

Staff Report 59

LESSEE:

San Joaquin Area Flood Control Agency

APPLICANT:

Central Valley Flood Protection Board

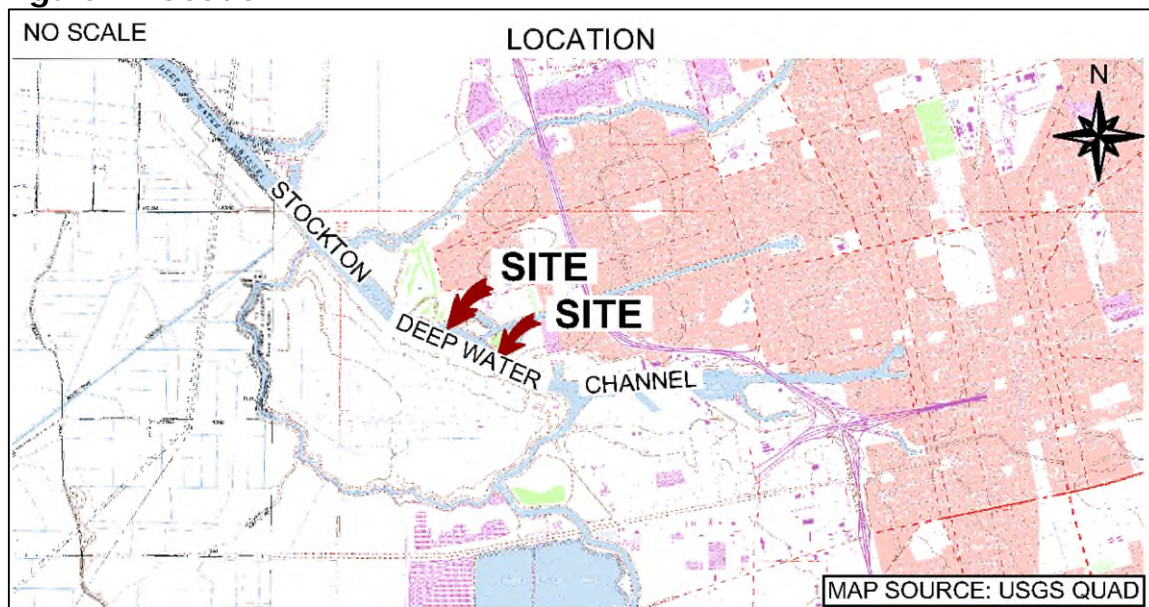
PROPOSED ACTION:

Amendment and Restatement of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Numbers 133-060-01 and 109-020-06, near Stockton, San Joaquin County (as shown in Figure 1).

