CALENDAR ITEM

C55

A	26	02/22/13
		PRC 8822.9
S	12	R. Boggiano

AMENDMENT OF LEASE

LESSEE:

City of Turlock

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Number 058-023-028, near Crows Landing, city of Turlock, Stanislaus County.

AUTHORIZED USE:

Construction, use, and maintenance of a slope of gabions to support a new municipal wastewater outfall pipeline as part of the Harding Drain Bypass Project, and the temporary installation of a sheetpile cofferdam and placement of warning signs and buoys.

LEASE TERM:

25 years, beginning April 9, 2009.

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.

PROPOSED AMENDMENT:

Amend the Lease to revise the construction completion date from November 1, 2012 to January 31, 2014. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

2. On April 9, 2009, the Commission approved a 25-year General Lease – Public Agency Use with the city of Turlock (City) for the construction of a slope of gabions to support a new municipal wastewater outfall pipeline as

part of the Harding Drain Bypass Project, and the temporary installation of a sheetpile cofferdam and placement of warning signs and buoys.

3. On April 6, 2011, the Commission authorized an amendment to the lease to revise the date by which construction must begin from June 1, 2010 to June 1, 2012, and the construction completion date from November 1, 2010 to November 1, 2012. Funding issues for the project created construction delays.

4. The City is now applying to amend the lease to revise the construction completion date from November 1, 2012 to January 31, 2014. The City's contractor has completed all non-levee and non-river work, but the contractor has determined it necessary to finish the project next year to alleviate the possibility of unforeseen problems caused from an early rainy season. The City is applying concurrently for an extension for its authorization from the U.S. Army Corps of Engineers, which expires in March 2013.

5. An EIR, State Clearinghouse No. 2003062002, was prepared for this project by the City of Turlock and certified on May 24, 2005, and an addendum to the EIR was prepared by the City of Turlock and adopted on March 24, 2009. The California State Lands Commission staff has reviewed such documents and the Mitigation Monitoring Program prepared in conformance with the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

   Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in Exhibit C, attached hereto.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

A. Site and Location Map
B. Mitigation Monitoring Report
C. Statement of Findings

RECOMMENDED ACTION:
It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2003062002, was prepared for this Project by the City of Turlock and certified on May 24, 2005, and an addendum to the EIR was prepared by the City of Turlock and adopted on March 24, 2009. The Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit B, attached hereto.

Adopt the Findings, made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit C, attached hereto.

Determine that the Project, as approved, will not have a significant effect on the environment.

SIGNIFICANT LANDS INVENTORY FINDING:

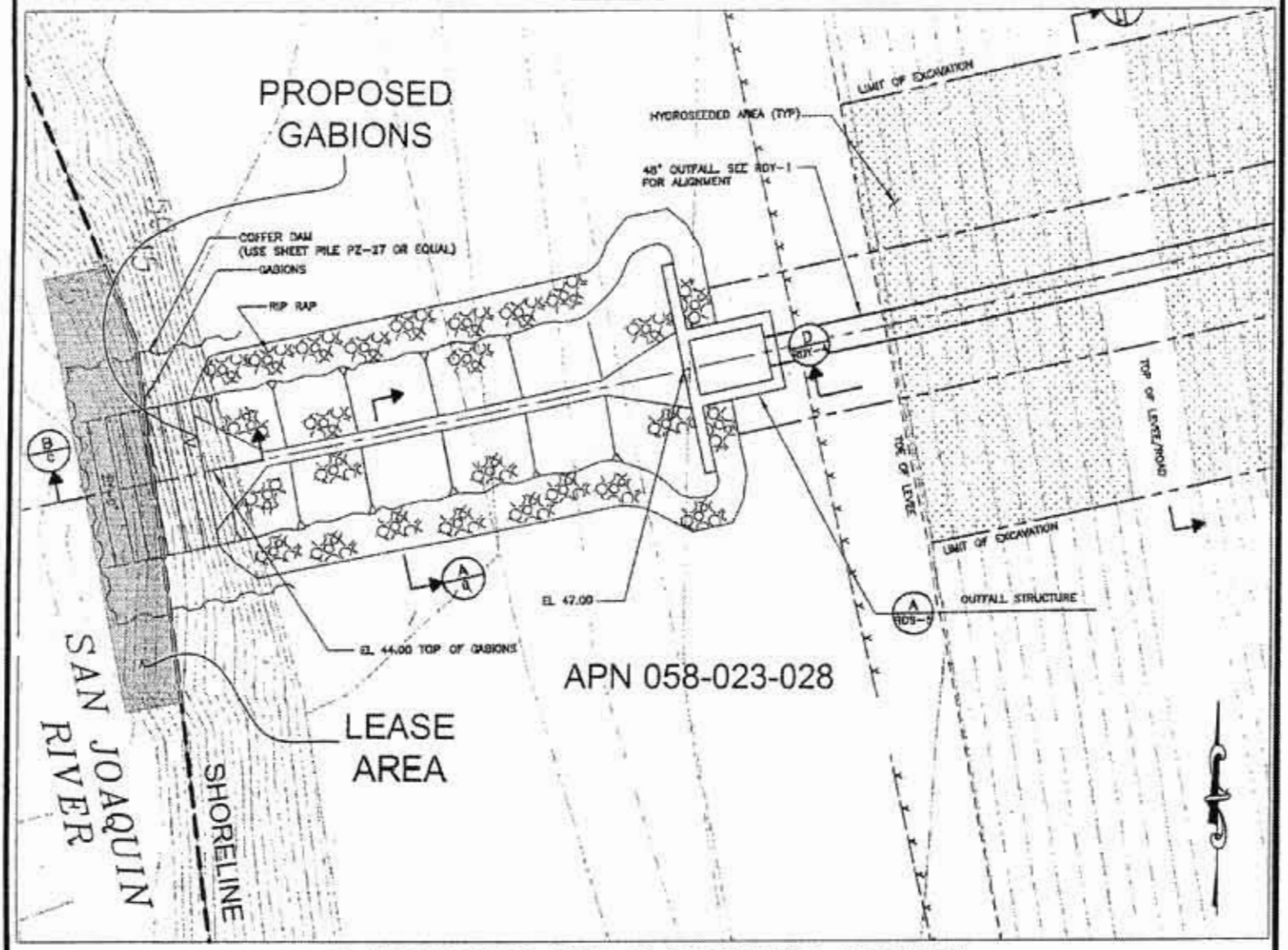
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the Amendment of Lease No. PRC 8822.9, a General Lease – Public Agency Use, effective December 5, 2012, to revise the construction completion date from November 1, 2012, to January 31, 2014; all other terms and conditions of the lease will remain in effect without amendment.

NO SCALE

SITE



CARPENTER ROAD, CROWS LANDING

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD

Exhibit A

PRC 8822.9
CITY OF TURLOCK
APN 058-023-028
GENERAL LEASE - PUBLIC AGENCY USE
STANISLAUS 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.

JWP 02/09

Potential Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing
3.1.1. Water Quality. Bare soil would be exposed to erosive forces for long periods of time.	**MM 3.1.1a.** To minimize the exposure of sediments to runoff, the City shall implement measures contained in the Construction Contractor's Guide and Specification of the Caltrans Storm Water Quality Handbook (The Handbook; April 1997) and the State Water Resources Control Board (SWRCB) Water Quality Order 99-08-DWQ, National Pollutant Discharge Elimination System General Permit for Stormwater Discharge Associated with Construction Activity.	City of Turlock Municipal Services Department	City of Turlock in coordination with the RWQCB	Completion of SWPPP. Verification by the RWQCB of inclusion of mitigation measures within the SWPPP. Site inspection by the City of Turlock and RWQCB to ensure proper implementation.	Throughout construction activities.
	MM 3.1.1b. All construction plans and activities shall implement multiple best management practices (BMPs) to provide effective erosion and sediment control. These BMPs shall be selected to achieve maximum sediment control and represent the best available technology that is economically achievable. BMPs to be implemented as part of this mitigation measure shall include, but are not limited to, the following measures: • Temporary erosion control measures (such as silt fences, staked straw bales/ wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover) will be employed for disturbed areas. • Dirt and debris shall be swept from paved streets in the construction zone on a regular basis, particularly before predicted rainfall events. • Grass or other vegetative cover will be established on the construction site as soon as possible after disturbance. At minimum, vegetative application shall be done by September 15th to allow for plant establishment. No disturbed surfaces will be left without erosion control measures in place during the period of October 15th to April 15th. • Silt fences and catch basins will be placed below all construction activities at the edge of the river to intercept	City of Turlock Municipal Services Department	City of Turlock in coordination with the RWQCB	Completion of SWPPP. Verification by the RWQCB of inclusion of mitigation measures within the SWPPP. Site inspection by the City of Turlock and RWQCB to ensure proper implementation.	Throughout construction activities.

