

Staff Report 34

APPLICANT:

East Bay Municipal Utility District

PROPOSED ACTION:

General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Estudillo Canal, San Leandro, Alameda County (as shown in Figure 1).

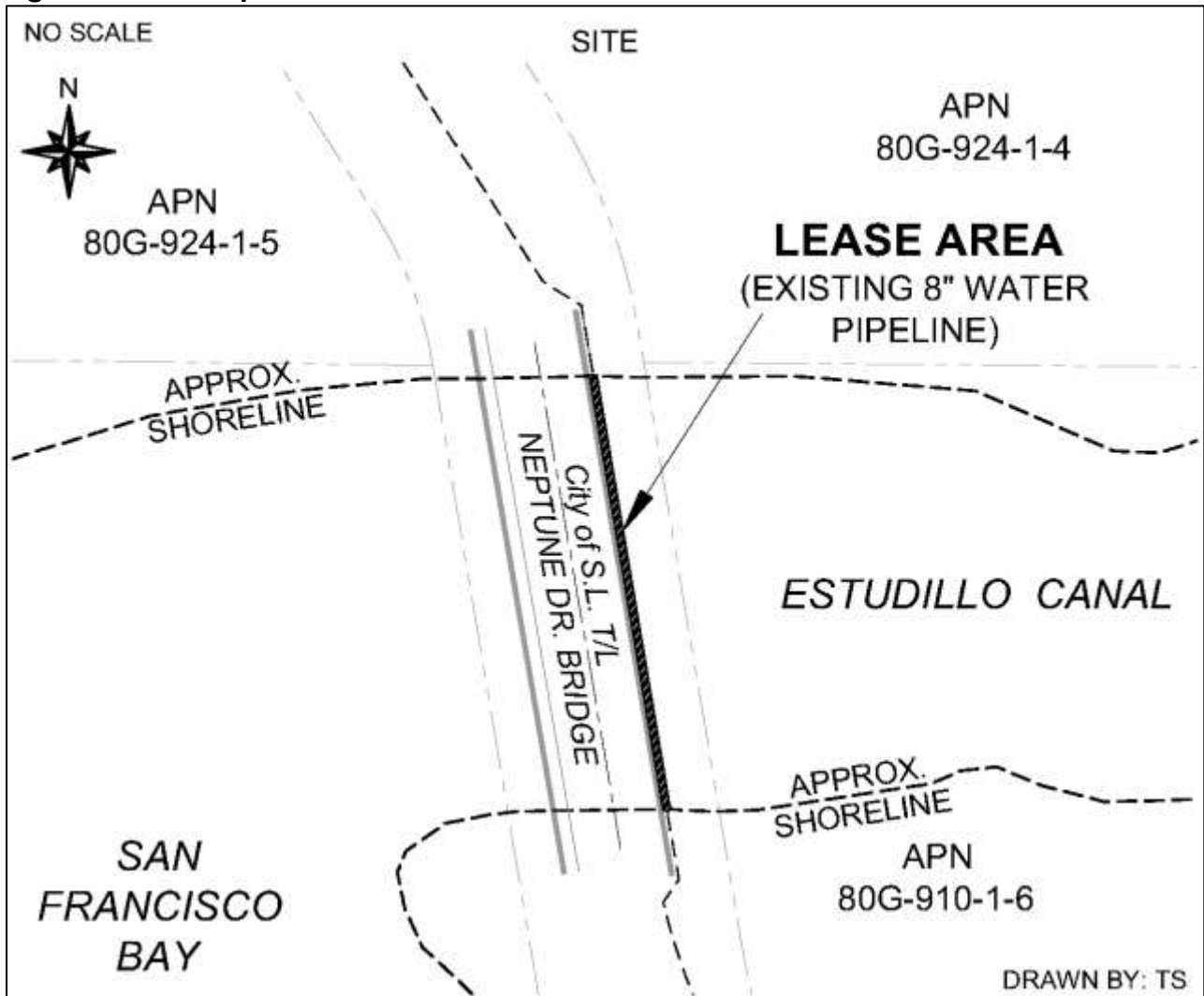
Figure 1. Location



AUTHORIZED USE:

Use of an existing potable water pipeline (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 April 7, 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:

- No later than October 7, 2026, and at least once every 10 years thereafter, Lessee shall conduct a condition/integrity assessment, certified by a California Registered Civil/Structural Engineer, of the potable water pipeline within the Lease Premises to confirm its fitness for purpose and continued use.
- No refueling or maintenance of vehicles, equipment, or watercraft shall take place within the Lease Premises.
- All future repairs, structural modifications, abandonment, or removal of the authorized improvements on the Lease Premises shall require prior review and approval by Lessor.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, prior to April 7, 2026.

