

STAFF REPORT

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W 27188

S. Avila

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Reclamation District 2140

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Numbers (APNs) 032-230-018, 032-240-008, and 032-240-010, along the east bank of the Sacramento River beneath the Gianella Bridge, Hamilton City, Glenn County.

AUTHORIZED USE:

Installation, use, and maintenance of rock slope protection and restoration of habitat on the waterside levee slope.

LEASE TERM:

25 years, beginning February 28, 2020.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The Applicant has applied for a General Lease – Public Agency Use for the Hamilton City Flood Damage and Ecosystem Restoration Project, including installation of rock slope protection (RSP) and restoration of habitat on the waterside portion of the levee slope, along the east bank of the Sacramento River near Hamilton City (Project). The Project will conduct levee erosion repair on a 600-foot-long section of the levee near the Gianella Bridge. The Department of Water Resources, Division of

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Flood Management, determined that this 600-foot-long section of the Sacramento River levee requires critical erosion repair. This section of the levee is located adjacent to the Gianella Bridge and is exposed to faster flows that have caused erosion. Continued erosion of this portion of the waterside levee slope will result in levee instability and possible levee system failure. The Project will meet the current U.S. Army Corps of Engineers standards. Installation of RSP and restoration of habitat will occur along the estimated 600-feet of the waterside levee slope.

The steep waterside slope of the existing levee will have existing vegetation stripped or grubbed. RSP will be installed both above and below the ordinary high-water mark (OHWM) to rehabilitate the waterside of the levee to a 2:1 slope to protect from future erosion. Only clean RSP will be used below the OHWM. Clean fill or soil will be applied to the RSP filling gaps between the rocks to support growth of vegetation that will enhance waterside habitat above the OHWM. Where feasible, a 3-foot-wide habitat bench will be constructed at the OHWM and covered with 9 inches of soil. The 9-inch soil cover will continue up the slope to the edge of a 15-foot-wide levee inspection area. The levee inspection area will remain clear of topsoil and vegetation to allow for routine levee inspections. The Project will be accessed and constructed from the land side of the levee. The installation of RSP will be conducted from barges in the Sacramento River and no dewatering or diversion is proposed.

The levee rehabilitation Project is consistent with the common law Public Trust Doctrine because it will stabilize the riverbank and provide critical flood protection to Hamilton City, a community that has long been at risk of flooding from the Sacramento River. Residents of Hamilton City constructed the private levee around 1904 to protect it from flooding from the Sacramento River. The proposed levee reinforcement Project will protect the health and safety of Hamilton City's 2,000 residents from potential flooding due to levee failure. The Project is an important benefit to a city that does not have the financial capability itself to fund such a project. In addition to providing reinforced structural support to the levee and limit potentially harmful erosion, the proposed habitat restoration will add native vegetation within the floodplain to further improve flood protection. The habitat restoration portion of the Project will also have beneficial effects on vegetation, wildlife, fisheries, and the historic floodplain.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease includes certain provisions protecting the public's use of the proposed lease area by

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requiring the Applicant to obtain necessary permits. 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. The lease also has a limited term of 25 years that allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

Climate Change:

The Project area surrounding the Sacramento River is not tidally influenced and therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), 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.

Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement of riprap along the inner levee. 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 all 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant will not be allowed to install rock slope protection and restore habitat. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.

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2. 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.
3. An Environmental Impact Statement/Environmental Impact Report (EIS/EIR), State Clearinghouse No. 2002122048, was prepared for this Project by the Reclamation Board and certified on July 16, 2004. Reclamation District 2140 adopted an Addendum to the EIS/EIR dated June 20, 2019, to fully identify any new or additional impacts to the proposed Project. Staff has reviewed these documents and the 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.

A Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091 and 15096) are contained in the attached Exhibits C and D.

4. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the Project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Statement of Findings

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIS/EIR, State Clearinghouse No. 2002122048, was prepared for this Project by the Reclamation Board (now the Central Valley Flood Protection Board) and certified on July 16, 2004, that Reclamation District 2140 adopted an Addendum dated June 20, 2019; and that the Commission has reviewed and considered the information contained in both these documents.

