

Staff Report 41

LESSEE/APPLICANT:

County of Marin

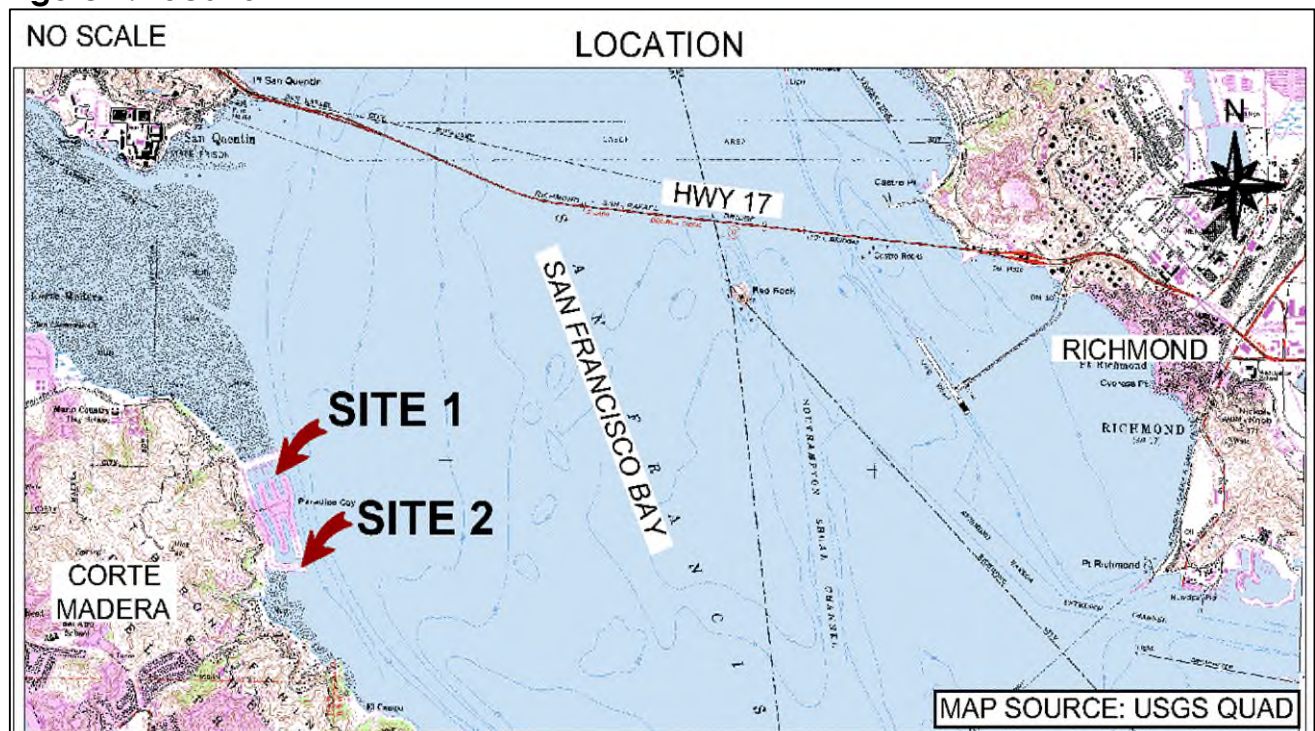
PROPOSED ACTION:

Termination and Issuance of a General Lease - Dredging.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in San Francisco Bay at the northern and southern entrance channels to Paradise Cay, near Tiburon, Marin County (as shown in Figure 1).

