

Staff Report 36

APPLICANT:

IT Vine Hill, LLC, a California limited liability company

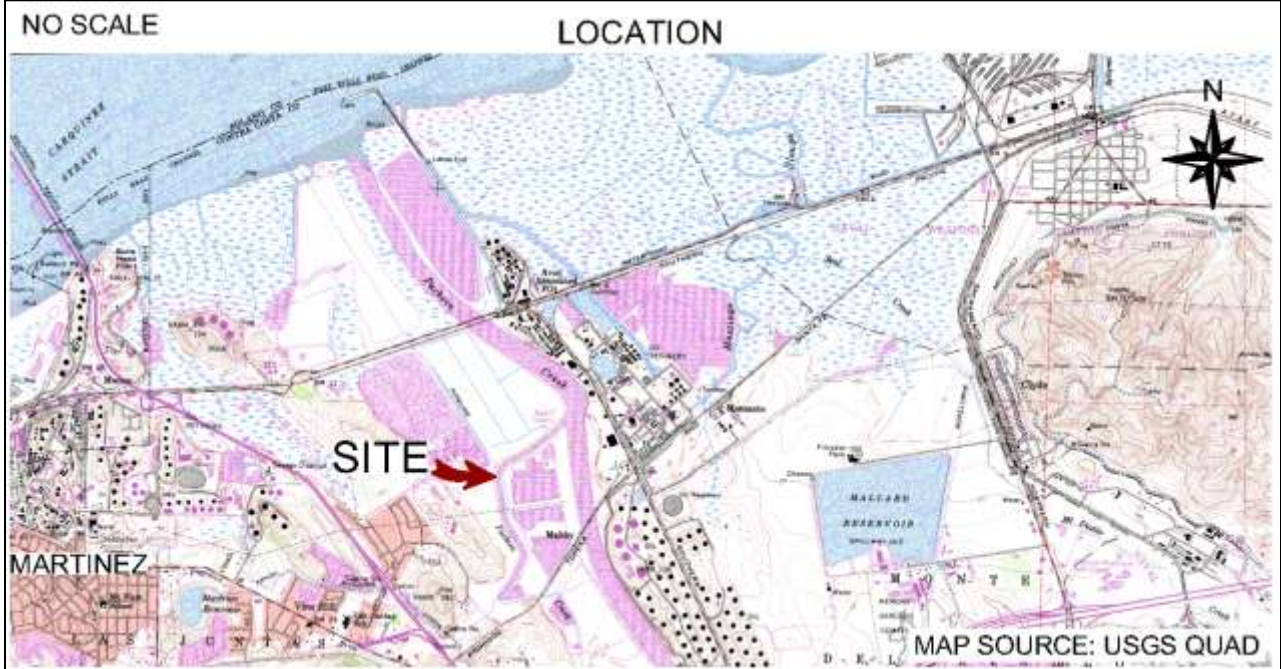
PROPOSED ACTION:

Issuance of a General Lease – Right-of-Way Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Pacheco Creek, adjacent to 896 Waterbird Way, Martinez, Contra Costa County (as shown in Figure 1).