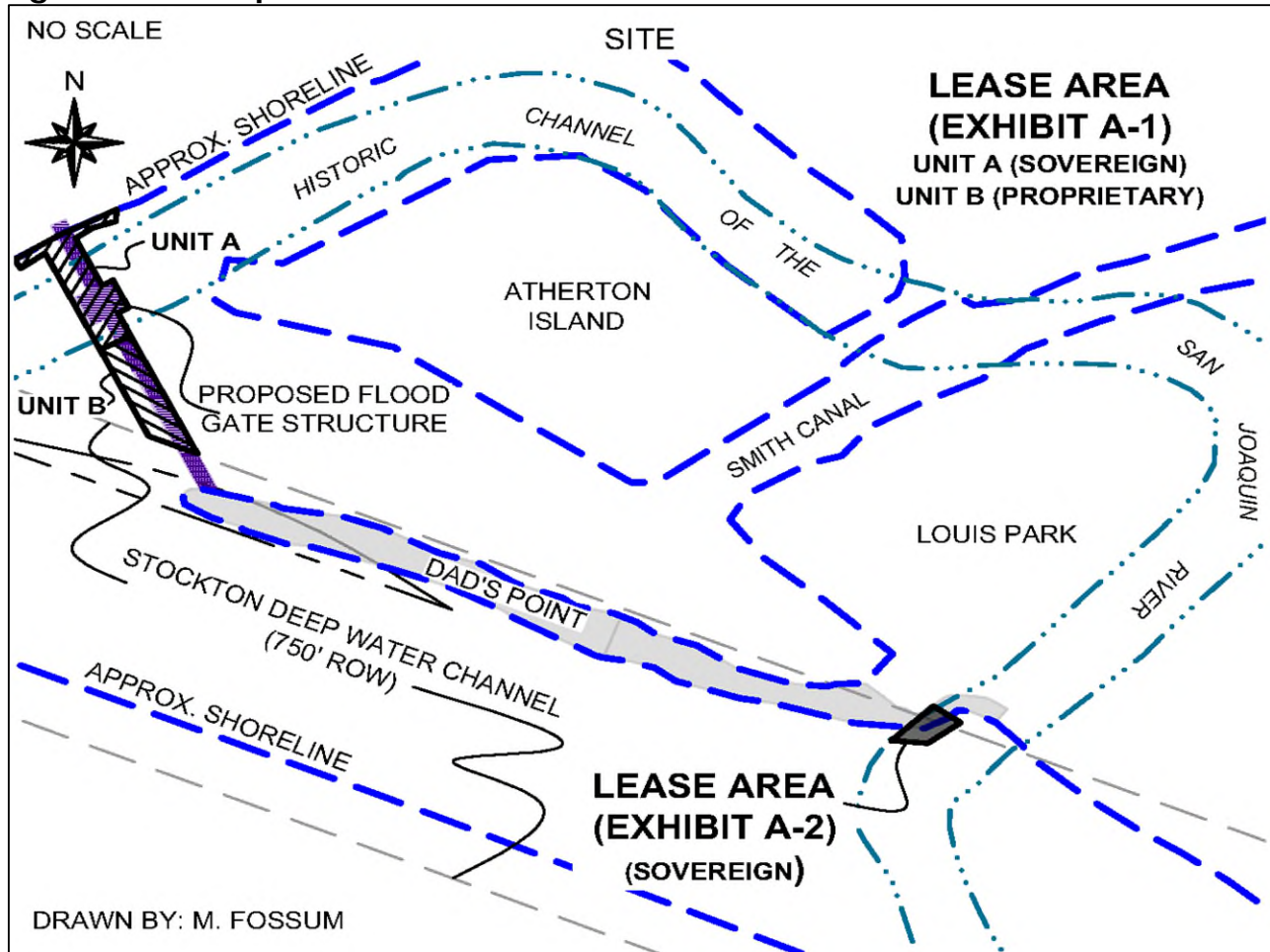
Figure 1. Location



AUTHORIZED USE:

Construction, use, and maintenance of a fixed wall, gate structure, flood wall, bank protection, and dredging of up to 8,650 cubic yards for installation of the fixed wall and gate structure (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:

35 years, beginning April 5, 2019.

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 interests.

PROPOSED AMENDMENT:

- Amend Section 1, Basic Provisions, (Restated Lease, Section 1, Basic Provisions) to add the Central Valley Flood Protection Board (CVFPB) as a Lessee.
- Amend Section 1, Basic Provisions, (Restated Lease, Section 1, Basic Provisions, Term) to extend the term of the lease to 49 years.
- Amend Section 2, Special Provisions, (Restated Lease, Section 2, Special Provisions) to include certain provisions agreed upon between the Commission and the Division of Water Resources (DWR).
- Replace the existing Exhibit B, Site and Location Map, to add the CVFPB as a Lessee.
- Amend Section 3, General Provisions (Restated Lease, Section 3, General Provisions) to replace it with the Commission's current General Provisions.

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

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 5, 2019, the Commission authorized Lease No PRC 9543, a General Lease – Public Agency Use, to the San Joaquin Area Flood Control Agency (SJAFCFA) for the proposed construction, use, and maintenance of a fixed wall, gate structure, flood wall, bank protection, and dredging of up to 8,650 cubic yards for installation of the fixed wall and gate structure associated with the Smith Canal Gate Project (Project) ([Item 39, April 5, 2019](#)). The lease will expire on April 4, 2054. The portion of the Project within the Commission's jurisdiction is the final phase of the Project and is anticipated to begin in 2025.