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

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

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed 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.

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 Reclamation District 2140 beginning February 28, 2020, for a term of 25 years, for the installation, use, and maintenance of rock slope protection and restoration of habitat, 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

W 27188

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Rancho Capay, patented on August 18, 1859, County of Glenn, State of California and more particularly described as follows:

Bounded on the northwest by a line perpendicular to the course L 44 having a bearing of N 46° 38' 41" W and lying 50.00 feet southeasterly from the northwesterly end of said line as shown on that Parcel Map 2010-002 (sheet 2 of 3), recorded October 13, 2010 in Book 13 at Page 63, in Recorders Office of Glenn County;

Bounded on the southeast by a line lying 300.00 feet southeasterly and parallel with the line between MON 98-37A and MON 98-37B having a bearing of N 60° 23' 49" E as shown on said Parcel Map 2010-002 (sheet 3 of 3);

Bounded on the northeast by a line lying northeasterly 90.00 feet and parallel with the low water mark of the right bank of the Sacramento River;

Bounded on the southwest by the low water mark of the right bank of the Sacramento River.

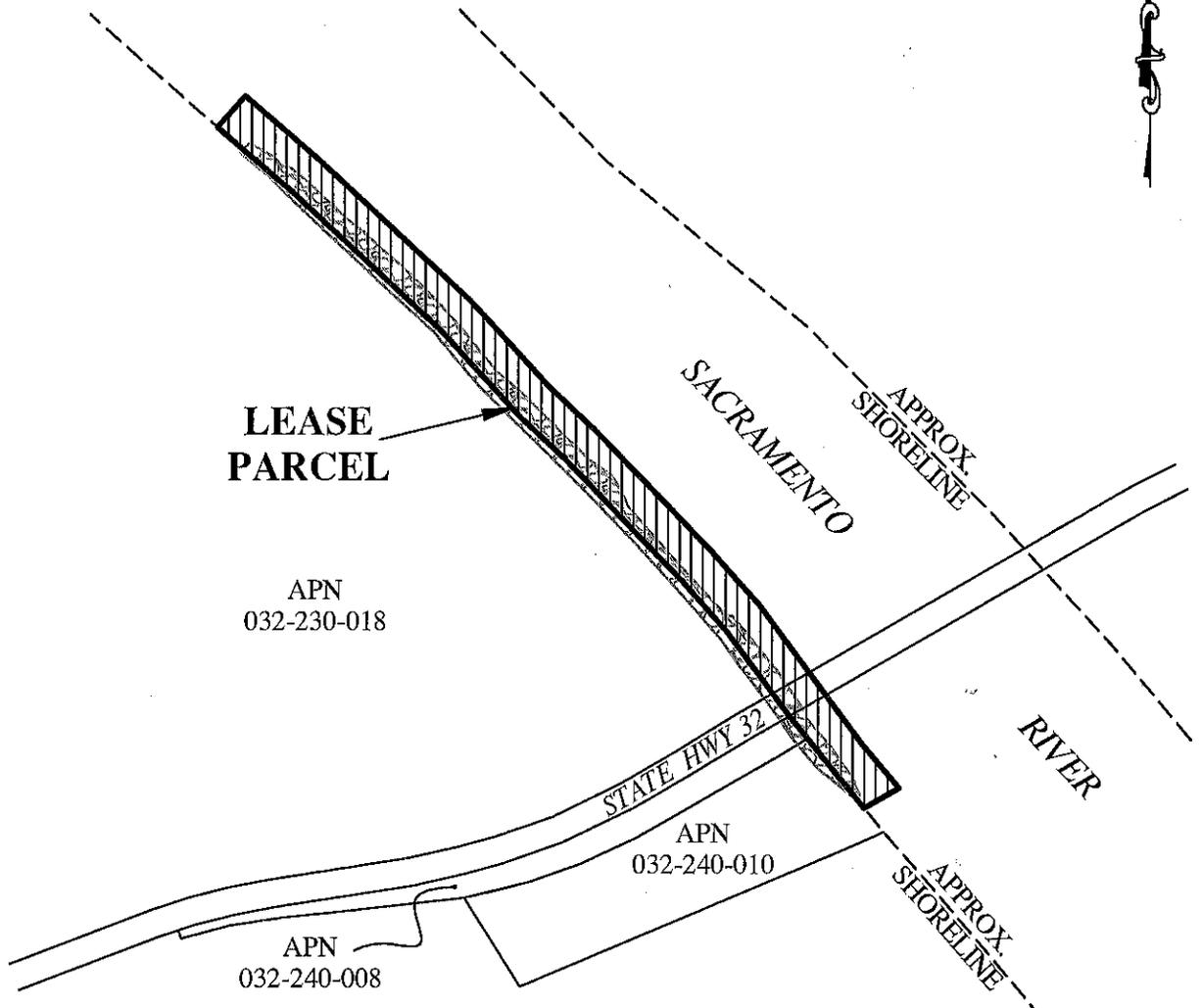
END OF DESCRIPTION

Prepared 11/18/19 by the California State Lands Commission Boundary Unit



NO SCALE

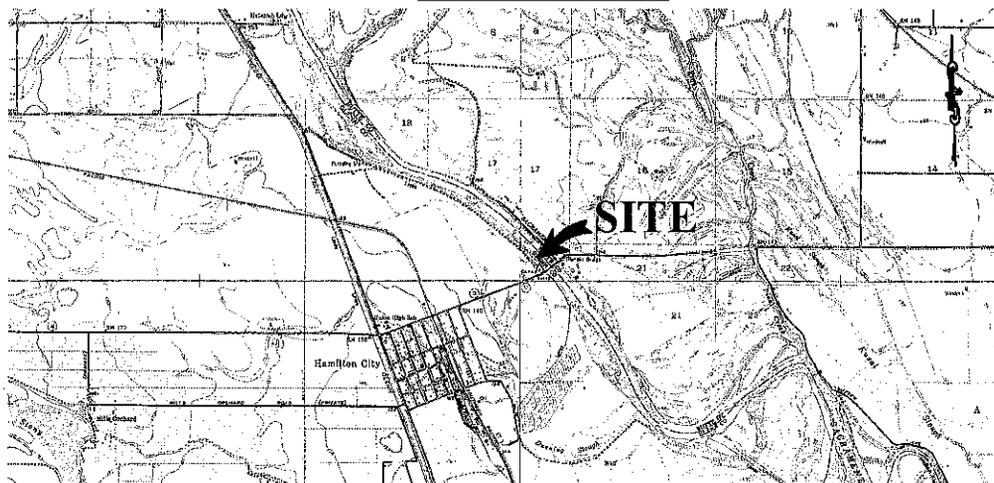
SITE



SACRAMENTO RIVER AT GIANELLA BRIDGE, HAMILTON CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 27188
 RECLAMATION
 DISTRICT 2140
 APN 032-240-008, 010 &
 032-230-018
 GENERAL LEASE -
 PUBLIC AGENCY USE
 GLENN 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.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
HAMILTON CITY FLOOD DAMAGE AND
ECOSYSTEM RESTORATION PROJECT
(W27188, State Clearinghouse No. 2002122048)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Hamilton City Flood Damage and Ecosystem Restoration Project (Project). The CEQA lead agency for the Project is the Reclamation Board (now Central Valley Flood Protection Board (CVFPB)).

