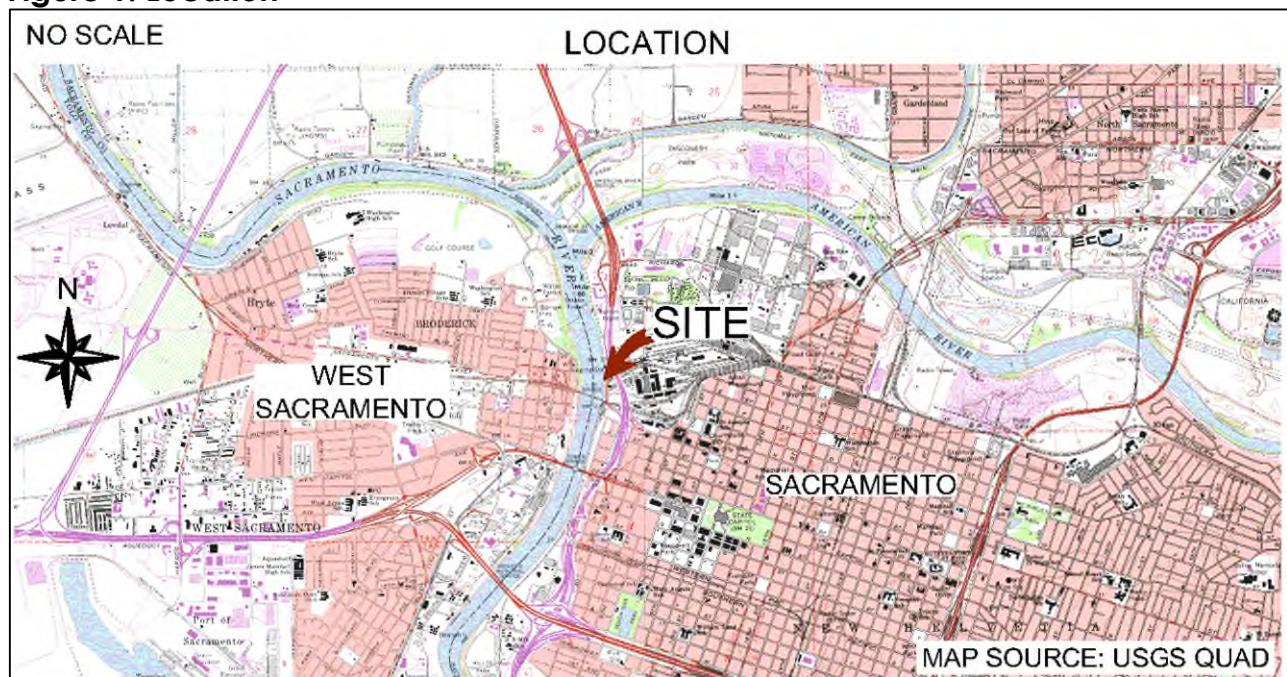
PROPOSED ACTION:

Issuance of a General Lease – Industrial Use.

AREA, LAND TYPE, AND LOCATION:

17.03 square feet, more or less, within a portion of State-owned land on the Sacramento River, known as the Waterfront Parcel, Assessor's Parcel Number 002-010-023, Sacramento, Sacramento County (as shown in Figure 1).

