

**STAFF REPORT  
C72**

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08/23/18  
PRC 8041.9  
G. Asimakopoulos

**TERMINATION AND ISSUANCE OF  
GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

United States Department of the Interior, Bureau of Land Management

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Laguna Creek, adjacent to Assessor's Parcel Numbers 148-0010-061 and 148-0010-063; and Lost Slough, adjacent to Assessor's Parcel Number 146-0120-021; located within the Cosumnes River Preserve, north and south of Twin Cities Road, near Galt, Sacramento County.

*AUTHORIZED USE:*

Resource protection, conservation, and management of open space and wildlife habitat at both parcels; and the installation, use, and maintenance of an access gate, driveway, corral, perimeter and cross fences, culverts and water troughs at the Laguna Creek parcel.

*LEASE TERM:*

30 years; beginning August 23, 2018.

*CONSIDERATION:*

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:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000, 2002, and 2003.

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

On June 19, 1998, the Commission, acting as the Kapiloff Land Bank Trustee, authorized the purchase of a 263-acre parcel of land adjacent to the Cosumnes River Preserve (Preserve) in Sacramento County, with funds from the Kapiloff Land Bank Trust Funds, pursuant to Public Resources Code section 8613. The Commission also authorized Lease No. PRC 8041.9, a 49-year General Lease – Public Agency Use, with the U.S. Department of the Interior, Bureau of Land Management (BLM) for the management of the acquired property for the purpose of open space and wildlife habitat ([Item C132, June 19, 1998](#)). That lease will expire on December 31, 2048.

On February 17, 2005, the Commission authorized the acceptance of a quitclaim from Ronald S. Wong and Letha B. Wong; Donna Maria Montosa; and Joseph R. Martin and Charlene J. Martin, for 22 acres of land including the bed of Lost Slough (Assessor's Parcel Number [APN] 146-0120-021), for inclusion into the Preserve ([Item C34, February 17, 2005](#)). The Commission also authorized the amendment of Lease No. PRC 8041.9 to include the management of APN 146-0120-021 for the purpose of open space and wildlife habitat within the Preserve. However, the land description of the original lease was not amended at that time to reflect the inclusion of APN 146-0120-021 within the lease area.

On April 23, 2014, the Commission authorized a Land Exchange Agreement (Agreement) between James Bradley Jones as Trustee of the J.B. Jones Trust Dated May 20, 2009, and the State of California, acting by and through the Commission, pursuant to Public Resources Code section 6307 ([Item C75, April 23, 2014](#)). The Agreement settled and established certain boundary lines between parcels located adjacent to and within the Preserve. However, the land description of the original lease was not amended at that time to reflect the removal of the Trust Termination Parcel and the addition of the Public Trust Parcel within the lease area. Therefore, on August 15, 2014, the Commission authorized an amendment of Lease No. PRC 8041.9 to replace the land description of the original lease with a revised land description and to include a Site and Location Map to reflect modifications to the original land description of the lease area by prior amendments ([Item C13, August 15, 2014](#))

The Preserve is a 50,000+-acre nature preserve whose mission is the protection and enhancement of California's native biodiversity along the Cosumnes River. BLM is one of seven land-owning partners at the Preserve and serves as the lead Federal agency. The BLM-funded Preserve Manager is responsible for overseeing all Preserve partners'

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activities as they relate to fish, wildlife, plants and other natural resources values.

The BLM has applied for the termination of the existing General Lease – Public Agency Use and issuance of a new General Lease – Public Agency Use. Under the new proposed lease, the BLM will continue its resource protection, conservation, and management of open space and wildlife habitat. In addition, it will now be authorized to install, use, and maintain an access gate, driveway, corral, perimeter and cross fences, culverts and water troughs.

Currently, much of the pre-existing fence is either missing or is in a state of disrepair. In addition, the only access to the property is now through private property following the recent sale of the adjacent lands to a new owner. As a result, the Whaley Unit, one part of the lease premises, no longer has safe access available, making management of the property nearly impossible without a legal and safe access point being installed from Twin Cities Road. Construction (including repair and replacement), use and maintenance of approximately 6,680 feet of a standard barbed-wire fence, and the construction, use and maintenance of a driveway, access gate, and corral would allow BLM to continue to use grazing as a supplemental method of a grassland vegetation control, in conjunction with other treatment methods. While not traditionally associated with Public Trust uses, the access gate, driveway, fencing, corral, culverts, water troughs and grazing will not significantly interfere with Public Trust needs and values at this location. These uses will allow for BLM to continue to use grazing as a component of their overall management plan for the Preserve.

