Meeting Date: 02/09/26
Lease Number: 9202
Staff: L. Anderson

Staff Report 02

APPLICANT:

California Department of Water Resources (DWR)

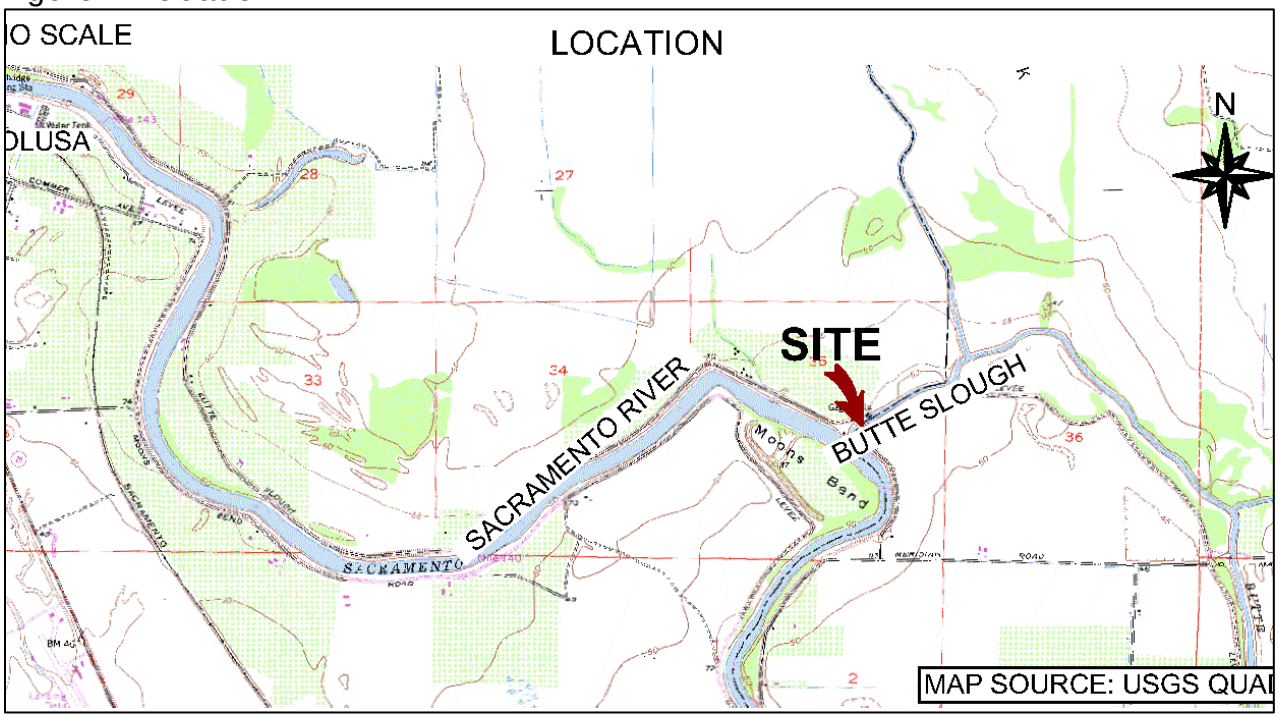
PROPOSED ACTION:

Acceptance of a lease quitclaim deed for Lease 9202, a General Lease – Public Agency Use, and Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Butte Slough and the Sacramento River, adjacent to 2701 Butte Slough Road, near Colusa, Sutter and Colusa counties (as shown in Figure 1).