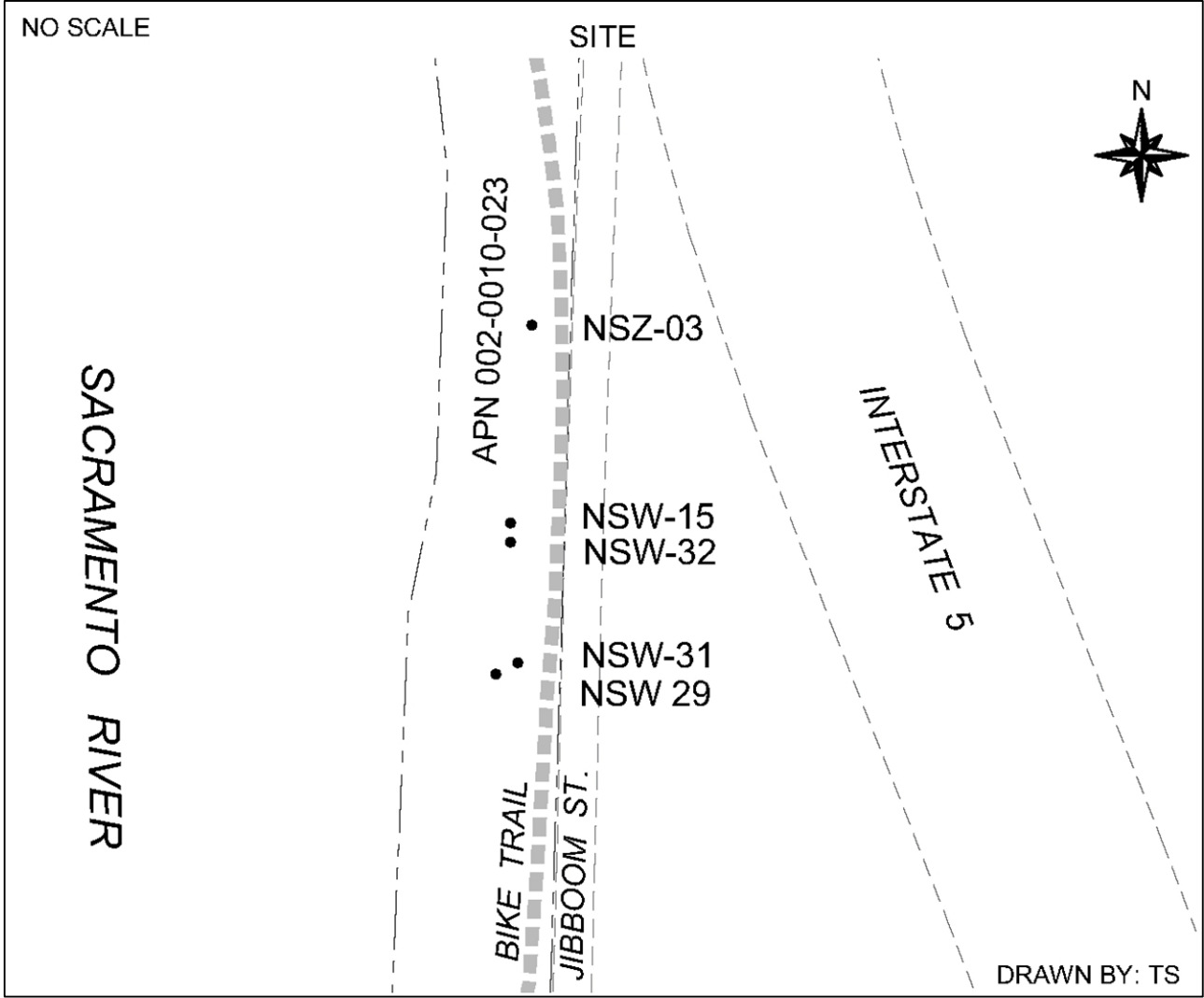
Figure 1. Location



AUTHORIZED USE:

Use of five existing groundwater monitoring wells (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 August 21, 2025.

CONSIDERATION:

\$799 per year, with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as

provided for in the lease; and \$3,997 to compensate for the unauthorized occupation of state sovereign land for the existing facilities for the period prior to August 21, 2025.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount of \$1,000,000.
- Surety in the amount of \$50,000.
- Lessee shall not add, or allow the placement by any other party, of any improvements on the Lease Premises without the prior written consent of Lessor, as expressed through an amendment of this Lease.
- Any discharge of water from the authorized improvements onto the Lease Premises will require notification to Lessor five days before scheduled activities. Notification will also include a copy of approvals or authorization from the Central Valley Regional Water Quality Control Board.

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:

In 2023, staff were made aware of five existing groundwater wells on the State-owned parcel on the lefthand (eastern) levee along the Sacramento River, known as the Waterfront Parcel, adjacent to the Sacramento Railyards, Assessor's Parcel Number 002-010-023, in Sacramento, Sacramento County. Staff contacted the owner of the improvements (Applicant) and requested a lease application. The Applicant is applying for a General Lease – Industrial Use, for use of five existing groundwater monitoring wells not previously authorized by the Commission. Staff recommends starting the new lease on August 21, 2025, to align with the proposed authorization date. Should the Commission authorize the proposed lease, the lessee will maintain the five subject wells during the 10-year lease period.

The Waterfront Parcel is located at the Sacramento Railyards which has a history of industrial use. The Applicant took control of the property in 2006 and is the successor to the Southern Pacific Railroad Company, whose use of the Railyards left

environmental contamination in soil and groundwater. The Applicant is responsible for remediating this contamination. As part of this remediation process, the Applicant oversees the subject wells which include sampling, monitoring, operation, and maintenance. It performs tests and analyzes data for compliance with water quality standards as part of an environmental monitoring and reporting program. Additionally, the data supports decision-making required for implementation of remediation work. The Applicant must adhere to the requirements of the program as directed by the Regional Water Quality Control Board. The Applicant attends quarterly meetings with several public and private agencies to discuss and coordinate diverse uses of the Sacramento Railyards area. The surrounding area includes several tourist and public recreation areas, including Old Sacramento and Discovery Park at the confluence of the Sacramento and American Rivers.

In 2024, the Applicant submitted a monitoring reduction evaluation to the Central Valley Regional Water Quality Control Board (Board). The Board determined that monitoring of wells NSW-31 and NSW-32 could be phased-out based on a lack of constituents. Therefore, the Applicant is developing a comprehensive decommissioning plan for the two wells on state land. At a future date, the applicant will submit a new lease application and supporting documents for the Commission to consider. Any future request for a proposed project will be subject to technical review, including analysis pursuant to the California Environmental Quality Act (CEQA), and authorization from the Commission.