Potential Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing
	sediment before it reaches the river. These structures will be installed prior to any clearing or grading activities. • Spoil sites will be located such that they do not drain directly into the San Joaquin River or Turlock Irrigation District Laterals, if possible. If a spoil site drains into the river or local drains, catch basins will be constructed to intercept sediment before it reaches the river. Spoil sites will be graded to reduce the potential for erosion. Final selection and design of erosion and sediment controls should include the use of multiple BMPs to protect water quality. BMPs proposed by the City's contractor shall be subject to approval by the City, and the City shall require that all parties performing construction under the Proposed Project incorporate into contract specifications the requirement that the contractor(s) comply with and implement these provisions. The contractor shall also include provisions for monitoring during and after construction activities to verify that these standards are met.				
	MM 3.1.1c. Implement Mitigation Measure 3.10.2.	City of Turlock Municipal Services Department	City of Turlock in coordination with the RWQCB, DOT, and TID.	Verification of inclusion within contract wording.	Throughout construction.
3.2.1. Endangered, Rare, and/or Threatened Species. The Proposed Project may have significant adverse impacts, either directly or through habitat modifications, to terrestrial and aquatic endangered, rare, or threatened	**MM 3.2.1a.** A survey for giant garter snake (GGS) will be conducted by a qualified biologist within 24 hours prior to the start of construction, and if GGS are present and there is a reasonable likelihood that construction will adversely impact GGS, the City and its construction contractor will adhere to the appropriate terms and conditions of the Programmatic Biological Opinion issued to the U.S. Army Corps of Engineers by the U.S. Fish and Wildlife Service for giant garter snake (dated Nov. 13, 1997).	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification and compliance with CDFG.	Prior to construction.

Potential Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing
species.					
	MM 3.2.1b. Prior to construction, all construction workers shall take part in a U.S. Fish and Wildlife Service (USFWS)-approved worker environmental awareness program given by a USFWS-approved biologist.	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification and compliance with CDFG.	Prior to construction.
	MM 3.2.1c. The construction easement for the proposed crossings shall be fenced using temporary fencing to reduce the possibility of incidentally impacting giant garter snake habitat outside of the construction area.	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification and compliance with CDFG.	Prior to and throughout construction.
Impact 3.2.2. Construction of the outfall along the eastern bank of the San Joaquin River could result in potentially significant adverse impacts to native fisheries.	**MM 3.2.2a.** Construction activities along the banks of and within the San Joaquin River will, to the extent feasible, be limited to the period between June 1st and August 31st , the period during which impacts to native fisheries are not likely to occur.	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification and compliance with CDFG.	Throughout construction.
	MM 3.2.2b Implement Mitigation Measure 3.1.1 a, b, and c.	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification of compliance by RWQCB.	Throughout construction.
3.2.3 Special-Status Species. Based on the habitats present in the Project area, several special-status species may be impacted by the Proposed Project.	**MM 3.2.3a**. Implement all mitigation measures listed for giant garter snakes. Biological monitors present during canal/ditch crossing construction shall also monitor for northwestern and southwestern pond turtles on the site, and pre-construction surveys shall also target northwestern and southwestern pond turtles.	City of Turlock Municipal Services Department	City of Turlock in coordination with CDFG	Verification and compliance with CDFG.	Prior to construction.
3.2.5 Potential Wetlands and Waters of the U.S.	**MM 3.2.5a.** Following pipeline construction, wetland/stream crossings shall be restored to preconstruction contours. Areas exposed due to construction shall be re-vegetated using a mix	City of Turlock Municipal Services	City of Turlock in coordination with	Verification and compliance with CDFG.	Prior to and throughout

