

STAFF REPORT

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06/23/20
PRC 9574.9
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D. Tutov

AMENDMENT OF LEASE

LESSEE:

City of Sacramento

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the American River, below Nimbus Dam near River Mile 22.5, near Rancho Cordova and Fair Oaks, Sacramento County.

AUTHORIZED USE:

Replenishment of spawning gravel and establishment of additional side channel habitat for the rehabilitation and restoration of Chinook salmon and steelhead spawning and rearing habitat.

LEASE TERM:

20 years, beginning August 23, 2019.

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.

PROPOSED AMENDMENT:

Amend the lease to:

- Authorize nine additional restoration sites, for a total of 10, within restoration reaches on the American River below Lake Natoma from approximately River Mile (RM) 23 to RM 13, near Rancho Cordova and Fair Oaks.
- Delete Exhibit A, Land Description, and Exhibit B, Site and Location Map.
- Include the attached Exhibit A, Land Description, and Exhibits B-1 through B-10, Site and Location Maps.

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All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

Public Trust and the State's Best Interests Analysis:

On August 23, 2019, the Commission authorized issuance of Lease No. PRC 9574.9, a 20-year General Lease – Public Agency Use (Lease) to the City of Sacramento (City) for the replenishment of spawning gravel and establishment of additional side channel habitat for the rehabilitation and restoration of Chinook salmon and steelhead spawning and rearing habitat ([Item 23, August 23, 2019](#)). The Lease will expire on August 22, 2039. The City is now requesting to amend the Lease to authorize nine additional restoration sites within restoration reaches on the American River below Lake Natoma from approximately River Mile (RM) 23 to RM 13 (Exhibits B-1 through B-10).

The Lease and the proposed Amendment are part of a 16-year-long, Lower American River Anadromous Fish Habitat Restoration Project (Plan), created by the U.S. Bureau of Reclamation and the City of Sacramento (City), in association with the Sacramento Area Water Forum. The Plan consists of 10 restoration sites and will be implemented by the City, using City equipment and City employees. The original Lease included only one site, and the City is now applying to amend the proposed lease to include nine additional restoration sites.

The primary goal of the plan is to increase and improve Chinook Salmon and steelhead spawning and rearing habitat by replenishing spawning gravel and establishing additional side-channel habitat. This will help address the loss of spawning and rearing habitat caused by the blockage of the river channel by dams and the resultant alteration in flow pattern.

Since the late 1990s, anadromous fish have benefited from past and ongoing restoration activities within the Lower American River (LAR) watershed. The City of Sacramento currently manages this restoration work with demonstrated success. Juvenile fish densities have increased from only 0.1 fish per square meter to 3.25 fish per square meter in some reaches. Additionally, spawning increased approximately 500 percent from these restoration actions. The ongoing gravel augmentation is integral to

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maintaining the federal Central Valley Project and to supporting salmonid persistence in the LAR.

Annual gravel relocation from artificially high floodplains downstream of Folsom Dam and in-river placement would occur at the sites shown on Exhibits B-1 through B-10 from approximately RM 23 to RM 13. Due to funding constraints, gravel would only be placed at up to three sites annually, and in some years, it is likely that no gravel would be placed.

Gravel borrow would occur at two sites, Sailor Bar and Mississippi Bar, previously used as borrow areas for restoration actions. Short-term stockpile areas, less than 0.5 acres, would be located within restoration site boundaries adjacent to the river, minimizing ground disturbance. Gravel would be generally transported from the borrow site, dumped onto the short-term stockpile, and placed in-river within the same project period, avoiding long-term storage of gravel at the various restoration sites. Neither the borrow sites or storage sites are on land under the jurisdiction of the Commission.

Floodplain and side channels will be created by physical modifications to the river channel and would be designed to inundate incrementally at higher flows, providing beneficial salmonid habitat. Along with floodplain and side channels creation, instream habitat structures, consisting of woody material, will be created. Woody material is a natural part of healthy rivers and provides important habitat for aquatic species, including cover from high flows and predators, favorable and complex hydraulic conditions for juvenile fish, collection of suitable spawning materials, and a food source for aquatic insects. Woody material would be incorporated into the main channel and/or side channels to enhance habitat quality. Material would be sourced from within the watershed and may include willow cuttings and/or tree trunks available for use as a result of Sacramento County Parks maintenance activities.

The proposed project will enhance fisheries, a recognized Public Trust use. Project activities are designed to minimize potential direct and indirect impacts to listed fish species during construction and installation, while meeting long-term restoration goals. Increasing and improving Chinook salmon and steelhead spawning and rearing habitat would have ecosystem and fisheries benefits extending well beyond the project area, as anadromous fish species inhabiting the Lower American River travel throughout the Central Valley, Sacramento-San Joaquin River Delta, San Francisco Bay Estuary, and portions of the Pacific Ocean throughout their life cycle.