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency certified an EIR, State Clearinghouse No. 2002122048, and made mitigation measures a condition of approval for the Project. Reclamation District 2140 is a responsible agency and prepared an addendum to the EIR and is responsible for ensuring implementation of the mitigation measures for the Project. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the EIR prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)
Water Quality: Impacts to Water Quality During Construction.	MM WQ-1 (see Attachment C-1)
Air Quality: Impacts to Air Quality Resources during construction.	MM AIR-1 (see Attachment C-1)
Biological Resources – Special Status Fish Species: Impacts to Anadromous Fish will be short-term due to exposure to increased turbidity during construction.	MM BIO-1 (see Attachment C-1)
Biological Resources – Special Status Wildlife: Impacts to Special Status Species during construction.	MM BIO-2 (see Attachment C-1)

ATTACHMENT C-1

Mitigation Measures Approved by the

Reclamation Board

(now Central Valley Flood Protection Board)

and Adopted by Reclamation District 2140

ATTACHMENT C-1

HAMILTON CITY FLOOD DAMAGE AND ECOSYSTEM RESTORATION PROJECT

Mitigation Measures from Environmental Impact Statement/ Environmental Impact Report (EIS/EIR)

Water Quality

Mitigation Measure (MM WQ-1) (pages 5-15 – 5-16 of EIS/EIR)

The following best management practices would be implemented to reduce potential water quality effects to less than significant. Prior to the start of construction, a National Pollution Discharge Elimination System (NPDES) general permit for construction activities would be acquired from the Central Valley Regional Water Quality Control Board (RWQCB), and a storm water pollution prevention plan (SWPPP) would be developed per the Guidelines of the general permit. The SWPPP would list all best management practices to be implemented during construction activities for control of erosion, siltation, and any other pollutants that could potentially enter storm water or surface waters in the project area.

Best management practices would include, but not be limited to the following:

- Preserve all existing vegetation where possible.
- The contractor would prepare an erosion and sediment control plan incorporating a site drainage plan consistent with the RWQCB policies.
- All soils disturbed by construction would be stabilized and reseeded with native grasses after construction is complete.

Air Quality

Mitigation Measure (MM AIR-1) (page 5-17 of EIS/EIR)

Since there would be some potential significant short-term effects to air quality, mitigation would be required. Best available control technology to reduce pollutant emissions shall be used to reduce potential air quality effects to a less-than-significant level; this control technology includes the following measures:

- Construction equipment operating on the site and trucks used for hauling material to and from the site shall be properly equipped with required emission control devices operating properly to minimize exhaust pollutant emissions.
- Trucks hauling construction materials shall be covered or the material shall be sufficiently wetted to eliminate visible dust emissions.
- No burning of waste material or cleared vegetation shall occur.

- Watering shall be used to minimize dust emissions from any unpaved haul road and levee road. Watering shall be performed as needed to eliminate visible dust emissions from any unsurfaced haul roads and levee roads.
- Haul-truck speed shall be limited to a maximum of 10 mph on levee roads adjacent to residences, and 15 mph on other unpaved roads to minimize dust emissions and road throw.
- All disturbed soil areas or constructed soil bodies shall be wetted sufficiently to keep them damp at all times during construction hours to eliminate visible dust emissions.

Biological Resources – Special Status Fish

Mitigation Measure (MM BIO-1) (page 5-32 of EIS/EIR)

The implementation of best management practices as discussed under the Water Quality section (see MM WQ-1 above), for sediment control would reduce the potential water quality effects to fisheries to less than significant. If construction is conducted that may affect the salmon, it would be conducted within appropriate work windows, approved either by the National Marine Fisheries Service, U.S. Fish and Wildlife Service, or Regional Water Quality Control Board.

Biological Resources – Special Status Wildlife

Mitigation Measure (MM BIO-2) (pages 5-33 – 5-35 of EIS/EIR)

Bank Swallow: Measures to minimize the potential construction effects to bank swallows include: avoiding nesting periods of the species if present within the project area, performing a field survey (if applicable) prior to construction, and avoiding disturbance of nests during construction.

Swainson's Hawk: Measures to avoid or minimize the construction effects to Swainson's hawk include; avoiding nesting periods of the species if present within the project area (March 1 – September 15), performing a field survey (if applicable) prior to construction, and avoiding disturbing nests during construction. Also, every effort shall be made to avoid removal of riparian vegetation and heritage oaks. Vegetation (e.g., trees and shrubs) could be fenced and flagged for avoidance. Direct destruction of the nest, or disturbance to nesting pairs of Swainson's hawk by noise or dust disturbance, would be considered a potentially adverse effect.