Potential Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing
The Proposed Project may result in the temporary fill of "other" waters of the U.S. Potential wetland areas located along the proposed alignment and aeration facility include areas on the inboard-side of the eastern levee of the San Joaquin River.	of native vegetation.	Department	CDFG		construction.
3.5.1 Prehistoric and Historic Resources. Implementation of the proposed pipeline may affect unknown, potentially significant prehistoric and historic resources.	**MM 3.5.1.** If any historic or prehistoric find is determined to be significant by a qualified archaeologist, representatives of the City and the archaeologist and/or paleontologist shall meet to determine an appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards in accordance with California Environmental Quality Act Guidelines Section 15064.5 (f) and Section 15126.4. Artifacts found within the California State Lands Commission (CSLC) lease area belong to the State, and as such, disposition would require approval from the CSLC.	City of Turlock Municipal Services Department	City of Turlock in coordination with the Native American Heritage Commission.	Verification and compliance with the Native American Heritage Commission.	Instructions included in grading and construction plans.
3.5.2 Paleontological Resources. The implementation of the proposed project may adversely affect previously undocumented paleontological	**MM 3.5.2.** Implement Mitigation Measure 3.5.1.	City of Turlock Municipal Services Department	City of Turlock in coordination with the Native American Heritage Commission.	Verification and compliance with the Native American Heritage Commission.	Instructions included in grading and construction plans.

Potential Impact	Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Compliance Standards	Timing
resources.					
3.5.3 Human Burials. The implementation of the proposed project may adversely impact human burials or osteological remains.	**MM 3.5.3.** In the event of the discovery of human remains, California Environmental Quality Act Guidelines 15064.5 (e)(1) shall be followed, which is as follows: (1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: (A) The Coroner of the county in which the remains are discovered must be contacted to verify that the remains are human, that no investigation of the cause of death is required, and (B) If the coroner determines the remains to be Native American: 1. The coroner shall contact the Native American Heritage Commission within 24 hours. 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.	City of Turlock Municipal Services Department	City of Turlock in coordination with the Native American Heritage Commission.	Verification and compliance with the Native American Heritage Commission.	Instructions included in grading and construction plans.
3.9.4 Erosion. Implementation of the Proposed Project could result in increased surface soil erosion thereby lending to increased siltation of local waterways.	**MM 3.9.4.** Implement Mitigation Measures 3.1.1a, 3.1.1b, and 3.1.1c.	City of Turlock Municipal Services Department	City of Turlock in coordination with the RWQCB.	Completion of SWPPP. Verification by the RWQCB of inclusion of mitigation measures within the SWPPP. Site inspection by the City of Turlock and RWQCB to ensure proper implementation.	Throughout construction activities.

EXHIBIT C – AMENDMENT TO EXTEND CONSTRUCTION DATES FOR THE HARDING DRAIN BYPASS PROJECT IN THE SAN JOAQUIN RIVER TO JANUARY 31, 2014

STATEMENT OF FINDINGS

INTRODUCTION

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings to comply with CEQA as part of its discretionary approval to authorize amendment of a General Lease – Public Agency Use, PRC No. 8822.9, to the City of Turlock for the use of sovereign lands associated with the proposed Harding Drain Bypass Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)[1] The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must amend the lease for the Project to go forward and because the City of Turlock (City), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the Project in an Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2003062002). In May 2005, the City certified the EIR, adopted Findings and a Mitigation Monitoring and Reporting Program (MMRP), and approved the Project.

The primary objective of the Project is to eliminate the discharge of the City's treated wastewater to the Harding Drain, a constructed agricultural irrigation drain owned, operated and maintained by the Turlock Irrigation District (TID). Changing the point of discharge from Harding Drain to a direct discharge to the San Joaquin River will serve at least two beneficial purposes. This action will relieve the City of any need to coordinate with TID regarding management of flows in the Drain, and allow TID to efficiently operate and maintain its system. Additionally, changing the point of discharge from a low-flow, constructed agricultural irrigation drain system may reduce or eliminate regulatory constraints with respect to future waste discharge requirements issued to the City by the Regional Water Quality Control Board (RWQCB), while allowing TID and agricultural operations that run off or discharge to Harding Drain to separately monitor and manage water quality associated with agricultural activities, which are subject to separate regulatory requirements.

