

# Staff Report 47

**APPLICANT:**

Fresno Metropolitan Flood Control District

**PROPOSED ACTION:**

Issuance of a General Lease – Public Agency Use.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the San Joaquin River, adjacent to 7549 North Toletachi Road, near Fresno, Fresno County (as shown in Figure 1).

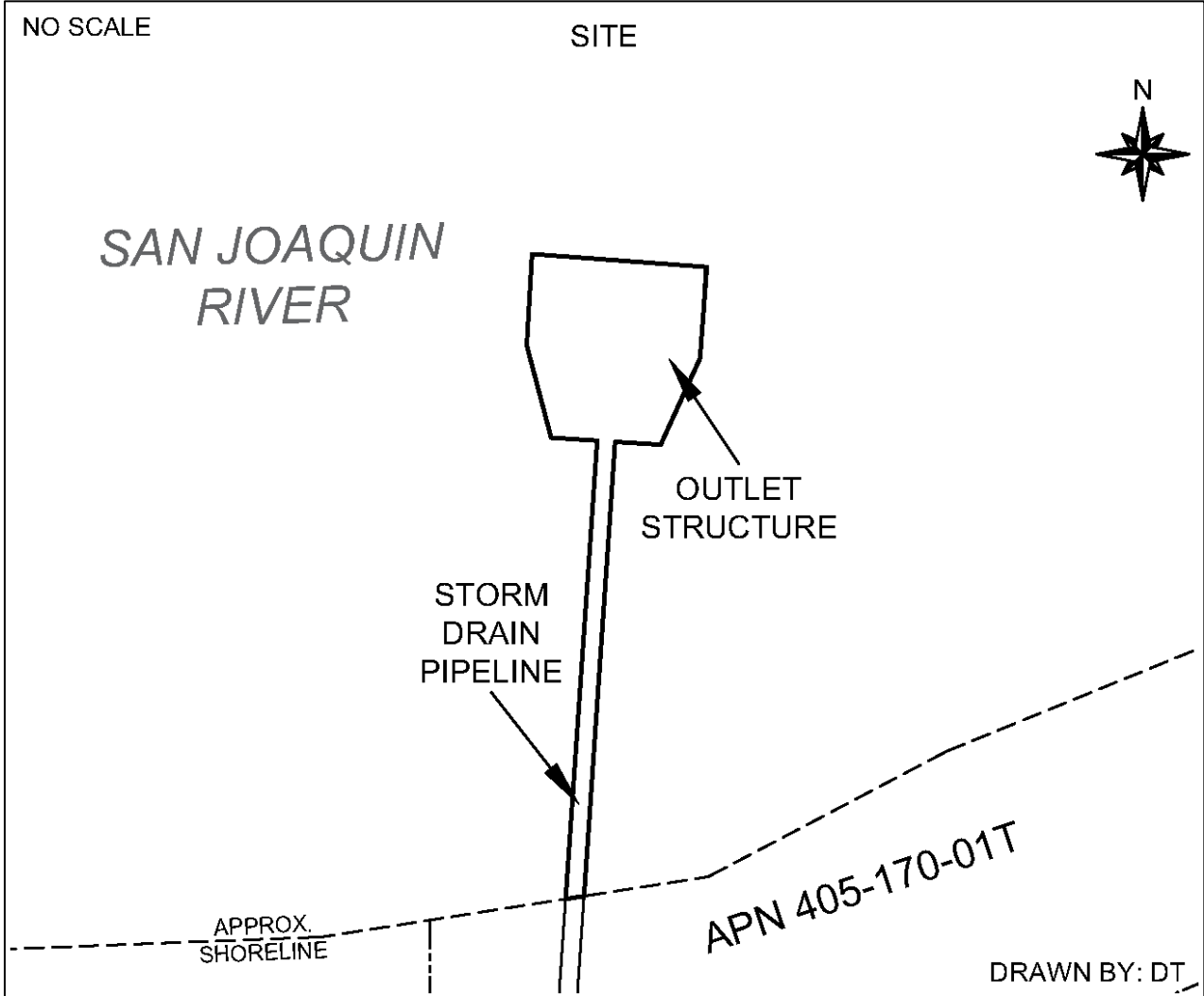
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing storm drain pipeline and outlet 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:**

20 years; beginning September 1, 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 interests.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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:**

In September 1976, the Commission authorized the issuance of a Public Agency Permit to the Fresno Metropolitan Flood Control District ("the District") for the construction and operation of a storm drain pipeline and outlet structure ([September 1976](#)). That lease will expire August 31, 2026. The District is now applying for the issuance of a new General Lease – Public Agency Use for the use of the existing storm drain pipeline and outlet structure.

The District operates the storm drain pipeline and outlet structure in the San Joaquin River, providing benefit to the public in the form of reduced flooding risk. The storm drain pipeline and outlet structure occupy a relatively small physical footprint in a side channel of the San Joaquin River and operate in support of Public Trust-aligned projects, including flood prevention and mitigation in the immediate area of the improvements. Stormwater from the surrounding area is collected by the storm drain system and routed through the pipeline before being discharged into the San Joaquin River.

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 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 an existing storm drain and outlet structure subject to the proposed lease, located on San Joaquin River.

### **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. 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 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. 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.

### **RECOMMENDATIONS:**

Fixed 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 believe the proposed lease will not substantially impair the public rights to navigation, fishing, and commerce 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.

**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 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. 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:**

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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 impair the public rights to navigation, fishing, and commerce 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:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning September 1, 2026, for a term of 20 years, for the use of an existing storm drain pipeline and outlet structure; 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 interest.