Yellow-billed Cuckoo: Short-term effects to the yellow-billed cuckoo can be avoided or minimized by implementing the following measures: avoid nesting periods of the species if present within the project area, perform a field survey (if applicable) prior to construction, and avoid disturbing nests during construction. Also, the removal of riparian vegetation will be avoided. Riparian vegetation (e.g., trees and shrubs) will be fenced and flagged for avoidance. Effects to riparian vegetation on the existing levee will be avoided by leaving appropriate sections of the levee in place.

EXHIBIT D – HAMILTON CITY FLOOD DAMAGE REDUCTION AND ECOSYSTEM RESTORATION PROJECT

CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS

1.0 INTRODUCTION

The California State Lands Commission (Commission), 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 issuance of a General Lease – Public Agency Use to the Reclamation District 2140 (District), for use of sovereign land associated with the proposed Hamilton City Flood Damage Reduction and Ecosystem Restoration Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381¹). The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) 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 Commission is a responsible agency under CEQA for the Project because the Commission must approve the lease for the Project to go forward. The Reclamation Board (now the Central Valley Flood Protection Board [CVFPB]) analyzed the environmental impacts associated with the Project in an Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2002122048) and, on July 23, 2004, certified the Final EIR. Mitigation measures were made a condition of approval for the Project. The District, as the Project proponent and CEQA responsible agency, has prepared an addendum for the proposed Project based on the certified EIR and, in June 2017, approved the addendum to the EIR, made mitigation measures a condition of project approval.

The Project involves increasing flood protection and restoring the Sacramento River floodplain near Hamilton City, along the west bank of the Sacramento River in Glenn County, California, about 85 miles north of the city of Sacramento by constructing a setback levee, removing most of the existing “J” levee, and actively restoring about 1,500 acres of native vegetation.

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

- Water Quality
- Air Quality

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

- Biological Resources/Special Status Species
- Transportation

Of the four resources areas noted above, Project components within the Commission's jurisdiction could have significant environmental effects on three of the resource areas, as follows:

- Water Quality
- Air Quality
- Biological Resources/Special Status Species

In certifying the Final EIR and approving the Project, the CVFPB imposed 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 these mitigation measures such that the impacts would be less than significant within the Project areas.

As a responsible agency, the Commission complies with CEQA by considering the Final EIR and Addendum and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program as set forth in Exhibit C as part of its Project approval.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission, Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission'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 and addendum for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth

below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission'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); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)). Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Public Agency Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. The segments of the Project area within the Commission's jurisdiction include bank restoration, and repair and maintenance of existing riprap bank protection as depicted in Figure 2b of the Addendum to the Final EIR. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR and Addendum fully comply with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR and Addendum. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of a General Lease – Public Agency Use are included herein and organized according to the resources affected.

These Findings, which reflect the independent judgment of the Commission, 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. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.²

A discussion of supporting facts follows each Finding.

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

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR.

The mitigation measures are identified in these Findings and are fully describe in Attachment C-1 of Exhibit C – Mitigation Monitoring Program.

A. SUMMARY OF FINDINGS

The EIR subsequently identified the following impacts as Less Than Significant:

- Aesthetics
- Agricultural Resources
- Cultural Resources
- Geomorphology
- Hazards, Toxics, and Radiological Waste
- Noise
- Recreation
- River Hydraulics
- Socioeconomics

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts identified in Table 1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, all impacts were determined to be less than significant with mitigation (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

Table 1 – Potentially Significant Impacts by Issue Area

Environmental Issue Area	Impact No. (LTSM)
Water Quality	WQ-1
Air Quality	AIR-1
Biological Resources – Special Status Fish and Wildlife	BIO-1 BIO-2

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

1. WATER QUALITY

CEQA FINDING NO. WQ-1

Impact: **WQ-1: Impacts to Water Quality During Construction.**

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 proposed as part of the Project have the potential to directly or indirectly affect water quality within the Project area. Construction activities within the Project area footprint will directly impact water quality, resulting in potential increase to turbidity in the Sacramento River. The project cannot be redesigned in a way that reduces the extent of impacts to water quality.