[1] CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in Title 14 of the California Code of Regulations section 15000 et seq.

The CSLC initially authorized a lease to the City on April 9, 2009, for this Project. Due to funding issues, the City received an amendment to the Lease to revise the date by which construction must begin from June 1, 2010, to June 1, 2012, and the construction completion date from November 1, 2010, to November 1, 2012. The purpose of the Lease amendment that is the subject of this approval is to extend the construction completion date for the Project from November 1, 2012 to January 31, 2014.

The City determined that the Project could have significant environmental effects on the following environmental resources:

- Water Resources
- Biological Resources
- Land Use and Agriculture
- Public Services and Utilities
- Aesthetic and Recreational Resources
- Cultural Resources
- Noise
- Transportation and Traffic Circulation
- Geology, Soils, and Seismicity
- Hazardous Materials / Public Health

The portion of the outfall pipeline project that will be located on State-owned sovereign lands in the San Joaquin River will consist of a slope of gabions, a temporary sheet pile cofferdam, and temporary warning signs and buoys. Gabions are rock-filled steel baskets that will be constructed below the water line to protect the riverbank as water levels fluctuate in the river. This approach will reduce construction time in the river, will have less impact on the riverbed, and will result in a more natural appearance along the river. The outfall structure will be installed on the riverbank and will consist of an outfall gravity pipeline that will discharge tertiary-treated wastewater onto a rip-rap and concrete apron constructed on the bank of the river. Wastewater will flow over the apron and the gabions down the riverbank and into the river. The gabions located below the waterline will protect the riverbank as water levels fluctuate in the river.

Of the 10 resources areas listed above, however, the components of the Project within the jurisdiction of the CSLC described above could have significant environmental effects only on the following four environmental resource areas:

- Water Resources
- Biological Resources
- Cultural Resources
- Geology, Soils, and Seismicity

In certifying the EIR and approving the Project, the City imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of mitigation measures such that the impacts would be less than significant.

As a responsible agency, the CSLC complies with CEQA by considering the lead agency's EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In so doing, the CSLC may require changes in a project

to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or project revisions are implemented, the CSLC adopts the MMRP as set forth in Exhibit B as part of its Project approval.

FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a)). Because the EIR certified by the City for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund.* v. *Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the City's EIR, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)). Accordingly, because the CSLC's exercise of discretion involves an amendment to the existing lease, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Project, the CSLC is bound by the legal presumption that the EIR fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the CSLC's approval of a General Lease – Public Agency Use, PRC No. 8822.9, are included herein and organized according to the resource affected. These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. The possible findings on each significant effect are:

(1) Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment;

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained

workers, make infeasible the mitigation measures or alternatives identified in the EIR.[2]

These Findings are based on the information contained in the EIR and in the Lease/amendment application submitted by the City, all of which is included in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the MMRP as set forth in Exhibit B as part of the CSLC's Project approval.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

I. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The following impacts were determined in the EIR to be potentially significant absent mitigation. After application of mitigation, however, the impacts were determined to be less than significant.

A. WATER RESOURCES

CEQA FINDING NO. 3.1.1

Impact: **3.1.1. Water Quality.** During site grading, trenching, and construction activities, large areas of bare soil would be exposed to erosive forces for long periods of time.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Bare soils are much more likely to erode than vegetated areas due to the lack of dispersion, infiltration, and retention created by covering vegetation. Construction activities involving soil disturbance, excavation, cutting/filling, stockpiling, dewatering and grading activities could result in increased erosion and sedimentation to surface waters. If precautions are not taken to contain contaminants, construction could produce contaminated stormwater runoff (nonpoint source pollution), a major contributor to the degradation of water quality. In addition, hazardous materials associated with construction equipment could adversely affect surface and groundwater quality if spilled or stored improperly. Without mitigation, construction of the Proposed Project could result in potentially significant impacts.