The proposed lease would help to maintain healthy functioning aquatic, riparian, and upland ecosystems at the Whaley Unit; aid in the restoration of native or desirable terrestrial plant communities that have been degraded or displaced by weed species; aid in the ability to access and control aquatic weed infestations within Laguna Creek; help reduce the risk of catastrophic wildfire by eliminating or reducing fuel loads created by excessive build-ups of plant residues; provide legal and safe access to the Unit by Preserve staff and contractors without crossing privately-owned lands; and reduce the risk of spread and invasion of weed species to other areas of the Preserve and to neighboring private lands.

BLM prepared an Environmental Assessment (EA) for the Project on February 24, 2017, to determine the level of environmental impacts. The Project was found to be in conformance with BLM's February 2008 Sierra Resource Management Plan (RMP) and the EA, which is the guiding

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document for the weed management program at the Preserve. The EA, titled "Continued Implementation of an Integrated Weed Management Program at the Cosumnes River Preserve — January 1, 2015 To December 31, 2017", made the following determinations regarding environmental resources:

- **Soils.** Minimal impacts to soils would be caused by fence construction or grazing, but over the long term, grazing treatments that remove rank overgrowth, invasive vegetation, reduce fuels, and restore native plants would enhance soil quality.
- **Vegetation.** No impacts are expected to the two special-status plant communities identified by the California Natural Diversity Database (Great Valley Oak Riparian Forest and Great Valley Mixed Riparian Forest). Additionally, no rare or special-status plants occur within the action area. Implementation of a grazing program at the Preserve would benefit the plant community by reducing weed infestations.
- **Wildlife.** Minimal, temporary impacts to wildlife would occur during Project implementation due to noise and the presence of workers, and a temporary reduction in the amount of escape cover from predators; however, these actions are consistent with farming activities that happen on a daily basis in and around the Preserve. Species such as sandhill cranes, geese, and a variety of terrestrial species that are known to forage in grazed areas may benefit from the reduction of noxious weed species on the property.
- **Special-Status Species.** The presence of suitable habitat indicate that giant garter snakes could disperse, forage, and breed at or near the site. However, due to the limited scope of the Project, the proposed actions would have no effect on giant garter snake. By improving access for staff and contractors to treat and/or remove highly invasive yellow water primrose and other aquatic weeds within Laguna Creek, aquatic species, including giant garter snake may benefit from restored open-water foraging habitat.

The Swainson's hawk is a known summer resident of the Preserve and the surrounding areas. The presence of suitable habitat within the lease area indicates that the hawk could be present, disperse, forage, and nest at or near the proposed action area. However, the Project would have no effect on Swainson's Hawks. By returning grazing to the lease area as a method of invasive weed control Swainson's hawks may benefit from the restored habitat.

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- **Visual Resources.** Minimal temporary impacts to visual resources would be caused by fence construction, access improvements, aquatic weed control actions, or grazing weed control actions; however, visual resources on the Preserve would improve because of the reduction in exotic or noxious weed species within the aquatic, riparian, and upland ecosystems on the property.
- **Cultural Resources.** The BLM archaeologist has analyzed the proposed action to determine whether it would affect significant cultural resources (historic properties), in accordance with Section 106 of the National Historic Preservation Act. The analysis included a background records search, an intensive field inventory, and Native American consultation. The Project area was intensively inventoried for cultural resources by the BLM archaeologist in April 2016. No cultural resources were identified within the Project area. The BLM has determined that the proposed action would not adversely affect historic properties.
- **Air Quality.** No measurable impacts to air quality are expected due to the proposed action. Construction activities, including the minor excavations required for the driveway and gate installation, along with the repair/replacement of the fence, would represent a normal management activity seen on a day-to-day basis at the Preserve.

Several Best Management Practices were included in the EA to limit disturbance along the access route, avoid disturbance to giant garter snake, raptors, and other nesting birds, and restore disturbed areas to pre-project conditions.

Commission staff reviewed the EA and other information provided by the Applicant, conducted a site visit on April 5, 2018 to verify existing conditions, and concurs that the Project would result in minimal disturbance to the environment.

