

**STAFF REPORT  
C49**

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12/03/18  
PRC 8993.9  
J. Holt

**AMENDMENT OF LEASE  
GENERAL LEASE – PUBLIC AGENCY USE**

**LESSEE:**

U.S. Fish and Wildlife Service

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

Sovereign land located in the Napa River and Dutchman Slough, near Vallejo, Solano County.

**AUTHORIZED USE:**

Construction of a new temporary sediment offloading facility and a dredged material slurry pipeline.

**LEASE TERM:**

7 years, beginning May 24, 2012.

**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.

**PROPOSED AMENDMENT:**

- Amend the lease to extend the expiration date from December 31, 2019 to December 31, 2030; effective December 3, 2018.
- Amend the lease to increase the Lease Premises in Dutchman Slough to allow for more flexibility in the offloading of dredged materials, in conjunction with the Cullinan Ranch Restoration Project (CRRP).
- Amend the Land Use and Purpose and Authorized Improvements to include one optional power cable associated with the existing temporary sediment offloading facility in the Napa River; use and maintenance of an offloading zone in Dutchman Slough; and configuration and operation of up to three temporary offloading facilities at the same time, in a manner suitable for offloading activities, within the Lease Premises.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

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**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

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

**Public Trust and the State's Best Interests Analysis:**

On May 24, 2012, the Commission authorized issuance of a 3-year General Lease – Public Agency Use, for the construction of a new temporary sediment offloading facility and a dredged material slurry pipeline in the Napa River and Dutchman Slough ([Item C25, May 24, 2012](#)). On April 23, 2015, the Commission authorized an amendment of Lease No. PRC 8993.9, for an extension of the lease term to accommodate delays in project initiation ([Item C64, April 23, 2015](#)). This amendment modified the lease expiration date to December 31, 2019.

The Lessee is now applying for an amendment of Lease No. PRC 8993.9 to extend the lease term for ongoing habitat restoration; to broaden the lease area in Dutchman Slough for greater flexibility in the offloading of dredged material; to enhance the authorized improvements to include one optional power cable for the previously authorized temporary offloading facility in the Napa River; and to configure and operate up to three temporary offloading facilities at the same time, in a manner suitable for offloading activities, within the Lease Premises. The CRRP's goal is restoration of tidal marsh habitats for wildlife preservation, especially those on endangered species lists. This project has several ecological and environmental benefits, detailed in the Lessee's public benefit statement included below.

The proposed amendment adds a temporary sediment offloading zone in Dutchman Slough. The additional location, and flexibility of its location within the Slough, will aid in the disbursement of material within the larger project site. The temporary lease facilities will be disconnected and removed from the lease premises during periods of nonoperation. By removing temporary facilities and using best management practices, this project will not create a hazard or impact navigation or affect other Public Trust uses.

The CRRP will have significant ecological and environmental benefits. According to Renee Spent, Ph.D., Regional Biologist with Ducks Unlimited, Inc. (2018), the "Cullinan Ranch Restoration Project will have regional and local benefits. These include the tidal restoration of 1,549 acres of tidal habitat. The ecological benefits of vegetated tidal marsh for fish assemblages are myriad and well documented. Tidal marshes support

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benthic invertebrates and zooplankton. Seagrass beds at their margins provide escape cover for smaller fish and habitat for food sources such as mollusks and other invertebrates. Vegetation overhanging and growing in channels adds habitat complexity. If channels reform along historic patterns, this project will restore an estimated 8.8 stream miles for fish passage connected to surrounding sloughs and the Napa River. The CRRP will enhance spawning and rearing grounds for longfin smelt and Delta smelt, among others, and will expand existing habitat for diadromous species, including salmon, steelhead, and sturgeon migrating into and from the Napa River. In addition to its intrinsic value, restoration of Cullinan Ranch provides tangible benefits, including:

- Aiding recovery of listed and at-risk species, particularly diadromous fish;
- Re-establishment of coastal wetlands through hydrological reconnection;
- Improved coastal resiliency; and
- Employment, education, and training opportunities.

Habitats that will be created by the restoration of Cullinan Ranch include floodplain habitat, estuarine tidal marsh, deep-water ponded habitat, channel habitat, and upland transition habitat. Salt marsh harvest mouse currently uses the site. Restoration will create habitat suitable for use by winter-run Chinook salmon, steelhead, other salmonids, delta smelt, longfin smelt, and California clapper rail. Project implementation will result in improved economic conditions to the surrounding underserved community of Vallejo through increased fisheries benefits, increased tourism and increased recreation resulting from the addition of public access components. In addition, the CRRP has provided one of only two kayak launch points in San Pablo Bay. This is likely to lead to increased visitation of the site and surrounding businesses by tourists.”