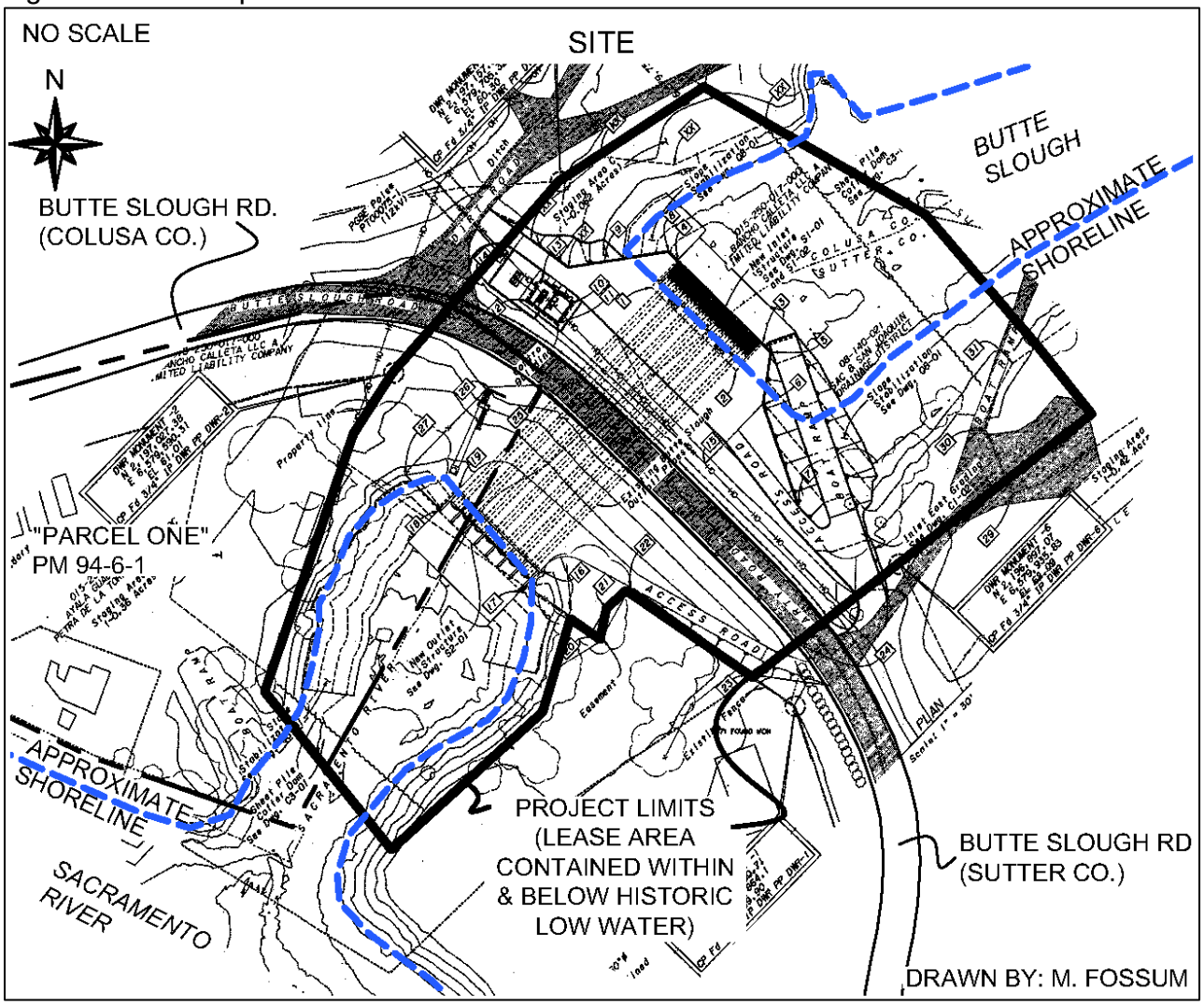
Figure 1. Location



AUTHORIZED USE:

Repair and use of the Butte Slough Outfall Gates, including inlet and outfall structures, flap gates, boat ramp, other appurtenant structures, bank stabilization, and an on-site control facility (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:

20 years, beginning February 9, 2026.

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 shall provide copies of all periodic condition/integrity assessments and inspection results of the inlet and outfall structures, flap gates, boat ramp, other appurtenant structures, bank stabilization, and an on-site control facility in Butte Slough.
- Lessee will fully carry out, implement, and comply with all mitigation measures and reporting obligations applicable to the Lessee as set forth in the Mitigation Monitoring Program.