The lease does not alienate the State's fee simple interest, nor does it permanently impair public rights. The lease requires the Applicant to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action.

**Climate Change Analysis:**

The project-action area includes a slough channel adjacent to Laguna Creek, which is not tidally influenced and therefore, would not be subject

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to sea-level rise. However, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

The project action area would not contain any permanent structures; however, the proposed fencing may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change.

**Conclusion:**

For the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; 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 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. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

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3. Staff recommends that the Commission find that this issuance of a new lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.  
Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

1. Find that the termination of the existing lease is not a project as defined by CEQA pursuant to California Code of Regulations, title 14, section 15378, subdivision (b)(5).
2. Find that the issuance of a new lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

1. Find that the continuing use of the lease area for resource protection, conservation, and management of open space and habitat at both parcels will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and are consistent with the common law Public Trust Doctrine; and
2. Find that the installation, use and maintenance of an access gate, driveway, corral, perimeter and cross fences, culverts, water troughs to allow for grazing are not generally consistent with the Public Trust Doctrine, but the uses do not substantially interfere with the trust, at this location, at this time, and for the foreseeable term of the lease; and
3. Find that issuing the proposed lease is in the best interests of the State.

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**AUTHORIZATION:**

1. Authorize termination, effective August 22, 2018, of Lease No. PRC 8041.9, a General Lease – Public Agency Use, to the United States Department of the Interior, Bureau of Land Management.
  
2. Authorize issuance of a General Lease – Public Agency Use to the United States Department of the Interior, Bureau of Land Management, beginning August 23, 2018, for a term of 30 years, for resource protection, conservation, and management of open space and wildlife habitat; and the installation, use, and maintenance of an access gate, driveway, corral, perimeter and cross fences, culverts and water troughs, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

**EXHIBIT A**

**PRC 8041.9**

**LAND DESCRIPTION**

**PARCEL 1**

All that certain real property situated, lying and being in Section 12, Township 5 North, Range 5 East, and in Section 7, Township 5 North, Range 6 East, M.D.M., in the County of Sacramento, State of California, described as follows:

All that real property as described in the grant deed from Joe W. Whaley and Violet D. Whaley, Trustees of the Joe W. Whaley and Violet D. Whaley 1990 Revocable Trust to the State of California, recorded August 24, 1998 in Book 19980824 at Page 1427, Official Records of Sacramento County.

TOGETHER WITH all that certain real property situated, lying and being in Section 7, Township 5 North, Range 6 East, M.D.M., in the County of Sacramento, State of California, described as follows:

Being a portion of Tract No. 36 of the "Subdivision of the Rancho San Jon De Los Mokelumnes" as described in the final decree entered December 11, 1876 in the action of John F. McCauley vs. Obed Harvey, et al, and being a portion of Parcel 2, as said Parcel is shown on that certain "Plat of Tracts of Land Surveyed for O. Anderson and H.J. Need", filed in the office of the Recorder of Sacramento County on November 29, 1939 in Book 3 of Surveys, Map Number 140, more particularly described as follows:

COMMENCING at the Northeast corner of that certain parcel of land granted to James B. Jones in the Grant Deed recorded on June 30, 2011 in Book 20110630 at Page 0869, Official Records of Sacramento County; thence along the Northerly line of said parcel North 75° 59' 00" West 164.30 feet to the most Easterly corner of that certain parcel of land granted to J. B. Jones in the Grant Deed recorded on January 8, 2012 in Book 20120118 at Page 1821, Official Records of Sacramento County; thence along the Northerly line of said parcel North 75° 59' 17" West 277.42 feet to the true POINT OF BEGINNING for this description; thence from said point of beginning, and leaving the North line of said Jones parcel, North 87° 43' 32" West 367.75 feet; thence South 00° 30' 00" East 611.10 feet to a point on the North line of a county road known as "Twin Cities Road", being 66.00 feet in width; thence along the Northerly line of said road North 89° 45' West 17.29 feet to the Southwest corner of the parcel of land granted to J. B. Jones in

the Grant Deed recorded on January 8, 2012 in Book 20120118 at Page 1821; thence along the West line of said parcel North 00° 30' 00" West 621.97 feet to the Northwest corner of said parcel; thence along the Northerly line of said parcel South 89° 45' 00" East 287.51 feet and South 75° 59' 17" East 100.32 feet to the point of beginning, containing 0.37 acres.

