

# Staff Report 12

LESSEE/APPLICANT:

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Sutter Butte Flood Control Agency

PROPOSED ACTION:

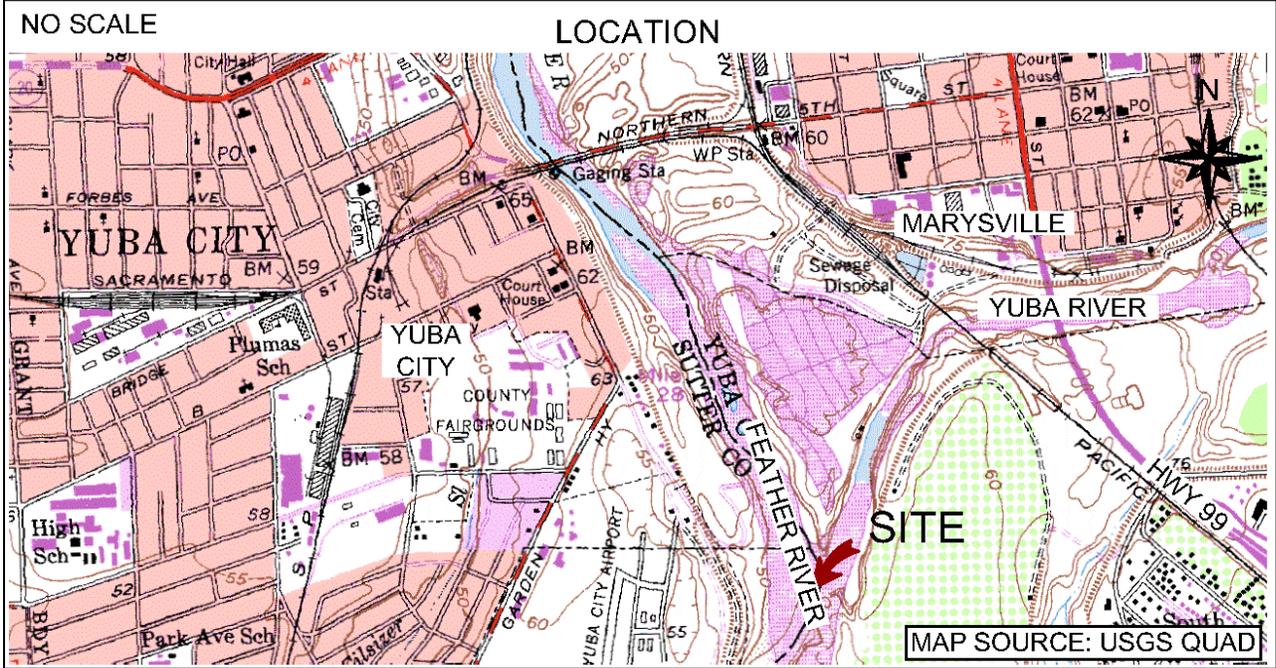
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Issuance of a General Lease – Dredging Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Feather River and the confluence of the Feather and Yuba Rivers, adjacent to Assessor's Parcel Numbers 52-570-006, 010-260-017, 010-020-010, 010-020-011, and 010-020-015, near Yuba City, Sutter and Yuba counties (as shown in Figure 1).