The SJAFCFA is responsible for ensuring that levees are maintained in a manner that reduces the risk of flooding and works in partnership on the Project with the CVFPB, the DWR, and the United States Army Corps of Engineers (USACE). SJAFCFA and CVFPB entered into a contract for the Project whereby one of SJAFCFA's roles and

responsibilities is to acquire the land rights needed to construct and maintain the Project. Pursuant to this Contract, SJAFCA applied to the Commission for a General Lease – Public Agency Use authorizing the Project.

However, the Contract also requires all land rights necessary for the Project to be vested in the CVFPB, a state agency, since state funds are used to construct the Project. Additionally, per agreements with the Federal Government, and as stipulated in state water code, the CVFPB is ultimately responsible for the flood control infrastructure (Smith Canal Gate) associated with the State Plan of Flood Control.

The CVFPB is now applying to amend and restate the Lease, and SJAFCA has agreed, to add the CVFPB as a Lessee; amend certain provisions in the Section 2, Special Provisions agreed upon between the Commission and DWR for levee improvement projects to prevent flooding and protect the public health and safety; extend the term of the Lease to 49 years; replace Exhibit B, Site and Location Map, of the Lease to include the CVFPB as a Lessee; and to replace Section 3, General Provisions of the Lease with the Commission's current General Provisions. Given the number of amendments considered, staff proposes a "restatement of the lease" which replaces the original lease and its amendments with a single, updated, and consolidated agreement.

The Applicant requested a 49-year lease term for various reasons, the most pertinent being that the USACE requires that the Applicant have control over the land for the life of the project, anticipated for over 50 years. Given that the Commission is not able to lease lands for more than 49 years, nor alienate sovereign Public Trust Lands, a 49-year lease is proposed as a compromise that best satisfies federal requirements for the Project.

The proposed amendments of the Lease will allow the completion of the Project which will provide a minimum 200-year level of protection as required in the Central Valley Flood Protection Plan and will reduce flood risk to more than 8,000 homes. Prevention of a major flood event to protect the public health and safety is in the best interest of the state. The Project's two fishing and wildlife viewing platforms and multi-use interpretive trail suitable for walking, running, and bicycling will be open to the public across the state and will enhance public recreation. Kiosks will also be maintained on the trail with interpretive signs to help educate the public on a variety of topics, including local wildlife and plants, the San Joaquin River watershed, the history of the Port of Stockton, and the Sacramento – San Joaquin River Delta.

The amendment would not result in any changes to the use of the lease premises. The Project does not alienate the State's fee simple interest, does not permanently impair public rights, and does not grant the Lessees exclusive rights to the lease premises. The lease requires the Lessees to conduct all work safely and indemnify the Commission in the event of any liability resulting from the proposed action or use. Staff believe this use of public land will not substantially impair the public rights to navigation and fishing or substantially impact on Public Trust-consistent uses or resources in the area.

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 proposed Smith Canal Gate Project subject to the proposed lease, located on the San Joaquin 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 ([Fifth National Climate Change Assessment: Southwest Region, 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 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. Bank stability may be compromised due to increased channel erosion and undercutting from more intense precipitation and floods. Structures on the lease premises may be exposed to saltier water and corrode faster than before. Conversely, drought could lower water levels for longer portions of the year and expose structures that were historically designed to be submerged to more air, wind, and heat. They could cease to function as intended, as water-related, water-dependent infrastructure.

The lease is a 49-year General Lease – Public Agency Use that began on April 5, 2019, and may be subject to the climate change effects and projected sea level

rise scenarios provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities would be assessed if a new lease is considered in 2068 and would be based on projected climate change and sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believe amendment of this lease will not substantially impair the public rights to navigation, fishing, and commerce, 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.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the lease amendment 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 also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism", "Meeting Evolving Public Trust Needs", and "Committing to Collaborative Leadership" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Amendment of the lease for the proposed actions is not a project as defined by the California Environmental Quality Act 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).

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment 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:

Authorize the amendment and restatement of Lease Number 9543, a General Lease – Public Agency Use, effective December 16, 2025, to add the Central Valley Flood Protection Board as a Lessee; extend the term of the lease to 49 years; replace Section 2, Special Provisions of the Lease; replace Exhibit B, Site and Location Map, of the Lease; and to replace Section 3, General Provisions of the Lease.