During construction of the Proposed Project, dewatering operations would be used during the installation of the outfall and the various jack and bore locations. The

[2] See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

pumping may result in increased turbidity, but will be closely monitored to ensure that there is no degradation of stream water quality and that no water quality objective or standard will be exceeded. It is the City's intent that surface and/or groundwater extracted during dewatering operations be conducted in accordance with RWQCB General Order No. 5-00-175 for National Pollutant Discharge Elimination System (NPDES) General Permit No. CA G995001. This General Order and NPDES permit covers waste discharge requirements for dewatering and other low threat discharges to surface water. The discharge from the dewatering operations will be evaluated and made part of the Project Stormwater Pollution Prevention Plan (SWPPP) and be used to obtain RWQCB approval for all storm water and construction related activities.

To mitigate this potential impact, Mitigation Measures 3.1.1a, 3.1.1b, and 3.1.1c shall be implemented.

MM 3.1.1a. To minimize the exposure of sediments to runoff, the City shall implement measures contained in the Construction Contractor's Guide and Specification of the Caltrans Storm Water Quality Handbook (The Handbook; April 1997) and the State Water Resources Control Board (SWRCB) Water Quality Order 99-08-DWQ, National Pollutant Discharge Elimination System General Permit for Stormwater Discharge Associated with Construction Activity.

MM 3.1.1b. All construction plans and activities shall implement multiple best management practices (BMPs) to provide effective erosion and sediment control. These BMPs shall be selected to achieve maximum sediment control and represent the best available technology that is economically achievable. BMPs to be implemented as part of this mitigation measure shall include, but are not limited to, the following measures:

- Temporary erosion control measures (such as silt fences, staked straw bales/ wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover) will be employed for disturbed areas.

- Dirt and debris shall be swept from paved streets in the construction zone on a regular basis, particularly before predicted rainfall events.

- Grass or other vegetative cover will be established on the construction site as soon as possible after disturbance. At minimum, vegetative application shall be done by September 15th to allow for plant establishment. No disturbed surfaces will be left without erosion control measures in place during the period of October 15th to April 15th.

- Silt fences and catch basins will be placed below all construction activities at the edge of the river to intercept sediment before it reaches the river. These structures will be installed prior to any clearing or grading activities.

- Spoil sites will be located such that they do not drain directly into the San Joaquin River or Turlock Irrigation District Laterals, if possible. If a spoil site drains into the

river or local drains, catch basins will be constructed to intercept sediment before it reaches the river. Spoil sites will be graded to reduce the potential for erosion.

Final selection and design of erosion and sediment controls shall include the use of multiple BMPs to protect water quality. BMPs proposed by the City's contractor shall be subject to approval by the City, and the City shall require that all parties performing construction under the Proposed Project incorporate into contract specifications the requirement that the contractor(s) comply with and implement these provisions. The contractor shall also include provisions for monitoring during and after construction activities to verify that these standards are met.

MM 3.1.1c. Implement Mitigation Measure 3.10.2.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

B. BIOLOGICAL RESOURCES

CEQA FINDING NO. 3.2.1

Impact:	**3.2.1. Endangered, Rare, and/or Threatened Species.** The Proposed Project may have significant adverse impacts, either directly or through habitat modifications, to terrestrial and aquatic endangered, rare, or threatened species.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Giant garter snake (GGS), which may occur on lands owned by the State may be potentially affected by the Proposed Project.

Giant Garter Snake. The Proposed Project may affect this species if it is present in the unlined irrigation canals and ditches associated with the proposed alignment. Snakes may be incidentally harmed or harassed by construction activities if they are foraging within the proposed canal / ditch crossings and outfall. These areas provide very marginal habitat for this species. Additionally, the active period for GGS occurs during the months between May 1 and October 1. This time period would be when much of the outfall construction work would occur, which could lessen direct impacts to GGS since they're actively moving. However, this does not eliminate the potential for occurrence, and the potential for a significant impact remains.

To mitigate the potential impacts to less than significant, Mitigation Measures 3.2.1a, 3.2.1b, and 3.2.1c shall be implemented.