Adverse effects would be mitigated through implementation of best management practices (BMPs) as outlined in MM WQ-1, which shall be enforced by the Applicant's construction contractor.

Implementation of MM WQ-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM WQ-1 (see Attachment C-1 of Exhibit C – Mitigation Monitoring Program)

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described in Exhibit C, this impact is reduced to a less than significant level.

2. AIR QUALITY RESOURCES

CEQA FINDING NO. AIR-1

Impact: **AIR-1: Impacts to Air Quality Resources during construction.**

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 proposed as part of the Project have the potential to directly or indirectly affect Air Quality Resources during construction. Implementation of the best available control technology as outlined in MM AIR-1 will be integrated into the construction monitoring to reduce impacts to Air Quality during construction.

Implementation of MM AIR-1 has been incorporated into the Project to reduce this impact to a less than significant level.

MM AIR-1 (see Attachment C-1 of Exhibit C – Mitigation Monitoring Program)

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described in Exhibit C, this impact is reduced to a less than significant level.

3. BIOLOGICAL RESOURCES

CEQA FINDING NO. BIO-1

Impact: **BIO-1: Impacts to anadromous fish will be short-term due to exposure to increased turbidity during construction.**

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 proposed as part of the Project could increase temporary turbidity during construction. Impacts to wetlands, waters of the U.S. and non-jurisdictional waters were minimized with the use of BMPs to minimize turbidity impacts to fish as much as possible. BMPs include straw waddles and maintaining topsoil away from the edge of the river to prevent runoff and reduce increased turbidity into the river. MM BIO-1 will apply to all temporary and permanent impacts to jurisdictional wetlands and waters of the U.S., as well as non-jurisdictional waters, will be completed to ensure there is no net loss of wetland or waters habitat.

Implementation of MM BIO-2 have been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-1 (see Attachment C-1 of Exhibit C – Mitigation Monitoring Program)

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described in Exhibit C, this impact is reduced to a less than significant level.

CEQA FINDING NO. BIO-2

Impact: **BIO-2: Impacts to Special Status wildlife during construction.**

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 proposed as part of the proposed Project could affect special-status species. Yellow-billed cuckoo, bank swallow, and Swainson's hawk may experience temporary disturbance and/or displacement during construction. Per MM BIO-2, species mortality will be avoided through the implementation of work windows designed to avoid construction activity during the seasons when various species are nesting and rearing young. In addition, pre-construction clearance surveys will be completed to protect any species that may be present at the time when construction activities are scheduled to occur.

Implementation of MM BIO-2 has been incorporated into the Project to reduce this impact to a less than significant level.

MM BIO-2 (see Attachment C-1 of Exhibit C – Mitigation Monitoring Program)

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described in Exhibit C, this impact is reduced to a less than significant level.

D. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

When it comes time to decide on project approval, the public agency's decision-making body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decision-making body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The four alternatives identified and evaluated in the Final EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives included:

- 1) No Action Alternative
- 2) Combined Alternative 1
- 3) Combined Alternative 5
- 4) Combined Alternative 6

As presented in the EIR, the alternatives were described and compared with each other. Based on the analysis contained in the Final EIR, Combined Alternative 6 was identified as the recommended plan and was determined to reasonably maximize total ecosystem restoration and flood damage reduction benefits compared to costs within the planning constraints.

The CVFPB independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the CVFPB's independent judgment as to alternatives. The CVFPB found that the Project provides the best balance between the Project goals and objectives and the benefits. The District prepared an addendum to the EIR based on Combined Alternative 6 and intend to carry out the Project.

Based upon the objectives identified in the Final EIR, the addendum, and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program).