EXCEPTING THEREFROM all that certain real property situated, lying and being in Section 7, Township 5 North, Range 6 East, M.D.M., in the County of Sacramento, State of California, described as follows:

That portion of Swamp and Overflowed Land Survey number 619, Sacramento County Surveys, also being a portion of Tract No. 36 of the "Subdivision of the Rancho San Jon De Los Mokelumnes" as described in the final decree entered December 11, 1876 in the action of John F. McCauley vs. Obed Harvey, et al, and being a portion of Parcel 2, as said Parcel is shown on that certain "Plat of Tracts of Land Surveyed for O. Anderson and H.J. Need", filed in the office of the Recorder of Sacramento County on November 29, 1939 in Book 3 of Surveys, Map Number 140, more particularly described as follows:

Beginning at the Northeast corner of that certain parcel of land granted to James B. Jones in the Grant Deed recorded on June 30, 2011 in Book 20110630 at Page 0869, Official Records of Sacramento County; thence along the Northerly line of said parcel North 75° 59' 00" West 164.30 feet to the most Easterly corner of that certain parcel of land granted to J. B. Jones in the Grant Deed recorded on January 8, 2012 in Book 20120118 at Page 1821, Official Records of Sacramento County; thence along the Northerly line of said parcel North 75° 59' 17" West 277.42 feet; thence, leaving said Northerly line, South 87° 43' 32" East 345.00 feet; thence South 54° 24' 36" East 34.88 feet; thence South 37° 14' 41" East 91.67 feet to the point of beginning, containing 0.37 acres.

The Basis of Bearings for the above description is the "Plat of Tracts of Land Surveyed for O. Anderson and H.J. Need", filed in the office of the Recorder of Sacramento County on November 29, 1939 in Book 3 of Surveys, Map Number 140.

## **PARCEL 2**

A portion of Section 17, Township 5 North, Range 5 East, MDB&M., described as BEGINNING at a point located on the east line of said Section 17 and southerly line of a canal; thence from said POINT OF BEGINNING northerly along said east line of said Section 17 to northeasterly line of a canal; thence southwesterly along said northerly line

of a canal to a point located on easterly projection of a line from northeast corner Lot 45, Alluvial Acres; thence East to centerline of a canal; thence northeasterly along centerline and southerly line of canal to POINT OF BEGINNING.