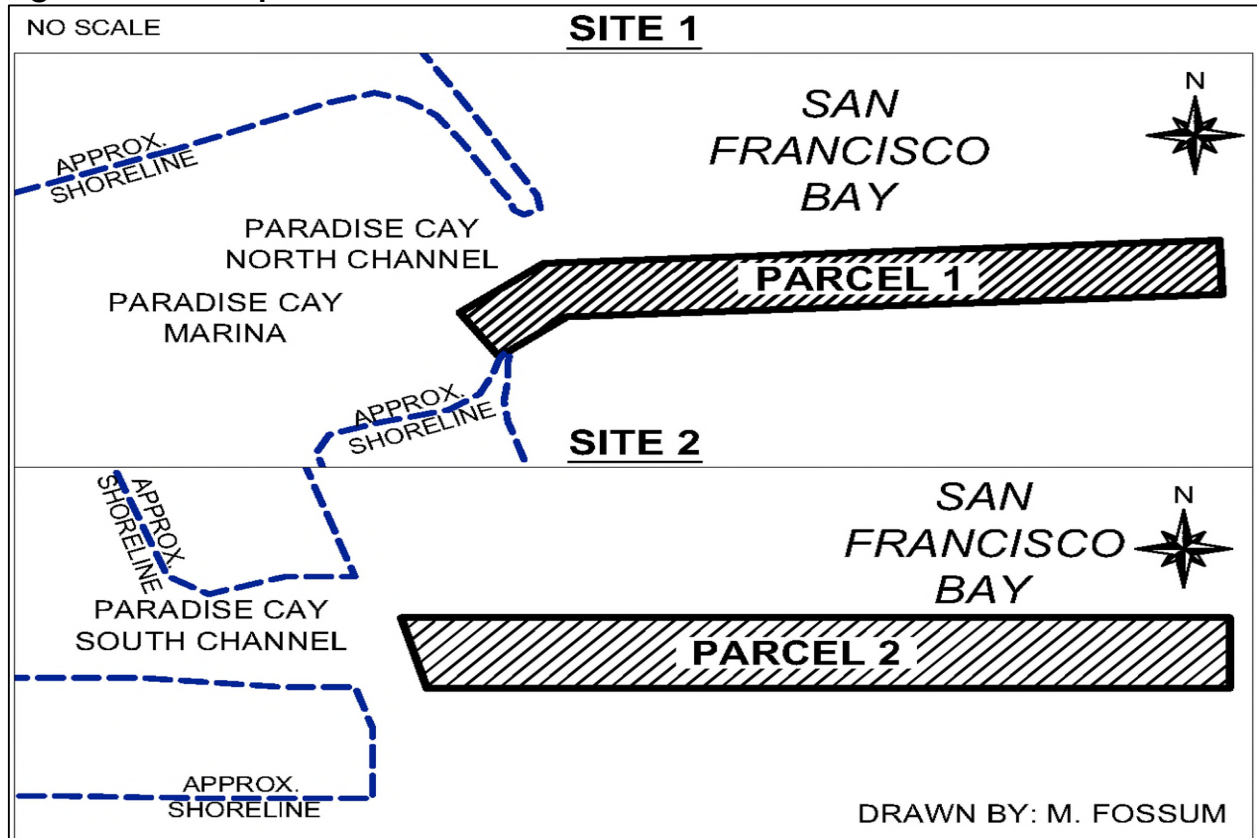
Figure 1. Location



AUTHORIZED USE:

Maintenance dredge a maximum of 50,000 cubic yards (cy) of sediment over the duration of the lease from the San Francisco Bay to maintain a navigable depth (as shown in Figure 2). Dredged material will be disposed of at Dredge Material Management Office (DMMO)-approved disposal sites. The dredged material may not be sold.

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 13, 2025.

CONSIDERATION:

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; dredged material may not be sold or used for any commercial purpose.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.
- In performing the dredging, the Lessee will abide by contemporary Best Management Practices to control turbidity to protect marine resources and habitats from excessive siltation in the general vicinity of the project.
- The material dredged from the Lease Premises is the property of the State of California and shall not be sold. Lessee is not authorized to dredge for purposes of commercial resale, environmental mitigation credits, or other private benefit without Lessor's prior written consent.
- Dredging may only occur between June 1 through November 30 of any year.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 13, 2016, the Commission authorized a 10-year General Lease – Dredging, to the Lessee for maintenance dredging of a maximum of 40,000 cy of sediment over the duration of the lease, from the San Francisco Bay to maintain a navigable depth ([Item 21, October 13, 2016](#)). The lease will expire on October 12, 2026. The Lessee is requesting termination of the existing lease and issuance of a new lease to allow for an increased volume of sediment to be dredged.

The Lessee has applied for a new General Lease – Dredging for maintenance dredging of approximately 50,000 cy of sediment over the duration of the lease from the northern and southern entrance channels to Paradise Cay in San Francisco Bay. Paradise Cay is a residential waterfront community with several docks. The maintenance dredging is required to maintain safe navigable depths for the north and south entrance channels to the marina for recreational boating.

The material would be removed by clamshell dredge. The clamshell dredge consists of a clamshell bucket operated from a crane mounted on a barge. The

material would be removed and placed on the barge. The dredged material would then be transported to a DMMO authorized disposal site. The dredging will occur during the in-water work window between June 1 and November 30.

The San Francisco Bay Conservation and Development Commission's San Francisco Bay Eelgrass Impact Assessment Tool (web-based tool) shows the dredging area within the 250-meter indirect impact buffer zone for eelgrass ([San Francisco Bay Eelgrass Impact Assessment Tool](#)). Consistent with the June 9, 2011, Programmatic Essential Fish Habitat Consultation Agreement (<https://media.fisheries.noaa.gov/2021-11/ltms-efh-full-signed-agreement-final-060911.pdf>) between the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers (USACE), and the National Marine Fisheries Services (NMFS) for the San Francisco Bay Long Term Management Strategy, the Lessee shall install a silt curtain or conduct light monitoring at the dredging area to protect eelgrass beds within 250 meters of dredging activity from adverse impacts due to excess turbidity in the water column. An Eelgrass Protection Plan is required pursuant to Condition 3 of Section 2 Special Provisions with the Lease.

The dredging provides public benefit by improving navigational depths and enhancing navigation in the San Francisco Bay. Navigation is a recognized Public Trust use. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and 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 dredged material cannot be sold.

CLIMATE CHANGE:

INTRODUCTION:

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 proposed project would dredge sediment that has naturally accumulated in the north and south entrance channels of Paradise Cay Marina in San Francisco Bay. Dredging supports many activities consistent with the Public Trust, including navigation, recreation, public access, natural resources restoration, and reducing flood risk. San Francisco Bay, at this location, is 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.

DATA & PROJECTIONS:

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 project site and the continued global reliance on fossil fuels. 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	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 12, 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 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 2023](#)). 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](#) (NOAA 2022).

ANALYSIS:

An increase in more frequent and stronger storm events due to climate change and associated throughput of stormwater from the Delta and major tributaries of San Francisco Bay, combined with sea level rise, will expose the lease area to higher flood risks, comprised of greater total water levels for longer periods of time, including an increase in sediment load. Consequently, the effects of climate change may require more frequent maintenance dredging for any shallow portion of the lease area.

RECOMMENDATIONS:

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 the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; 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. 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. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

APPROVALS OBTAINED:

- U.S. Army Corps of Engineers
- San Francisco Bay Conservation and Development Commission
- San Francisco Bay Regional Water Quality Control Board

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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 foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination of Lease 7822, a General Lease – Dredging, effective October 12, 2025.
2. Authorize issuance of a General Lease – Dredging to the Applicant beginning October 13, 2025, for a term of 10 years, to dredge a maximum of 50,000 cy of sediment over the duration of the lease from the San Francisco Bay at the northern and southern entrance channels to Paradise Cay, near Tiburon; consideration is 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; liability insurance in an amount no less than \$1,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease; and the dredged material may not be sold.