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This portion of the American River is seasonally used by the public for fishing and non-motorized boating. Therefore, appropriate measures will be taken to ensure public health and safety and balance the recreational and habitat needs of the area. The lease requires the lessee to post signs and barriers to minimize potential hazards to the public at least 24 hours prior to and during construction. The lease also has a limited term of 20 years that allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time. Furthermore, the Lessee will conduct post-project monitoring through review of spawning surveys, juvenile habitat-use surveys, benthic macroinvertebrate surveys, gravel movement surveys, and gravel quality surveys, to evaluate outcomes of the project.

Climate Change:

The project area is in a portion of the American River that 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 as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time.

The restoration project would include spawning gravel replenishment, floodplain and side channel creation/enhancement, and instream habitat structure placement. The future conditions noted above could increase the likelihood of damage to restored areas within the lease premises during the term of the lease.

Pursuant to the proposed lease, the Lessee acknowledges that the lease premises and adjacent upland (not within the lease area) are in an area that may be subject to effects of climate change.

Conclusion:

For all the reasons above, Commission staff believes the amendment of this Lease will not substantially interfere with the Public Trust needs at this location, at this time, and the foreseeable term of the Lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction and Key Action 1.2.4 to prioritize the use of sovereign lands where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties and other conservation efforts, consistent with applicable law.
2. Approval or denial of the Lease amendment 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. Upon expiration or prior termination of the Lease, the lessee has no right to a new lease or to renewal of any previous Lease.
3. A Mitigated Negative Declaration (MND), State Clearinghouse No. 2019069088, and a Mitigation Monitoring Program (MMP) were prepared by the City of Sacramento and adopted on August 20, 2019, for this project. The MND included an analysis of the nine additional restoration sites. A previous lease authorization was approved by the Commission on August 23, 2019 ([Item 23, August 23, 2019](#)), relying on the City's adopted MND. Commission staff reviewed the City's MND and the Commission's previously adopted MMP that remains in full force. Commission staff recommends that no additional CEQA analysis is required.
4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. At the time the Commission considered the MND in August 2019, staff concluded that such activity would not affect those significant lands and the Commission found the activity to be consistent with its use classification pursuant to Public Resources Code section 6370 et seq.

APPROVALS OBTAINED:

Central Valley Regional Water Quality Control Board
U.S. Fish and Wildlife Service
NOAA Fisheries

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APPROVALS REQUIRED:

California Department of Fish and Wildlife
Central Valley Flood Protection Board
U.S. Army Corps of Engineers Sacramento County

EXHIBITS:

A: Land Description
B1-B10: Site and Location Maps

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an MND, State Clearinghouse No. 2019069088, and MMP were prepared by the City of Sacramento and adopted on August 20, 2019, for this project. The Commission has reviewed and considered the information contained therein; that in the Commission's independent judgment, the scope of activities to be carried out under the lease amendment have been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore no additional CEQA analysis is required. The previously adopted MMP remains in full force.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9574.9, a General Lease – Public Agency Use, effective June 23, 2020, to authorize nine additional restoration sites within restoration reaches on the American River below Lake Natoma from approximately River Mile (RM) 23 to RM 13; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibits B-1 through B-10, Site and Location Maps (for reference purposes only).

EXHIBIT A

PRC 9574.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of American River in Sacramento County, California, adjacent to on the right bank Rancho Rio De Los Americanos, approved May 29, 1857 and more particularly described as follows:

Bounded on the upstream (east) by a line parallel with and 550 feet westerly from the southerly prolongation of the most westerly line of "Mississippi Bar" having the course S 18° 03 ½' E as shown on "Map of Mississippi Bar" dated February 27, 1912 and filed in Book A, Page 97 of Surveys;

Bounded on the south, southeast, east by the low water mark of the left bank of the American River;

Bounded on the downstream (south) by a line running west from the most westerly corner of Tiffany Farms as shown on that Parcel Map dated December 1973 and filed in Book 16 of Parcel Maps at Page 5 ;

Bounded on the north, northwest, west by low water mark of the right bank of the American River.

EXCEPTING THEREFROM any portions lying landward of the low water mark of the left and right banks of the American River.