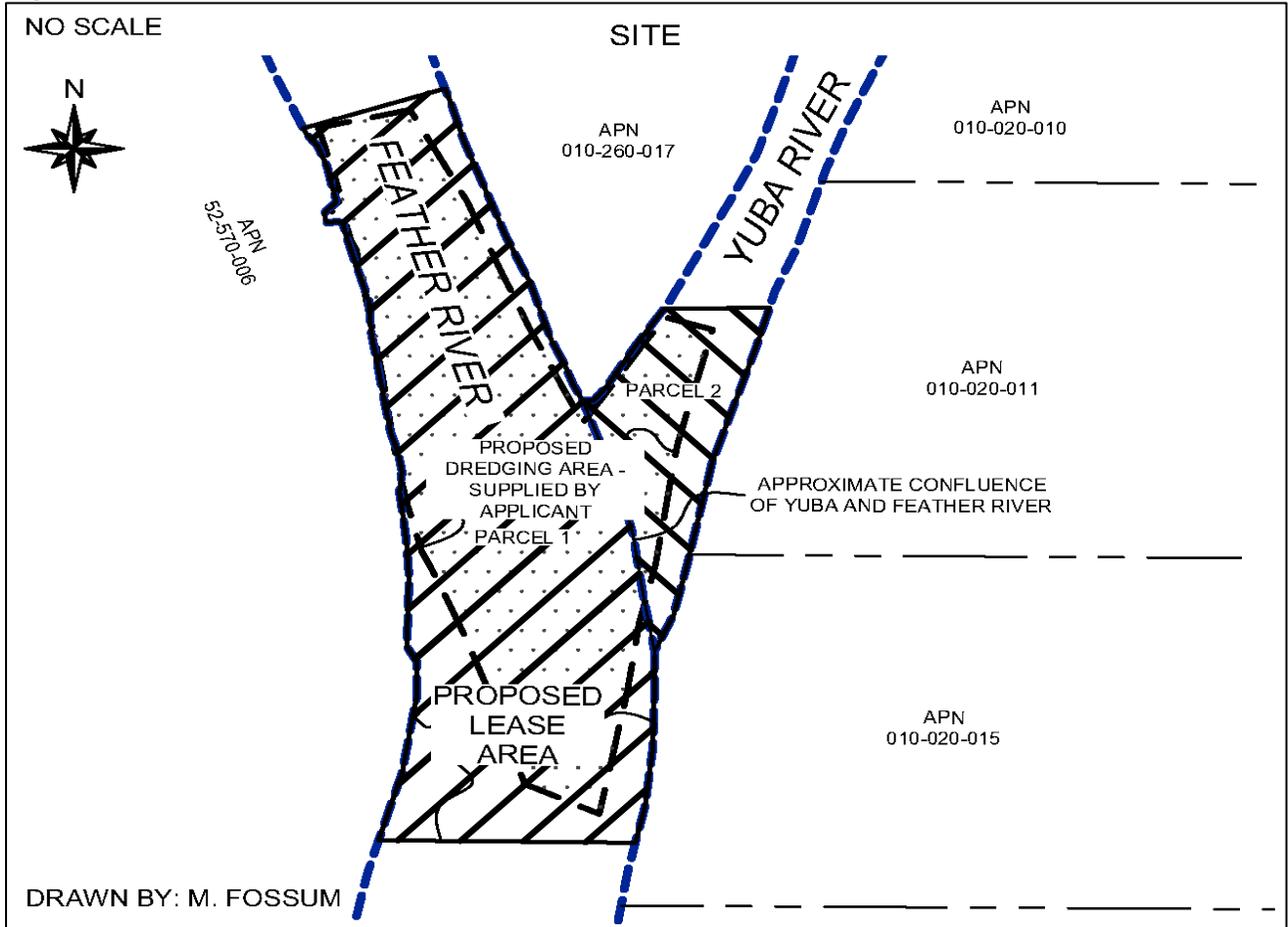
Figure 1. Location



AUTHORIZED USE:

Maintenance dredge a maximum of 250,000 cy of sediment during the lease term from a 14-acre area downstream at the confluence of the Yuba and Feather Rivers (Phase 2). Dredged material will be disposed of at an upland disposal site.

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:

5 years, beginning April 27, 2026.

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 CONDITIONS:

- Lessee shall safely conduct all dredging and disposal operations in accordance with accepted dredging and disposal methods and with due regard for the protection of life and property, and preservation of the environment.
- In performing the dredging, the Lessee will abide by contemporary Best Management Practices to control turbidity to protect aquatic 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 15 through October 15 of any year.

STAFF ANALYSIS AND RECOMMENDATION:

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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 April 27, 2021, the Commission authorized issuance of Lease 9662, a General Lease – Dredging Use, for a term of 5 years for dredging a maximum of 65,600 cubic yards (cy) of sediment from a 14- acre area downstream of the Feather River adjacent to the Yuba City Boat Ramp Facility (Phase 1) and a maximum of 250,000 cy of sediment from a 14-acre area downstream at the confluence of the Yuba and Feather Rivers (Phase 2) ([Item 23, April 27, 2021](#)). The lease will expire on April 26, 2026.

Phase 1 of the project, to remove 65,600 cy of sediment, has been completed and the Applicant is now proceeding to start Phase 2 of the project. The Applicant has submitted an application to dredge 250,000 cy of sediment from a 14-acre area downstream at the confluence of the Yuba and Feather Rivers. The Applicant previously consulted with the County of Sutter and the upland owners, Levee District 1 and the City of Marysville, for the use of the proposed area for the Project. All parties support the dredging by the Applicant. Sediment has accumulated in portions of the rivers and adjacent to the Yuba City Boat Ramp Facility in the

Feather River and significantly impacts navigability. The Oroville Dam spillway incident in 2017 exacerbated the accumulation of sediment. The sediment has created dangerous conditions for recreational users and emergency response vessels launching from the facility. The sediment has hampered public safety and limits public access to the rivers from the boat ramp and impedes fish passage along the rivers. The Project has received funding from the California Natural Resources Agency through Proposition 68 to remove sediment for safety and to improve recreational access to the Feather River and fish passage conditions near boat ramps in Yuba and Sutter counties.