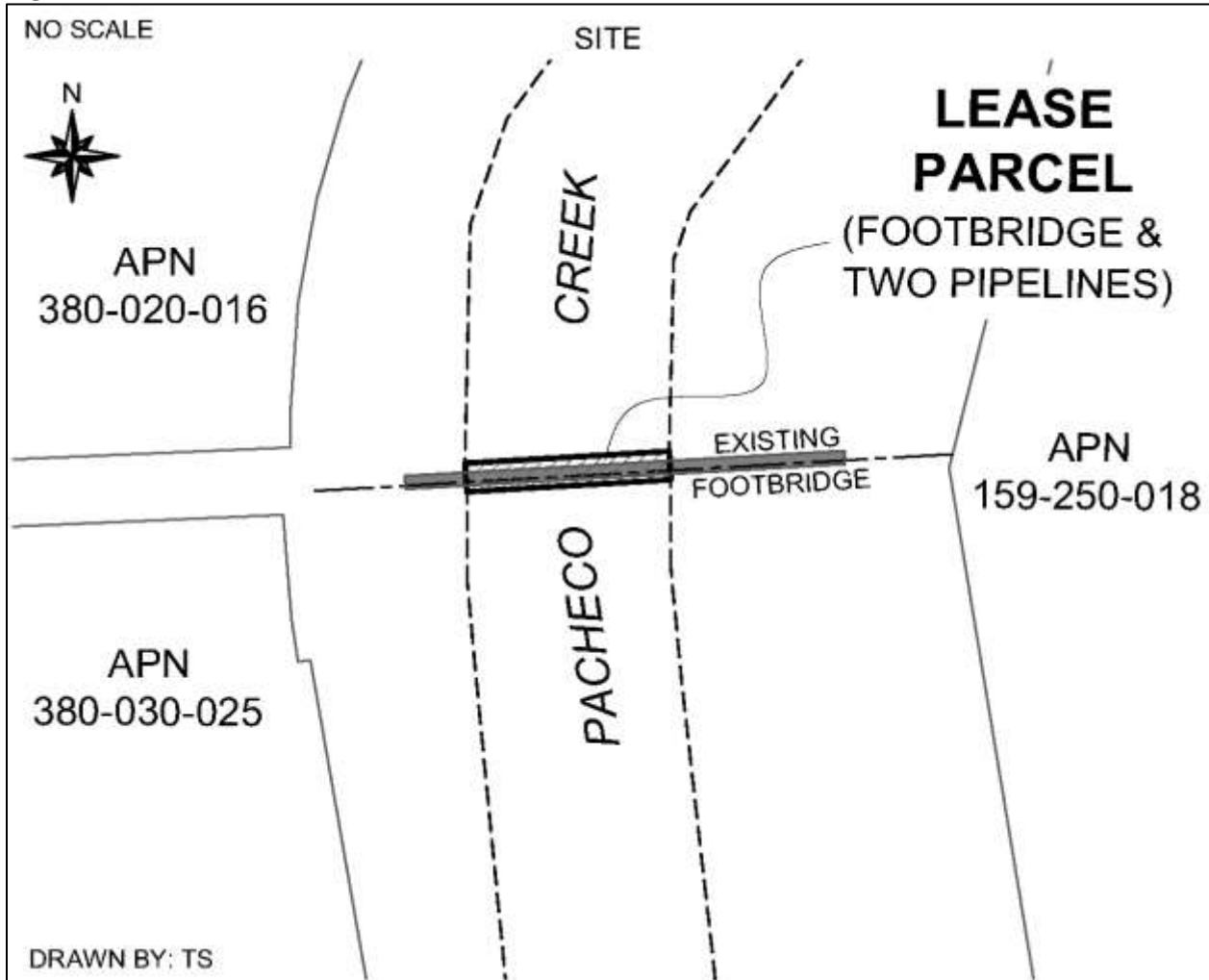
Figure 1. Location



AUTHORIZED USE:

Use of one four-inch groundwater effluent pipeline, a footbridge, and one eight-inch inactive underground effluent 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:

10 years, beginning April 7, 2026.

CONSIDERATION:

\$840 per year, with an annual Consumer Price Index adjustment; and \$4,204 for the unauthorized occupation of State land for the period prior to April 7, 2026.

SPECIFIC LEASE PROVISIONS:

- General liability insurance in an amount no less than \$1,000,000 per occurrence.
- Bond or other surety in the amount of \$110,000.
- No later than October 7, 2026, and at least once every five (5) years thereafter, Lessee shall conduct a condition/integrity assessment, certified by a California Registered Civil/Structural Engineer, of the existing footbridge and pipeline on the footbridge within the Lease Premises to confirm their fitness for purpose and continued use.
- No later than April 7, 2027, Lessee shall submit to Lessor a study for the feasibility of removal for the non-operational underground pipeline crossing Pacheco Creek.
- All future repairs or structural modifications to any part of the facility within the Lease Premises will require prior review and approval of the Lessor.
- The provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from August 1, 2020 through 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:

On July 26, 1971, the Commission authorized the issuance of a Right-of-Way Permit for the installation of an effluent pipeline below the bed of Pacheco Creek, to Industrial Tank, Inc., on a parcel of tide and submerged land in Pacheco Creek, Contra Costa County ([Item 10](#)). On July 22, 1976, the Commission authorized an assignment and amendment of the Right-of-Way Permit from Industrial Tank, Inc. to Sierra Reclamation and Disposal and revised the rent, bond, and insurance ([Item 8](#)). On August 31, 1978, the Commission authorized a second amendment of the Right-of-Way permit to allow the installation of an additional overhead effluent conveyance pipeline to IT Environmental Corporation of Contra Costa County ([Item 22](#)). This overhead pipeline is attached to a footbridge within the existing

lease area; however, the footbridge has not previously been authorized by the Commission. On June 24, 1981, the Commission authorized an assignment and rent review from IT Environmental Corporation of Contra Costa County to IT Corporation for two pipelines ([Item 6](#)). This lease expired on July 31, 2020.

The Applicant is now applying for a General Lease – Right of Way Use for the use of one existing groundwater effluent pipeline, an existing footbridge, and one existing inactive underground effluent pipeline, in Pacheco Creek, adjacent to 896 Waterbird Way, Martinez, Contra Costa County.

The proposed lease will require the Applicant to pay compensation for the unauthorized use of State lands for the period prior to April 7, 2026, in the amount of \$4,204. The proposed lease will also require the Applicant to indemnify the State for the entire period of unauthorized occupation from August 1, 2020 to April 7, 2026, ensuring the State is protected.

The adjacent property is known as the Vine Hill Complex, which is now owned by the applicant, IT Vine Hill, LLC, a California limited liability company. This facility was formerly a waste treatment, storage, and disposal facility, however it ceased waste acceptance in 1987. Currently, the facility is in long-term post-closure care. The underground pipeline was taken out of service and decommissioned at some point during the prior lease term and is no longer in use. Consistent with current Commission policy and practice, staff has requested the Applicant prepare a study to demonstrate the feasibility of removal for the inactive underground pipeline. A second pipeline attached to the footbridge is still used for groundwater conveyance.

Approximately 105 linear feet of the bridge and pipelines cross through the Commission's jurisdiction at this location. The improvements do not presently impede surface use or interfere with Public Trust needs and values at this location, at this time. The improvements do not significantly alter the land, and the lease does not alienate the State's fee simple interest or permanently impact public rights. The lease is limited to a 10-year term and does not grant the Lessee exclusive rights to the lease premises. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition.

The lease requires that the lessee insure the lease premises and provide a bond or other form of financial security for the faithful performance of the lease obligations. The proposed agreement would require the lessee to provide a surety in the amount of \$110,000 within 60 days of the lease authorization date. The lease also

requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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 existing four-inch groundwater effluent pipeline, footbridge, and eight-inch inactive underground effluent pipeline within the proposed lease area, located on Pacheco Creek.

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 existing facilities include a four-inch-diameter groundwater effluent pipeline attached to the footbridge and a non-operational eight-inch-diameter effluent pipeline buried under the Pacheco Creek. The footbridge that the four-inch diameter pipeline is attached to and the riverbed that the other non-operational eight-inch-diameter effluent pipeline is buried under could experience more intense scour from more frequent and stronger storms. These scour events could cause the pipeline attached to the bridge to become dislodged or the buried pipeline to become exposed, which could result in damage.

RECOMMENDATIONS:

To reduce the likelihood of adverse impacts to the lease premises and improvements, the lessee should consider inspecting the fixed structures frequently and monitoring for degradation; replacing damaged parts when necessary and elevating or relocating structures when exposure to flooding compromises structural function and integrity, as adaptation strategies to improve resiliency to climate change. Any future construction or activities on State land would require a separate authorization from the Commission. For more information regarding nature-based strategies, please refer to the [2023 Shoreline Adaptation and the Public Trust](#) report.

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, including sea level rise.

CONCLUSION:

For all the reasons above, staff believe the issuance of this lease will not substantially interfere with Public Trust needs and values 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. Approval or denial of a lease 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 renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area 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 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

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 2, section 2905, subdivision (a)(2).

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 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 compensation from the Applicant in the amount of \$4,204, for the unauthorized occupation of State land for the period prior to April 7, 2026.
2. Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning April 7, 2026, for the term of 10 years, for the use of one four-inch groundwater effluent pipeline, a footbridge, and one eight-inch inactive underground effluent pipeline; annual rent in the amount of \$840 with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000 per occurrence; and bond or other surety in an amount no less than \$110,000.