STAFF ANALYSIS AND RECOMMENDATION:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:
On April 23, 2015, the Commission authorized a 20-year General Lease – Public Agency Use to the California Department of Water Resources for the rehabilitation, use and maintenance of the Butte Slough Outfall Gates, including the inlet and outfall structures, flap gates, boat ramp, other appurtenant structures, bank stabilization, and an on-site control facility (Item 8, April 23, 2015). The lease expires on April 22, 2035.

The Applicant submitted an application prior to the expiration of the lease to make the necessary repairs to the previously leased facilities. The lease could be amended to allow the repairs. However, since there is less than half of the lease duration remaining, staff recommends acceptance of a Lease Quitclaim Deed for the current lease concurrent with the issuance of a new lease to the Applicant. The Applicant is now applying for a General Lease – Public Agency Use for the repair of the existing structures.

The outfall gates are damaged and require repairs to fully restore the site. Water levels upriver and downriver will need to be lowered to allow for construction crews

to access the gates. A temporary drainage flow easement will be established upriver of the outfall gate site and will divert water away from the site. A piezometer, a meter that measures water levels, will be installed in two locations, one upriver and one downriver from the restoration site. Some trees may be removed to allow for construction equipment. Power lines in the area will not be affected by the project and will be protected in place. The repairs will include installation of supplemental outlet headwall support, replacement of the existing outlet/inlet catwalk support, repair of the inlet slide gates, installation of a new facilities control building, and installation of water flow/condition monitoring equipment.

To complete the repairs, the site will require dewatering to clear and grub the inlet site, and then demolition of the existing features and removal of debris will begin. To increase access to the site, dewatering will occur during the environmental in-water work window from June 15 through October 31, with all dewatering apparatus removed before November 1. Depending on site conditions, dewatering may occur upriver and downriver from the site. Once access is gained, crews will inspect, repair, and replace existing slide gates and their components as needed.

Vibratory pile driving is the present approach preferred for installation of the piles to both reduce potential environmental sonic/shockwave impacts as well as reduce the sphere of disturbance to subsurface soil conditions. The depth, type, and size of piles is unknown at present and will require analysis by the design team.

Some form of anchoring of the top of the outlet headwall is needed to resist lateral or rotational movement. The present approach of installing soil anchors back into the levee body will require consideration of placement and depth with respect to the location of the existing pipes which will not be exposed or modified. In addition, the method of supporting equipment to install the anchoring devices will need to be explored in greater detail. The number of anchors needed and the method of attachment to the concrete headwall is unknown until structural analyses can be completed by the design team.

The Applicant will have as many components and features as possible be prefabricated elements acquired in whole, or components acquired and assembled prior to installation at the project site (e.g., catwalk platform, railing, walkway support cross members, etc.). The objective is to minimize the time needed to construct or install in the in-water work window.

While the proposed Project will temporarily impact Public Trust uses, the Applicant has agreed to limit such impacts to the extent possible to protect the public health and safety during construction. Given the overall public value of this Project, staff believes the proposed Project does not constitute an unreasonable interference

with the Public Trust uses at this time and is in the best interests of the State. The Project's purpose is to repair a levee and remove a potential public hazard. The flood protection infrastructure is designed to protect the public and Public Trust resources from potential flooding while preserving public access along the levee to the extent feasible and safe during the construction. Given that structure is designed to control seasonal flooding for the benefit of the public, the Project is consistent with the common law Public Trust Doctrine.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-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 proposed lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

CLIMATE CHANGE:

INTRODUCTION:

The climate crisis is impacting California now. Likely impacts to the lease premises include, but are not limited to prolonged drought, extreme heat, lower streamflow, runoff and river levels, as well as changes to the intensity and timing of precipitation events. These impacts can exacerbate natural hydrological processes such as flooding, erosion, scour, and sedimentation. This Project will repair the aging structural improvements (i.e., components of the flood control facility) subject to the proposed lease, located at the confluence of Butte Slough and the Sacramento River in Colusa and Sutter counties. As a result, the facility will be better prepared to control future floods, and other hydrological processes affected by climate change. The facility and lease premises will also be likely to be affected by future climate change impacts.