The proposed amendment of the lease will not result in any significant changes in the use of the lease premises. The Lessee will promote best management practices during the restoration of environmental habitats; protect valuable state resources; ensure public health and safety; and allow navigation of sovereign waterways. The proposed use and maintenance of these facilities will not prohibit the passage of marine traffic in the waterways.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both

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open coastal areas and inland waterways in California. The lease areas are located on the Napa River and Dutchman Slough in tidally influenced sites consisting of low-elevation reclaimed floodplains. These areas are tidally influenced sites which are vulnerable to flooding at current sea levels; therefore, this area will likely be at a higher risk of flood exposure given future projection scenarios of sea-level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. 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<sup>1</sup>**

<b>Year</b>	<b>Projection (feet)</b>
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to increased flooding, and larger tidal events, and can affect erosion and sedimentation rates. For example, in tidally influenced waters such as the San Francisco Bay, increased storms and flooding will likely increase scour, leading to decreased bank and levee stability and excessive sediment accretion within the channels. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater bank erosion than previously experienced. Finally, in rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability.

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. These areas are vulnerable to flooding at current sea levels and will be at higher risk of flood exposure given projected scenarios of sea-level rise.

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The combination of these projected conditions could increase the likelihood of damage to banks and levee stability and excessive sediment accretion within the channels of the lease premises during the term of the lease. Many of the facilities within the lease areas could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. In addition, periodic or continuous inundation with rising water levels and more frequent flooding could create a public safety hazard. Finally, the salt marsh habitat that currently provides some bank protection is at risk of accelerated deterioration from higher and stronger currents and floods.

Regular maintenance, as required by the lease, will reduce the likelihood of severe bank and levee structural degradation and excessive channel sediment accretion. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea-level rise.

### **Conclusion:**

The recommended action will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Key Action 1.2.4 to prioritize the use of sovereign lands where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties and other conservation efforts, consistent with applicable law.
2. An Environmental Impact Report/Environmental Impact Statement (EIR/EIS), State Clearinghouse No. 2007092004, was prepared for this project by the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service and certified on April 22, 2010. The Commission staff reviewed this document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

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3. In 2012, the U.S. Fish and Wildlife Service applied to the Commission for a lease for a sediment offloading facility in the Napa River and associated dredge material pipeline in Dutchman Slough. These facilities were not explicitly analyzed in the certified EIR/EIS, which proposed the offloading facility in another location. Commission staff reviewed the changes in the Project and determined that the changes do not constitute “substantial changes” or “new information of substantial importance” as defined in section 15162, subdivision (a) of the State CEQA Guidelines, and concluded that the preparation and circulation of a subsequent or supplemental EIR was not required. At that time, staff prepared an addendum to the EIR/EIS pursuant to State CEQA Guidelines section 15164. The Commission considered the EIR/EIS and addendum at its May 24, 2012 meeting. Staff reviewed the amendments to extend the lease term and determined that the lease term extension is covered under the EIR/EIS and addendum. Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15091, 15096) are contained as part of the staff report from the Commission’s May 24, 2012 meeting ([Item C25, May 24, 2012](#)).

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that an EIR/EIS, State Clearinghouse No. 2007092004, was prepared for this Project by CDFW and certified on April 22, 2010, that an addendum to the EIR was prepared by Commission staff pursuant to the provisions of CEQA, and that the Commission has reviewed and considered the information contained therein; find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

Mitigation Monitoring Program and Findings were previously adopted by the Commission on May 24, 2012, and remain in effect ([Item C25, May 24, 2012](#)).

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

Find that the proposed amendment of the existing lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize the amendment of Lease No. PRC 8993.9, a General Lease – Public Agency Use, effective December 3, 2018, to extend the lease term from 7+ years, beginning May 24, 2012, and ending December 31, 2019; to 18+ years, beginning May 24, 2012, and ending December 31, 2030; to amend the lease area in Dutchman Slough to allow for more flexibility in the offloading of dredged materials; to amend the authorized improvements to include one optional power cable associated with the existing temporary sediment offloading facility in the Napa River; to configure and operate up to three temporary offloading facilities at the same time, in a manner suitable for offloading activities, within the Lease Premises; to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

**EXHIBIT A**

**PRC 8993.9**

**LAND DESCRIPTION**

Two parcels of tide and submerged land situate in the beds of the Dutchman Slough and Napa River, Solano County, State of California, said parcels lying adjacent to the Cullinan Ranch as depicted on that certain record of survey filed in Book 12 of Surveys at Page 92, Official Records of said county, and being more particularly described as follows:

**PARCEL 1 (PROPOSED SMALL DREDGE WORK ZONE)**

A parcel of tide and submerged land lying in the bed of the Dutchman Slough; said parcel bounded on the right bank by the Agreed Boundary Line as described within that certain exchange agreement recorded June 17, 1974 as Instrument No. 15859, Image 25050; said Agreed Boundary Line depicted as the "Northerly Ranch Bdry. Line" on said record of survey; said parcel bounded on the left bank by the low water mark on the Dutchman Slough; said parcel bounded upstream by the following described line:

BEGINNING at a point on said Agreed Boundary Line, said point bearing North 49°07'07" West 4744.73 feet from "RANCH BOUNDARY POINT "B"" as depicted on Sheet 3 of said record of survey; thence leaving said Agreed Boundary Line, North 87°11'58" East 260.00 feet to the terminus of said line; said parcel bounded downstream by the following described line:

BEGINNING at a point on said Agreed Boundary Line, said point bearing North 63°33'46" West 119.86 feet from "RANCH BOUNDARY POINT "B"" as depicted on Sheet 3 of said record of survey; thence leaving said Agreed Boundary Line, North 14°09'03" East 300.00 feet to the terminus of said line.

**PARCEL 2 (EXISTING PIPELINE)**

A parcel of tide and submerged land lying in the beds of the Dutchman Slough and the Napa River, being more particularly described as follows:

BEGINNING at a "RANCH BOUNDARY POINT "B"" as depicted on Sheet 3 of said record of survey; thence from said point of beginning along said Agreed Boundary Line the following six (6) courses:

- (1) North 80°27'55" West 5.29 feet,
- (2) North 83°30'38" West 62.32 feet,
- (3) North 33°19'28" West 50.25 feet,
- (4) North 74°37'41" West 407.45 feet,
- (5) North 84°17'33" West 126.42 feet, and
- (6) North 77°26'23" West 74.00 feet; thence leaving said Agreed Boundary Line the following twenty-nine (29) courses:



- (1) North 12°30'30" East 122.28 feet,
- (2) South 74°40'32" East 788.47 feet,
- (3) South 68°57'48" East 1329.18 feet,
- (4) South 77°52'52" East 484.48 feet,
- (5) South 88°29'50" East 480.51 feet,
- (6) North 85°08'02" East 630.14 feet,
- (7) South 66°57'32" East 246.71 feet,
- (8) South 45°41'55" East 113.40 feet,
- (9) North 54°42'58" East 296.04 feet,
- (10) South 35°51'22" East 500.26 feet,
- (11) South 54°42'58" West 304.18 feet,
- (12) South 11°28'42" East 555.56 feet,
- (13) South 67°05'53" West 218.65 feet,
- (14) North 22°54'07" West 45.00 feet,
- (15) North 67°05'53" East 176.73 feet,
- (16) North 11°28'42" West 521.09 feet,
- (17) North 79°43'02" West 132.19 feet,
- (18) North 26°39'12" West 297.21 feet,
- (19) North 56°44'50" West 342.31 feet,
- (20) North 82°39'51" West 185.11 feet,
- (21) South 86°13'43" West 224.07 feet,
- (22) South 82°54'45" West 478.53 feet,
- (23) South 89°06'31" West 262.71 feet,
- (24) North 77°21'56" West 437.59 feet,
- (25) North 72°03'32" West 263.88 feet,
- (26) North 70°12'49" West 191.81 feet,
- (27) North 66°26'24" West 760.27 feet,
- (28) North 74°32'31" West 143.40 feet, and
- (29) North 70°47'10" West 85.82 feet to the point of beginning.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the Napa River, and the low water mark on the Dutchman Slough.