MM 3.2.1a. A survey for giant garter snake (GGS) will be conducted by a qualified biologist within 24 hours prior to the start of construction, and if GGS are present and there is a reasonable likelihood that construction will adversely impact GGS, the City and its construction contractor will adhere to the appropriate terms and conditions of the Programmatic Biological Opinion issued to the U.S. Army Corps of Engineers by the U.S. Fish and Wildlife Service for giant garter snake (dated Nov. 13, 1997).

MM 3.2.1b. Prior to construction, all construction workers shall take part in a U.S. Fish and Wildlife Service (USFWS)-approved worker environmental awareness program given by a USFWS-approved biologist.

MM 3.2.1c. The construction easement for the proposed crossings shall be fenced using temporary fencing to reduce the possibility of incidentally impacting giant garter snake habitat outside of the construction area.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

CEQA FINDING NO. 3.2.2

Impact: **Impact 3.2.2.** Construction of the outfall along the eastern bank of the San Joaquin River could result in potentially significant adverse impacts to native fisheries.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the proposed outfall along the San Joaquin River may contribute to sedimentation within the San Joaquin River, potentially impacting native fisheries by interfering with feedings, reductions in primary or secondary production, or by reducing the survival of eggs and alevins. This would be a potentially significant effect. Prior to construction of the proposed outfall structure, the City will obtain a Nationwide Permit (NWP 7) for coverage under Section 404 of the Clean Water Act. In addition, the City will be required to obtain a Section 401 water quality certification from the RWQCB as part of the 404 permit. To comply with state regulations for construction of the proposed outfall, the City will enter into a Streambed Alteration Agreement with the California Department of Fish and Game (CDFG).

The acquisition of the requirement permits in conjunction with the implementation of Mitigation Measures 3.2.2a and 3.1.1 a, b, and c, impacts to native fisheries would be reduced to a less-than-significant level.

MM 3.2.2a. Construction activities along the banks of and within the San Joaquin River will, to the extent feasible, be limited to the period between June 1st and August 31st , the period during which impacts to native fisheries are not likely to occur.

MM 3.2.2b Implement Mitigation Measure 3.1.1 a, b, and c.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

CEQA FINDING NO. 3.2.3

Impact:	**3.2.3 Special-Status Species.** Based on the habitats present in the Project area, several special-status species may be impacted by the Proposed Project.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Northwestern and Southwestern Pond Turtles. Marginal habitat for northwestern and southwestern pond turtles occurs within the canals/ditches, Harding Drain and in aquatic habitat associated with the San Joaquin River. Potential impacts to this species would be similar to those described for the giant garter snake — potential for direct take or harassment due to construction activities. To compensate for these potential impacts, Mitigation Measure 3.2.3a is proposed.

MM 3.2.3a. Implement all mitigation measures listed for giant garter snakes. Biological monitors present during canal/ditch crossing construction shall also monitor for northwestern and southwestern pond turtles on the site, and pre-construction surveys shall also target northwestern and southwestern pond turtles.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

CEQA FINDING NO. 3.2.5

Impact: **3.2.5 Potential Wetlands and Waters of the U.S.** The Proposed Project may result in the temporary fill of "other" waters of the U.S. Potential wetland areas located along the proposed alignment and aeration facility include areas on the inboard-side of the eastern levee of the San Joaquin River.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The portion of the Project Area owned by the State lie under the San Joaquin River, which is considerd a water of the U.S./water of the State. The City would seek coverage under Section 404 of the Clean Water Act for construction of the proposed outfall. This would include the acquisition of a Section 401 water quality certification from the RWQCB. Construction of the outfall would also require entering into a Streambed Alternation Agreement with CDFG as required under Section 1601 of the State Fish and Game Code. Compliance with these permits and implementation of the prescribed mitigation would reduce impacts to wetlands to a less-than-significant level.

MM 3.2.5a. Following pipeline construction, wetland/stream crossings shall be restored to preconstruction contours. Areas exposed due to construction shall be re-vegetated using a mix of native vegetation.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

C. CULTURAL RESOURCES

CEQA FINDING NO. 3.5.1

Impact: **3.5.1 Prehistoric and Historic Resources.** Implementation of the proposed pipeline may affect unknown, potentially significant prehistoric and historic resources.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities associated with construction of the Proposed Project could result in a significant impact to cultural resources. Cultural resources, whether prehistoric or historic, are physical manifestations of cultural activity. As such, they constitute an important non-renewable resource, which has the potential of increasing our understanding of older or extinct cultures.