DATA & PROJECTIONS:

The changing climate is affecting California's weather patterns, leading to more severe droughts and floods. 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, Ch. 28. Southwest. In: Fifth National Climate Assessment. 2023.). Sustained droughts reduce streamflow and river levels due to increased evaporation, declines in snowpack volumes, higher-

elevation snow lines, earlier snowmelt, and reduced overall runoff. These changes are pronounced in the Sierra Nevada, where the headwaters to many of the state's rivers are located. It is projected that temperatures in the Sierra Nevada will increase by six to ten degrees Fahrenheit on average by the end of the century, and the snowline will move 1,500 to 3,000 feet higher in elevation. It is projected that by 2100, the annual Sierra Nevada snowpack, a critical source of water supply to rivers, will decrease from today's average by 60 percent. Rivers will be drawn down farther as temperatures continue to rise and demand for water increases withdrawals. Despite the region's increasing aridity, flooding from extreme precipitation events is projected to increase, attributed to earlier snowmelt, and more intense and frequent atmospheric rivers.

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 will result in higher flood risks. Bank stability may be compromised due to increased channel erosion and undercutting from more intense precipitation and floods. 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 (e.g., fixed docks could become disconnected from the water). Floating structures may be more adaptable to changing water levels than those that are fixed, but all structures may be at increased risk for damage from exposure to extreme heat and floods. The Project's purpose is to upgrade aging components of the flood control facility, some over 90 years old, which will increase the effectiveness of the facility and subsequently the adaptive capacity of the lease premises to respond to higher flood risks.

RECOMMENDATIONS:

To reduce the likelihood of adverse impacts to the lease premises and improvements, the lessee should consider several adaptation strategies to improve resiliency to climate change. The Project is incorporating nature-based strategies such as planting and restoring native vegetation (e.g., shrubs, trees, grass) for bank stabilization and erosion control. In the future, structures may need to be inspected more frequently to monitor degradation from exposure, and, in some cases, elevated or relocated away from frequently flooded areas. Any future construction

or activities on State land would require a separate authorization from the Commission.

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.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs 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. Acceptance of the quitclaim deed 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).

2. The purpose of CEQA is to "avoid or minimize environmental damage where feasible." (CEQA Guidelines section 15021).

   A Mitigated Negative Declaration (MND), State Clearinghouse No. 2024061069, and a Mitigation Monitoring and Reporting Program (MMRP) were prepared by DWR and adopted on February 20, 2025, for this Project. Staff reviewed these documents and determined that the MND adequately analyzes and mitigates all potentially significant adverse environmental impacts that fall within the Commission's jurisdiction.

   Pursuant to CEQA Guidelines sections 15096, subdivision (g)(1), and 15097, subdivision (a), and in conjunction with approval of this Project, staff recommends that the Commission adopts DWR's MMRP (provided for reference, as linked) for the portions of the Project located on State lands, and delegates reporting and monitoring responsibilities to DWR, as the CEQA lead agency, per CEQA Guidelines section 15097. DWR will remain responsible for enforcing the

MMRP, unless otherwise delegated by such agency or until the Project is completed per CEQA Guidelines section 15097.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, *et seq*., but the activity will not affect those significant lands. Based upon participation from the agency nominating such lands through the CEQA review and permitting process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- California Department of Fish and Wildlife

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2024061069, and a Mitigation Monitoring and Reporting Program (MMRP) were prepared by the Department of Water Resources (DWR) and adopted on February 20, 2025, for this Project and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued by this authorization have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Adopt DWR's MMRP, without change, mentioned above.

SIGNIFICANT LANDS:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, *et seq*.

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 term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Accept a lease quitclaim deed for Lease 9202, a General Lease – Public Agency Use, issued to the Lessee, effective February 9, 2026.

2. Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning February 9, 2026, for a term of 20 years, for the repair and use of the Butte Slough Outfall Gates, including inlet and outfall structures, flap gates, boat ramp, other appurtenant structures, bank stabilization, and an on-site control facility; consideration being the public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such an action to be in the State's best interests.