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:

The Applicant is applying for a General Lease – Public Agency Use, for the use of an existing potable water pipeline not previously authorized by the Commission, in Estudillo Canal, San Leandro, Alameda County.

The pipeline was constructed in 1978 and has existed for many years at this location. However, the proposed use of sovereign land has not been previously authorized by the Commission.

The pipeline is attached to the Marina Park Bikepath Bridge. The bridge is owned by the City of San Leandro (City) and subject to Lease 5168. The City has applied for a lease for the bridge under a separate action on this meeting agenda. The pipeline is owned and maintained by the Applicant, so a separate lease is recommended. Since the pipeline is attached to the bridge, its siting has no significant impact on Public Trust uses in the area. The pipeline provides potable water to the East Bay Dischargers Authority, a public agency which sustainably manages the wastewater of one million East Bay residents for the protection of San Francisco Bay.

The Applicant has occupied State land without authorization since the improvements were installed in 1978. However, because the subject improvement is a critical component of the regional wastewater treatment infrastructure and provides a significant public benefit, which is considered sufficient compensation for the state, the proposed lease does not require monetary rent. Additionally, staff does not recommend that the proposed lease require monetary compensation for the Applicant's occupation of State land. Nevertheless, the proposed lease will require that the Applicant indemnify the State for the entire period of unauthorized occupation prior to April 7, 2025, to ensure that the State is protected from potential liability.

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 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 land 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.

CLIMATE CHANGE:

INTRODUCTION:

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the [State of California Sea Level Rise Guidance](#) (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years and, in extreme cases, over the span of a few large winter storms. These impacts may affect the existing water pipeline attached to the Marina Park Bikepath Bridge subject to the proposed lease, located on Estudillo Canal near San Leandro.

DATA & PROJECTIONS:

Sea levels along most of the California coast rose four to eight inches during the last century, and this trend will accelerate throughout this century. The current rate of sea level rise is triple the rate during the last century. There is growing confidence

that by 2050 sea levels will be approximately ten inches higher than they were in 2000. The severity of sea level rise beyond 2050 is contingent on future levels of greenhouse gas emissions. 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. To apply a precautionary approach, 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 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 6, State of California Sea Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

ANALYSIS:

Commission staff used the online sea level rise mapping tool, [Our Coast Our Future](#), to evaluate risks to the lease premises and structures from sea level rise. At present sea levels, the lease premises are already regularly flooded and subjected to wave impacts and erosion, which could potentially damage any structures or improvements on the lease premises. Episodic or short-term events, such as extreme storms, very high or King tides, and El Niño events, alone or in combination, will increase the vulnerability of the lease premises and expose it to higher water levels, overtopping, and erosion.

As a result, the water pipeline and the bridge it is connected to may sustain substantial damage and degradation over the lease term, requiring more frequent repairs and maintenance to retain its function. Stronger coastal erosion can wash away the soil and sediment supporting the bridge, causing structural instabilities. The increased saltwater exposure from higher sea levels and rising groundwater can accelerate the corrosion of metal components of the water pipeline and the deterioration of concrete foundations of the bridge to which the pipeline is connected.

RECOMMENDATION:

Please refer to Section Four of the Commission's [2023 Shoreline Adaptation and the Public Trust](#) report for more information about various shoreline adaptation strategies and their advantages and disadvantages for mitigating coastal hazards and protecting Public Trust resources. Any future construction or activities on State land would require a separate authorization from the Commission.

Regular maintenance, as referenced in the terms of the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Lessee acknowledges that the lease premises and adjacent upland (not within the lease area) are located in an area that may be subject to the effects of climate change, including sea level rise and rising groundwater levels.

CONCLUSION:

For all the reasons above, staff believes approval of this lease will not substantially interfere with Public Trust needs 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 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. If the Commission denies the application, the Applicant may be required to remove the pipeline and return the premises to their original condition. The applicant 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 the "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 the California Environmental Quality Act (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 interfere with 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 – Public Agency Use to the Applicant beginning April 7, 2026, for a term of 20 years, for the use of an existing potable water pipeline; consideration being the public use and benefit, with the State reserving the right to set a monetary rent if the Commission finds such action to be in the State's best interest.