Prehistoric Resources

Archaeological sites usually consist of both surface and subsurface components, with evidence beneath the surface often much more extensive than that visible above. Because the portion of the Project Area owned by the State is submerged, the possibility of finding surface indicators of prehistoric sites is probably low, while the likelihood of the existence of subsurface deposits of cultural material is still high, especially at depths below 100 cm.

There is unlikely to be any redevelopment within the portion of the Project Area owned by the State, as the land is submerged and will be partially protected by the placement of permanent gabions; therefore, the potential for destruction of archaeological resources would be decreased.

MM 3.5.1. If any historic or prehistoric find is determined to be significant by a qualified archaeologist, representatives of the City and the archaeologist and/or paleontologist shall meet to determine an appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards in accordance with California Environmental Quality Act Guidelines Section 15064.5 (f) and Section 15126.4. Artifacts found within the California State Lands Commission (CSLC) lease area belong to the State, and as such, disposition would require approval from the CSLC.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

CEQA FINDING NO. 3.5.2

Impact: **3.5.2 Paleontological Resources.** The implementation of the proposed project may adversely affect previously undocumented paleontological resources.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project site contains recent alluvium of stream channel, stream overflow, and alluvial fan deposits. The sediments are Pliocene and Quaternary marine and non-marine sedimentary rock sources. Given the relatively young geomorphic characteristics of this area, the probability of encountering paleontological resources is substantially reduced. This notwithstanding, significant fossil discoveries can be made even in areas designated as having low potential, and may result from the excavation activities related to the proposed project. This impact would be reduced to a less-than-significant level with the incorporation of the following mitigation measure.

MM 3.5.2. Implement Mitigation Measure 3.5.1.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

CEQA FINDING NO. 3.5.3

Impact: **3.5.3 Human Burials.** The implementation of the proposed project may adversely impact human burials or osteological remains.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Impacts to human burials or osteological remains is not expected to result from the project activities. However, the subsurface excavation required for construction of the Proposed alignment could potentially disturb or destroy human remains from both prehistoric and historic time periods, including those interred outside of formal cemeteries. This is considered a potentially significant impact that would be reduced to a less-than-significant level by implementation of the following mitigation.

MM 3.5.3. In the event of the discovery of human remains, California Environmental Quality Act Guidelines 15064.5 (e)(1) shall be followed, which is as follows:

(1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

(A) The Coroner of the county in which the remains are discovered must be contacted to verify that the remains are human, that no investigation of the cause of death is required, and

(B) If the coroner determines the remains to be Native American:

1. The coroner shall contact the Native American Heritage Commission within 24 hours.
2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.

D. GEOLOGY AND SOILS

CEQA FINDING NO. 3.9.4

Impact: **3.9.4 Erosion.** Implementation of the Proposed Project could result in increased surface soil erosion thereby lending to increased siltation of local waterways.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction associated with each component of the Proposed Project has the potential to expose bare soil to precipitation and subsequent entrainment in surface runoff. Construction activities involving soil disturbance, excavation, cutting/filling, and grading activities could result in increased erosion and sedimentation to surface waters. The alignment would be constructed along the Harding Drain, which is an unlined canal. Construction too close to the banks of the drain could induce slumping along the canal's

banks. Likewise, depths required needed to install the pipeline could expose construction workers to increased hazards associated with slumping within the trench. This would require additional efforts to maintain the integrity of the drain's slope. Additional mitigation would be required for this alternative, beyond mere compliance with standards for areas within Uniform Building Code (UBC) Seismic Hazard Zone 3. This would be addressed during construction and grading, by adopting erosion and sediment control measures. These measures will be conducted in accordance with City's' stormwater management requirements and best management practices for the reduction of pollutants in runoff. The components of the Proposed Project will be subject to NPDES requirements and would require the acquisition of a NPDES general construction permit.

MM 3.9.4. Implement Mitigation Measures 3.1.1a, 3.1.1b, and 3.1.1c.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

With the mitigation described above, this impact is reduced to a less-than-significant level.