**END OF DESCRIPTION**

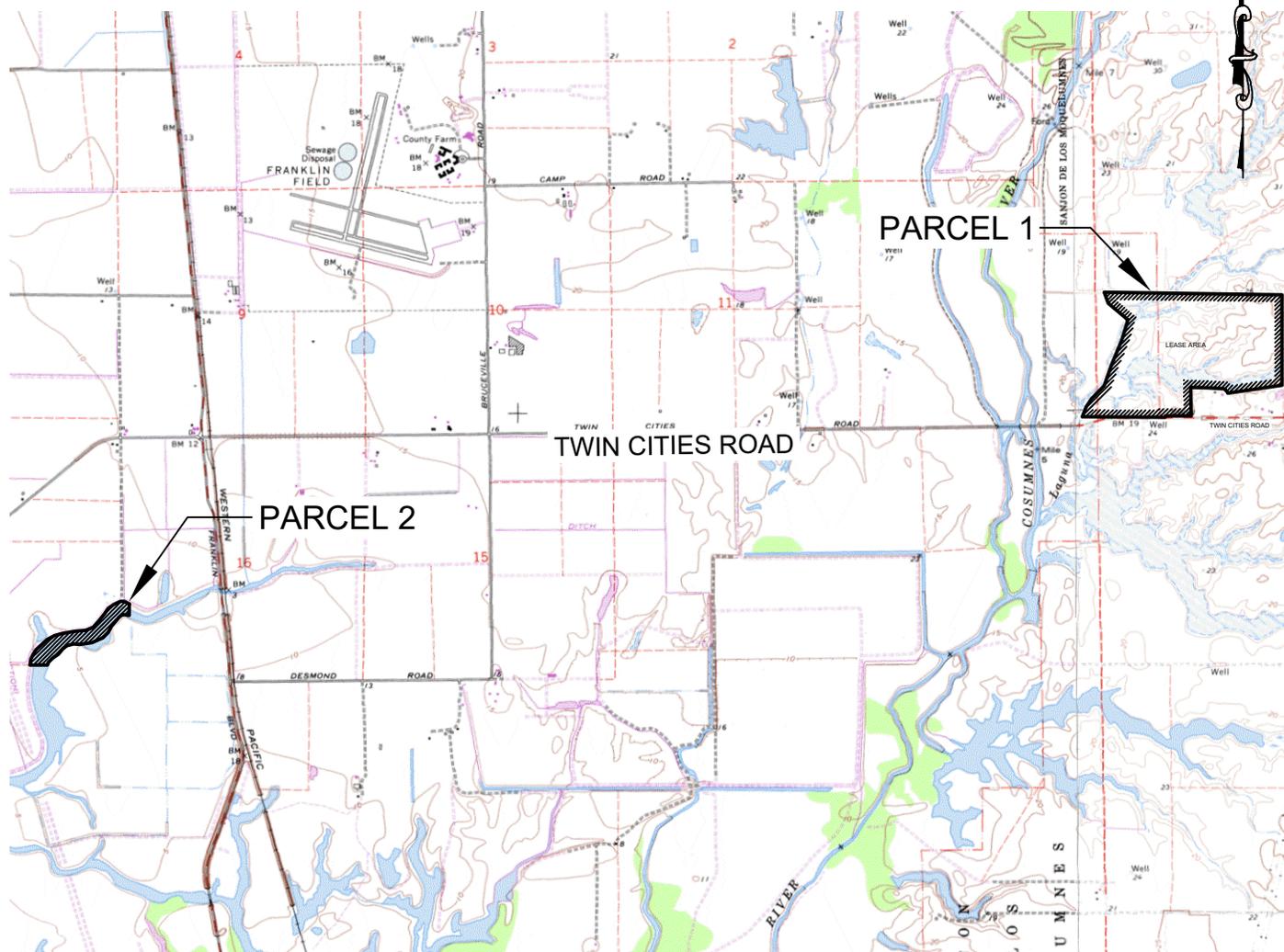
Parcel 1 description taken from that description of that Public Trust Parcel per Land Exchange Agreement (AD 346) on file at the Sacramento offices of the State Lands Commission. Parcel 2 description taken from that Tax Deed to Purchaser of Tax-Defaulted Property, Recorded in Book 910619, at Page 0442 of Official Records of Sacramento County.

Prepared July 16, 2014 by the California State Lands Commission Boundary Unit.



NO SCALE

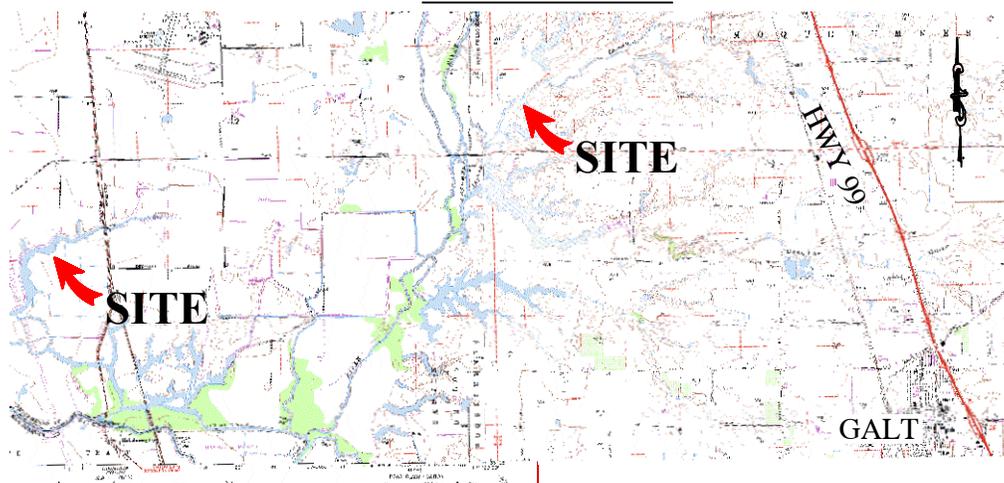
# SITE



## COSUMNES RIVER PRESERVE

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

**Exhibit B**  
 PRC 8041.9  
 BLM  
 APN 148-0010-061, 063,  
 146-0120-021  
 GENERAL LEASE-  
 PUBLIC AGENCY USE  
 SACRAMENTO 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.