Dredged material will be temporarily placed on the boat ramp, shoreline, and/or a barge to transport the dredged material for dewatering and disposal. The Project will require a staging area for equipment within and adjacent to the Yuba City Boat Ramp Facility. The staging area will be clearly marked with signs and/or fenced. Dredged material will be dewatered and disposed of in the Marysville Wastewater Treatment Ponds. If funding is not timely, then the material may need to be dewatered on the boat ramp and **disposed of in Recology's Ostrom Road Landfill.**

Dredging is proposed to take place in the summer. The dredging would be limited to June 15 through October 15 under the proposed Project. The Project is anticipated to take two seasons to complete. However, stockpiling and disposal of the dewatered dredged material may delay the Project. Time to dewater the dredged material may also delay the duration of the dredging beyond two seasons. If the Ostrom Road Landfill is used for the Phase 2 dredged material, there may be additional delays if the Ostrom Road Landfill reaches its daily maximum threshold of 3,000 tons per day for solid waste disposal. Staff has taken these potential delays into consideration and recommends a lease term of five years.

The Applicant is coordinating with Sutter County and the landowners to minimize the impacts and closures to the facilities during the dredging. The public boat ramp may be closed for 1 to 2 weeks during the dredging. Alternate access to the river is located directly across from the Project site at the Marysville Boat Ramp, **downstream at the Boyd's Landing Boat Ramp, and upstream at the Live Oak Boat Ramp** launching facilities. Signs will be posted to direct the public to the alternative boat ramp locations during the closure.

The Applicant has permission to use the uplands adjoining the lease premises. The public boat launching ramp is maintained by the County of Sutter, and the County has a lease with Levee District 1 for the use of the uplands. The proposed dredging will facilitate recreational boating and improve navigation. Recreational boating is

a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

## 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 erosion, scour, and sedimentation. These impacts may affect the maintenance dredge subject to the proposed lease, located at the confluence of the Yuba and Feather Rivers.

### *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 ([Fifth National Climate Change Assessment: Southwest Region, 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, including those of the Yuba and Feather Rivers. 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. Reductions in snowpack, increasing water demands, and rising temperatures will affect water levels and flow conditions for rivers in the region. In the Sacramento Valley, annual precipitation is expected to remain the same on average, but the intensity of precipitation events is likely to increase ([Fourth California Climate Change Assessment: Sacramento Valley, 2018](#)). Such high-intensity rainfall events increase the risk of flooding, erosion, and landslides.

*ANALYSIS:*

The lease premises is 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. The proposed lease is for maintenance dredging. Dredging activity may be impacted or constrained due to changes in streamflow and extreme events, including high-intensity rainfall. Accumulating sediment at the confluence of the Yuba and Feather Rivers may increase the risk of flooding in the area and impact habitat quality and public use.

*RECOMMENDATION:*

Climate change impacts, including flooding, erosion, and extreme precipitation events may affect planned dredging activities. Monitoring water and sediment levels, weather projections, and streamflow may help ensure that those dredging activities proceed safely and efficiently. 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 issuance of this lease will improve navigation and fishing and will not substantially interfere with Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

*OTHER PERTINENT INFORMATION:*

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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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021 - 2025 Strategic Plan.

3. An Environmental Impact Report (EIR), State Clearinghouse No. 2020060424, was prepared for this Project by the Sutter Butte Flood Control Agency (SBFCA) and certified on February 10, 2021. As part of its project approval, SBFCA made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program (MMRP). Commission staff reviewed the EIR and MMRP pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

The Commission considered the EIR at its April 27, 2021 meeting ([Item 23](#)). As part of the Commission's approval of the lease, the Commission adopted an independent Mitigation Monitoring Program (MMP), Findings, and Statement of Overriding Considerations made in conformance with the CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15093, and 15096), as contained on file in the Sacramento office of the Commission and incorporated by reference hereto. **The Commission's previously adopted MMP remains in full force and effect.**

No substantial changes to the project, to the circumstances in which the project occurs, or other new information requires a subsequent or supplemental CEQA document for the project to continue. The Applicant will be required by the terms of the proposed lease to continue to implement the Commission's previously imposed MMP.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. At the time the Commission considered the EIR on April 27, 2021, staff concluded that such activity would not affect those significant lands and the Commission found the activity to be consistent with its use classification pursuant to Public Resources Code section 6370 et seq.

## APPROVALS OBTAINED:

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- U.S. Army Corps and Engineers
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- California Department of Transportation
- Central Valley Flood Protection Board

- Central Valley Regional Water Quality Control Board
- State Water Resources Control Board

## RECOMMENDED ACTION:

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It is recommended that the Commission:

### CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2020060424, was prepared for this project by the Sutter Butte Flood Control Agency and certified on February 10, 2021, 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 CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required.

Find that the Commission's previously adopted Mitigation Monitoring Program remains in full force and effect.

### PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that issuance of the proposed lease will improve navigation and fishing and 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 issuance of a General Lease – Dredging Use, to the Applicant beginning April 27, 2026, for a term of 5 years, to dredge a maximum of 250,000 cy of sediment from a 14-acre area downstream at the confluence of the Yuba and Feather Rivers; 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; and the dredged material may not be sold.