

**CALENDAR ITEM
C46**

A 5, 23, 31

04/23/14

W 26749

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R. Collins

**CONSIDER ADOPTION OF AN ENVIRONMENTAL ASSESSMENT/FINDING OF NO
SIGNIFICANT IMPACT IN PLACE OF A NEGATIVE DECLARATION AND
AUTHORIZE ISSUANCE OF A GENERAL LEASE – PUBLIC AGENCY USE**

APPLICANT:

U.S. Bureau of Reclamation

AREA, LAND TYPE, AND LOCATION:

Four (4) parcels of sovereign land in the San Joaquin River, at Ledger Island, Highway 41 Bridge, Scout Island, and Donnie Bridge, near the city of Fresno, Fresno and Madera Counties.

AUTHORIZED USE:

Temporary placement of fish collection structures.

LEASE TERM:

10 years, beginning April 23, 2014.

CONSIDERATION:

The public 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.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the upland adjoining the lease premises.
2. In September 2006, a settlement was reached in an 18-year lawsuit brought by a coalition of conservation and fishing groups led by the Natural Resources Defense Council (NRDC) against the U.S. Bureau of Reclamation and the Friant Water Users Authority. *Natural Resources Defense Council, et al. v. Rodgers, Civ. No. S-88-1658 LKK/GGH (E.D. Cal.)*. The San Joaquin River Restoration Program (Program) is a direct result of the settlement. Federal legislation was passed in March 2009 authorizing federal agencies to implement the settlement. There are two primary goals of the settlement:

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- A. Restoration Goal - To restore and maintain fish populations in "good condition" in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish; and
 - B. Water Management Goal - To reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.
3. In Fall 2013, more than 360 adult fall-run Chinook salmon were translocated into the upper San Joaquin River and nearly 70 spawning redds (nests where eggs were laid) were documented. The successful outmigration of juvenile salmon is critical for survival to adulthood and to support the goal of the Program to restore Chinook salmon to the river. Factors determining successful outmigration include suitable water temperatures, adequate and timely flow for downstream movement, and a passable watercourse, none of which are available in some of the reaches of the restoration area due to the "Critical Low" hydrologic water year.
 4. In order to capture juvenile fish the Applicant will construct v-shaped fence weirs from bank to bank, using wire mesh panels and supporting metal posts. Each v-shaped weir will form a passageway leading to a 3' x 4' collection box. In addition, entrainment-type netting may be installed upstream of proposed weir locations. The entrainment-type nets are attached to steel frames that are guided horizontally in steel channels so they can be fished daily and removed when not in use. Temporary fish collection structures will include flashing lights, and flagging to alert boaters. Temporary fence weirs will include a removable panel marked with bright paint and signage to direct boaters and allow for boat passage. The Applicant will place signage to alert boaters upstream and downstream from the temporary fish collection structures.
 5. Collection boxes would be checked for fish and weirs cleaned of debris daily. Any fish species other than fall-run Chinook salmon that may be incidentally trapped will be released immediately downstream of the collection structures. Captured fall-run Chinook salmon would be transported by truck to release sites downstream.

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6. Juvenile fall-run Chinook salmon trap and haul activities would occur from mid-February through May, depending on hydrologic conditions. Following completion of the trap and haul activities, fish collection structures would be removed from the river and stored at an off-site facility.
7. In 1992, Commission staff completed and published a set of **Administrative Maps of the San Joaquin River** between Friant Dam and State Highway 99 depicting the location of the high and low water lines. At several locations along this stretch of the San Joaquin River, the boundary between public and private ownership has been fixed by agreement. At those locations, the agreement(s) would supersede the Administrative Maps.
8. An Environmental Assessment (EA) was prepared and circulated for the proposed **2014 San Joaquin River Restoration Program Juvenile Fall-Run Chinook Salmon Trap and Haul Study** (Project) by the U.S. Bureau of Reclamation (BOR) and the EA and a Finding of No Significant Impact (FONSI) were adopted on February 20, 2014. The Commission staff circulated the EA for public review as broadly as state and local law may require, and notice was given meeting the standards in California Code of Regulations, Title 14, section 15072, subdivision (a). Therefore, pursuant to California Code of Regulations, Title 14, sections 15221 and 15225 of the State California Environmental Quality Act (CEQA) Guidelines, the staff recommends the use of the federal EA/FONSI in place of a Negative Declaration.

Specifically, the EA was circulated in place of a Negative Declaration for a 30-day public review period from March 5, 2014, through April 7, 2014.

Two comment letters were received on the EA from the following:

- California Department of Fish and Wildlife (CDFW)
- Central Valley Flood Protection Board (CVFPB)

The commenters provided input on sensitive wildlife species and floodway channel capacity and hydraulic impacts. Although the EA found that there would be no adverse impacts to vegetation, wildlife, including species protected by the Migratory Bird Act, and aquatic species, additional measures were incorporated into the Project to ensure avoidance of any nesting birds, burrowing owls, special-status raptors, and Western pond turtle. These measures are:

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- In order to avoid working in areas of any nesting birds, burrowing owls, and special-status raptors, the project area will be surveyed to ensure no nesting birds, burrowing owls, and special-status raptors are present in the area; and
- Surveys for Western pond turtle will be conducted to ensure no turtles or nests are located in the vicinity of project activities and ensure a 300-foot no-disturbance buffer of any known nest sites.

These additional measures were communicated with CDFW staff (pers. comm., Benessa Espino, CDFW, April 8, 2014) and CDFW staff concurs that incorporating the above measures will eliminate any potential impacts to sensitive wildlife in the Project vicinity.