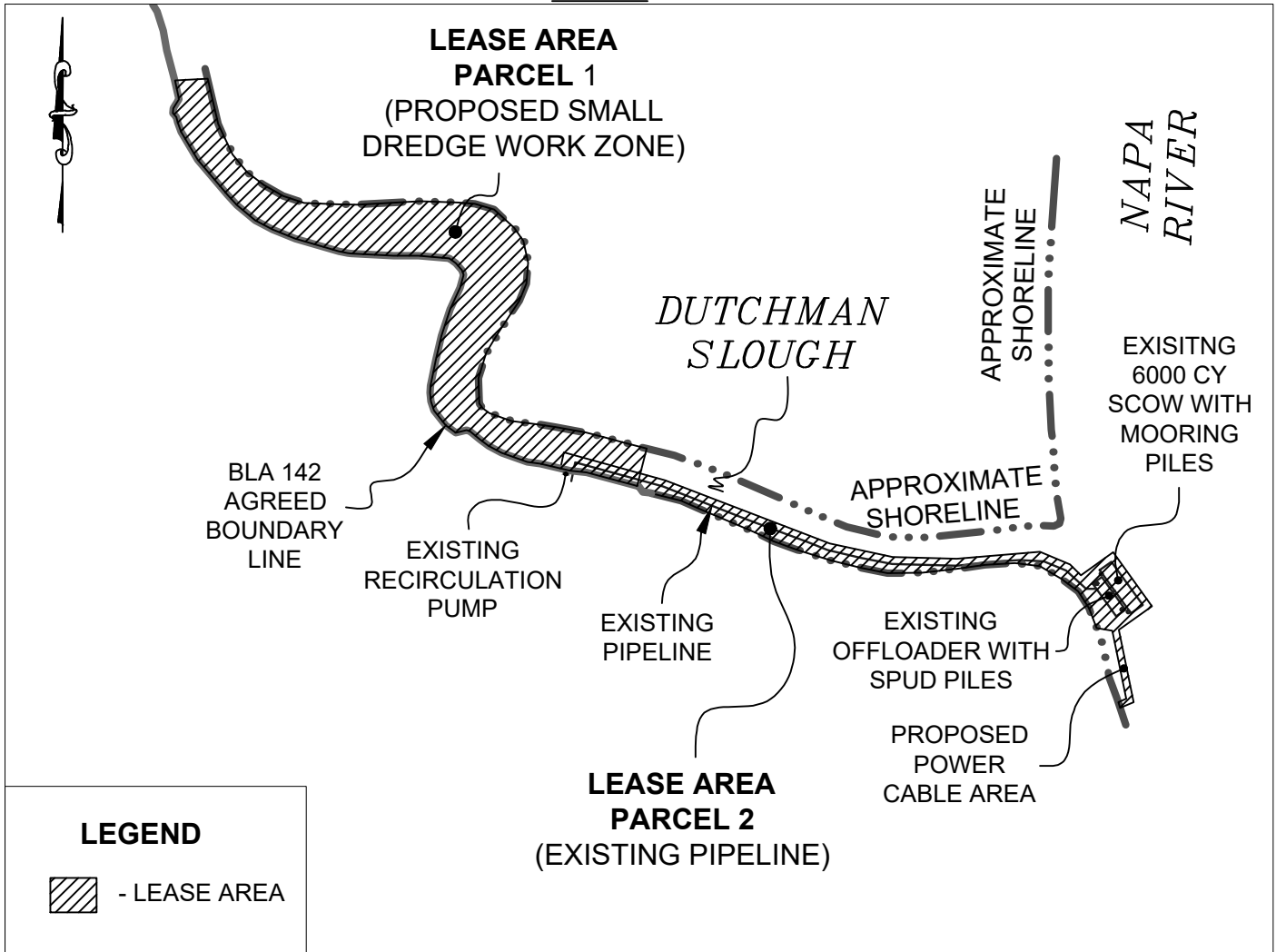
### END OF DESCRIPTION

Prepared 11/08/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

# SITE



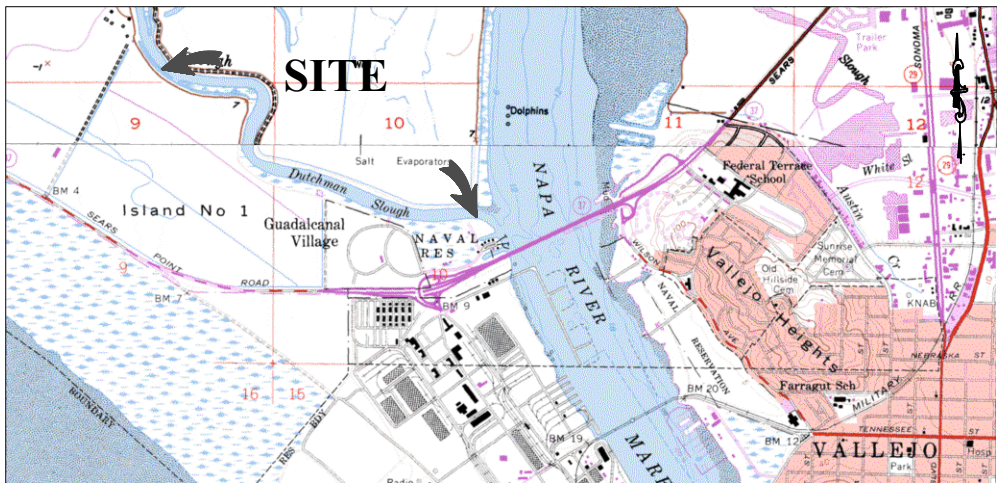
## LEGEND

- LEASE AREA

### DUTCHMAN SLOUGH AND NAPA RIVER ADJACENT TO CULLINAN RANCH

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

PRC 8993.9  
 US FISH AND WILDLIFE SERVICE  
 GENERAL LEASE - PUBLIC AGENCY USE  
 SOLANO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.