The Commission also leases the Waterfront Parcel to the City of Sacramento as part of the overall Sacramento Railyards settlement and exchange agreement ([Item 59, April 6, 2011](#)). Commission and City staff continue to discuss public uses for the Waterfront Parcel, including reuse of the historic Pioneer Mills pumphouse building. The proposed lease is consistent with and does not substantially interfere with the City's lease.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation from June 2006 through August 20, 2025, ensuring the State is protected. Staff is requesting compensation from the Applicant in the amount of \$3,997, for the period of unauthorized occupation prior to the start of the proposed lease. 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 will have no significant impact on Public Trust-consistent uses or resources in the area. Upon termination of the lease, the lessee may be required to remove any improvements from State

Lands and restore the lease premises to their original condition. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

The subject groundwater sampling wells are located on a State-owned upland parcel and therefore do not impede navigation or other Public Trust uses of the waterway. The proposed lease includes provisions on upkeep and maintenance to help mitigate the State's liability, as well as measures to protect public use of the lease area. It will not substantially interfere with Public Trust uses, nor does it limit recreational access or public use of the Sacramento River.

CLIMATE CHANGE:

INTRODUCTION:

The climate crisis and rising sea levels are impacting California's coastal and inland waterways now. Likely impacts to the lease premises include, but are not limited to, sea level rise, saltwater intrusion, prolonged drought, extreme heat, and changes to the intensity and timing of precipitation events. These impacts can exacerbate natural hydrological processes such as erosion, scour, and sedimentation. These impacts may affect the existing structures subject to the proposed lease, located on the Sacramento River.

DATA & PROJECTIONS:

Water levels in tidally-influenced rivers will rise as sea levels rise. The California Ocean Protection Council updated the [State of California Sea Level Rise Guidance](#) in 2024 to provide a synthesis of the best available science on sea level rise projections and rates for multiple emissions scenarios. Commission staff evaluated the “intermediate-high” and “high” scenarios due to the vulnerability and exposure of the lease location and the continued global reliance on fossil fuels. The San Francisco tide gauge was used for the projected sea level rise scenario for the region, as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

| Year | Intermediate-High (feet) | High (feet) |
|------|--------------------------|-------------|
| 2040 | 0.7 | 0.8 |
| 2050 | 1.0 | 1.3 |
| 2070 | 2.2 | 2.9 |
| 2100 | 4.8 | 6.5 |

Source: Table 6, State of California Sea Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

In addition to rising seas, warmer temperatures have led California and the Southwest region to experience a megadrought from 2000 to 2022, measured as the driest 22 years in the past 1200 years, and more megadroughts are projected through the end of the century ([U.S. Global Change Research Program, Ch. 28. Southwest. In: Fifth National Climate Assessment, 2023](#)). Hotter and drier conditions have led to declines in snowpack volumes, higher-elevation snow lines, earlier snowmelt, and reduced overall runoff. Streamflow and river volumes are lower and will be drawn down farther as temperatures continue to rise and demand for water increases. Despite the region's increasing aridity, flooding from extreme precipitation events is projected to increase, attributed to earlier snowmelt, sea level rise, and more intense and frequent atmospheric rivers. Minor and moderate flooding (flooding events defined as disruptive to damaging), attributed to higher water levels, is expected to increase five to ten orders of magnitude by 2100, according to [NOAA's 2022 Sea Level Rise Technical Report](#).

ANALYSIS:

The groundwater monitoring wells are expected to remain stable and function properly for the next 10 years, as the Sacramento groundwater table has been stable¹ despite the region's experience with droughts and population growth. The lease premises are likely to experience more extreme conditions over the lease term than in the past, due to climate change. Changes to the timing and amount of runoff from the higher elevations of the watershed, stronger storm surge, and rising water levels will result in higher flood risks along the Sacramento River. Bank stability may be compromised due to increased channel erosion and undercutting from more intense precipitation and floods.

¹ See details from the Sacramento Groundwater Authority's website here <https://sgah2o.org/our-groundwater/>.

CONCLUSION:

For all the reasons stated above, staff believes that issuance of 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 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 the use of state-owned land, it exercises legislatively delegated authority and responsibility as trustee of the State's lands as authorized by law. If the Commission denies the application, the Applicant must decommission/remove the five groundwater monitoring wells and restore the property to its 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 "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" 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 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 proposed lease will not substantially impair the public rights to navigation or substantially interfere with the 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.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$3,997 for the unauthorized occupation of state sovereign land for the period prior to August 21, 2025.
2. Authorize issuance of a General Lease – Industrial Use to the Applicant, beginning August 21, 2025, for a term of 10 years, for the use of five existing groundwater monitoring wells which include sampling, monitoring, operation, and maintenance; annual rent in the amount of \$799, with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$1,000,000 per occurrence; and a surety or other security instrument in the amount of \$50,000.