With regard to the comments raised by the CVFPB on the floodway channel capacity and hydraulic impacts, the proposed fish collection structures to be installed in the river are temporary in nature and are not anticipated to significantly alter hydrodynamics in the river channel given the anticipated low river flows; therefore, the structures would not affect the floodway channel capacity and hydraulics.

Commission staff has amended the EA to reflect the above-described changes. After careful review of the changes, staff has determined that the changes do not constitute a “substantial revision” as defined in State CEQA Guidelines, section 15073.5, subdivision (b):

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

No new significant effects have been identified in the EA. The revisions to the proposed action will further reduce previously identified effects. Important to staff’s determination is its conclusion that the revisions are in response to recommendations by commenters that do not give rise to new significant effects, but rather are intended to provide increased environmental protection to effects that are not significant. As a result, staff concluded that recirculation of the EA prior to Commission consideration is not required. (State CEQA Guidelines, § 15073.5, subds. (c)(2) and (3).)

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the EA/FONSI, adopted by the U.S. Bureau of Reclamation on February 20, 2014, for this Project, meet the requirements of CEQA. Therefore, pursuant to California Code of Regulations, Title 14, sections 15221 and 15225, adopt such federal documents for use in place of a Negative Declaration.

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 issuance of a General Lease – Public Agency Use to the U.S. Bureau of Reclamation beginning April 23, 2014, for a term of 10 years, for the temporary placement of fish collection structures as shown on Exhibit A, attached and by this reference made a part hereof and shown on Exhibit B (for reference purposes only); consideration is the public 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.

EXHIBIT A

W 26749

LAND DESCRIPTION

Four parcels of sovereign land situate in the bed of the San Joaquin River, Counties of Fresno and Madera, State of California and more particularly described as follows:

PARCEL 1 (Ledger Island Site)

A circular parcel of land having a one hundred (100) foot radius with a central point having a NAD 83 coordinate of 36° 56' 38.34" North Latitude, 119° 44' 18.93" West Longitude.

PARCEL 2 (Highway 41 Bridge Site)

A circular parcel of land having a one hundred (100) foot radius with a central point having a NAD 83 coordinate of 36° 52' 15.56" North Latitude, 119° 47' 59.87" West Longitude.

PARCEL 3 (Scout Island Site)

A circular parcel of land having a one hundred (100) foot radius with a central point having a NAD 83 coordinate of 36° 51' 38.31" North Latitude, 119° 50' 48.13" West Longitude.

PARCEL 4 (Donnie Bridge Site)

A circular parcel of land having a one hundred fifty (150) foot radius with a central point having a NAD 83 coordinate of 36° 49' 59.93" North Latitude, 119° 57' 56.78" West Longitude.

EXCEPTING THEREFROM any portion lying landward of the low water mark of the right and left banks of said river.

END OF DESCRIPTION

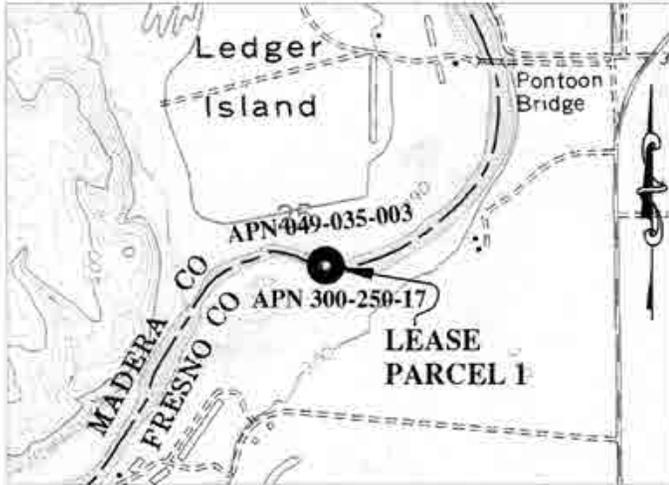
NAD 83 Geographic Coordinates provided by the U.S. Bureau of Reclamation.

Prepared 03/19/14 by the California
State Lands Commission Boundary Unit



NO SCALE

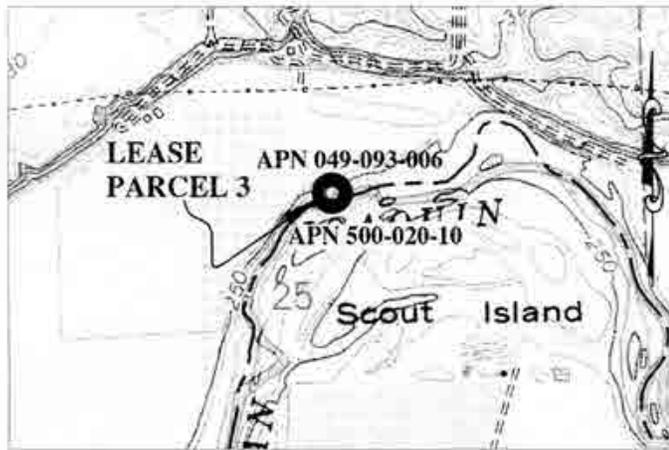
SITE



LEDGER ISLAND SITE



HIGHWAY 41 BRIDGE SITE



SCOUT ISLAND SITE



DONNIE BRIDGE SITE

FISH COLLECTION STRUCTURES, SAN JOAQUIN RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26749

U.S. BUREAU OF
RECLAMATION
APNs - MULTIPLE
GENERAL LEASE -
PUBLIC AGENCY USE
FRESNO & MADERA
COUNTIES



SITE

TS 03/19/14

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.