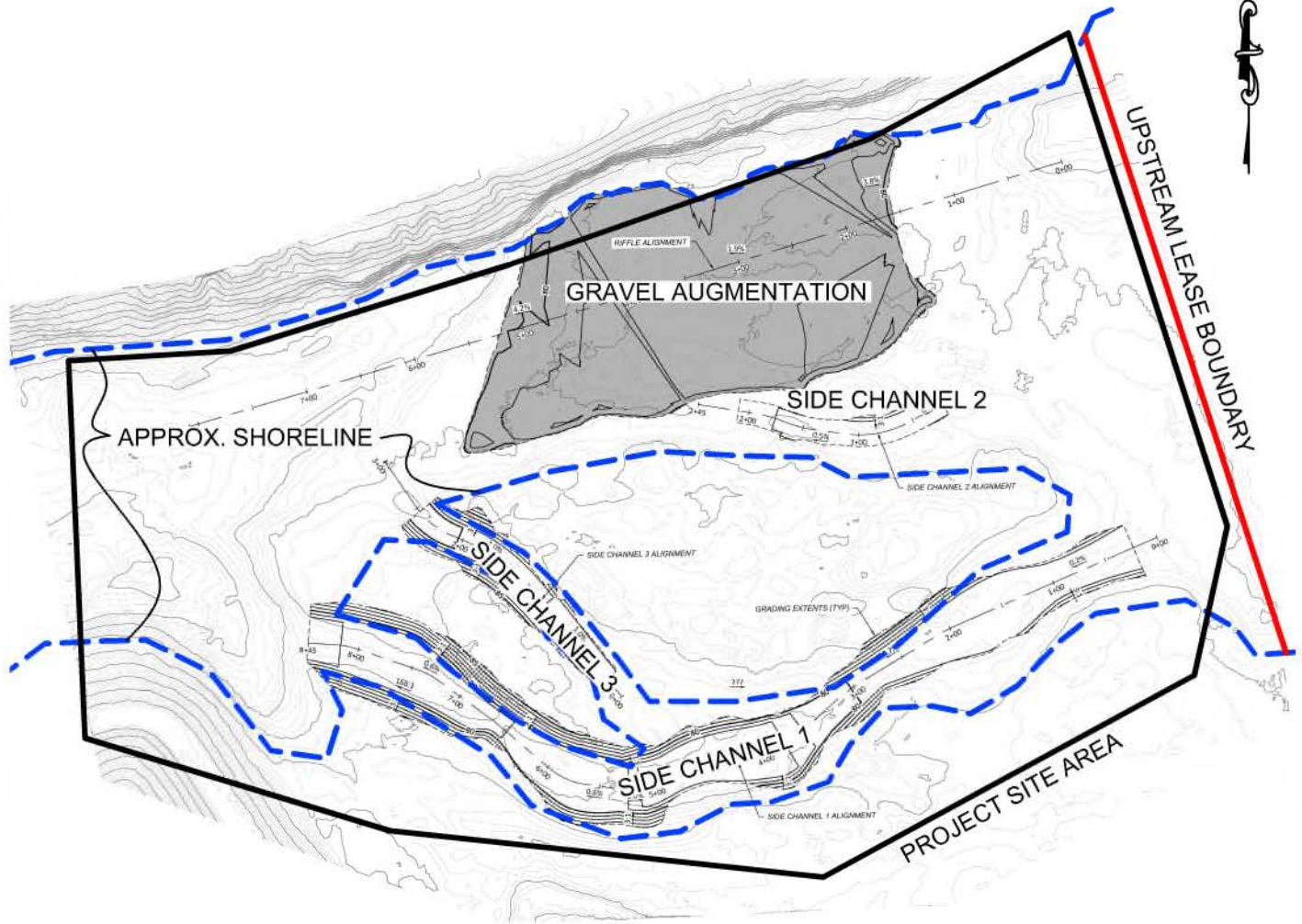
END OF DESCRIPTION

PREPARED 3/25/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT.



NO SCALE

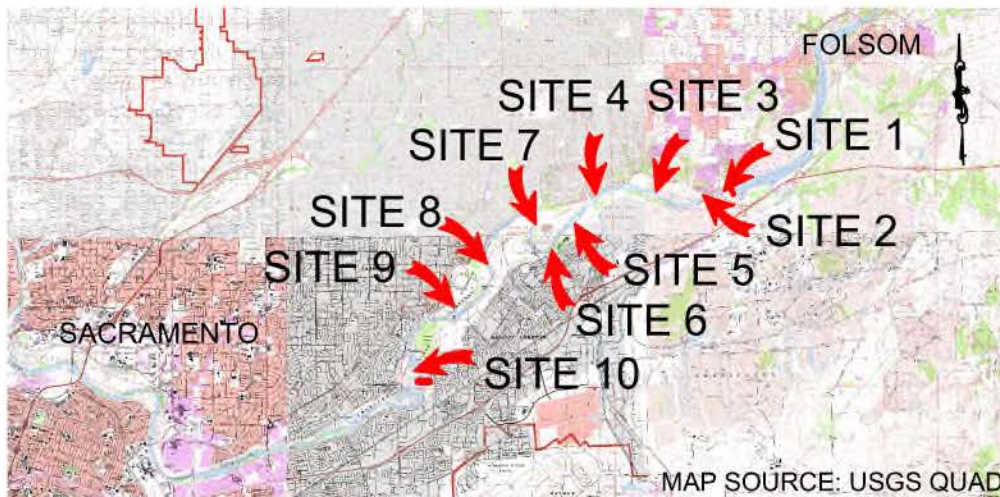
SITE 1



NIMBUS BASIN, RIVER MILE 22.75-23.0

NO SCALE

LOCATION



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 B-1

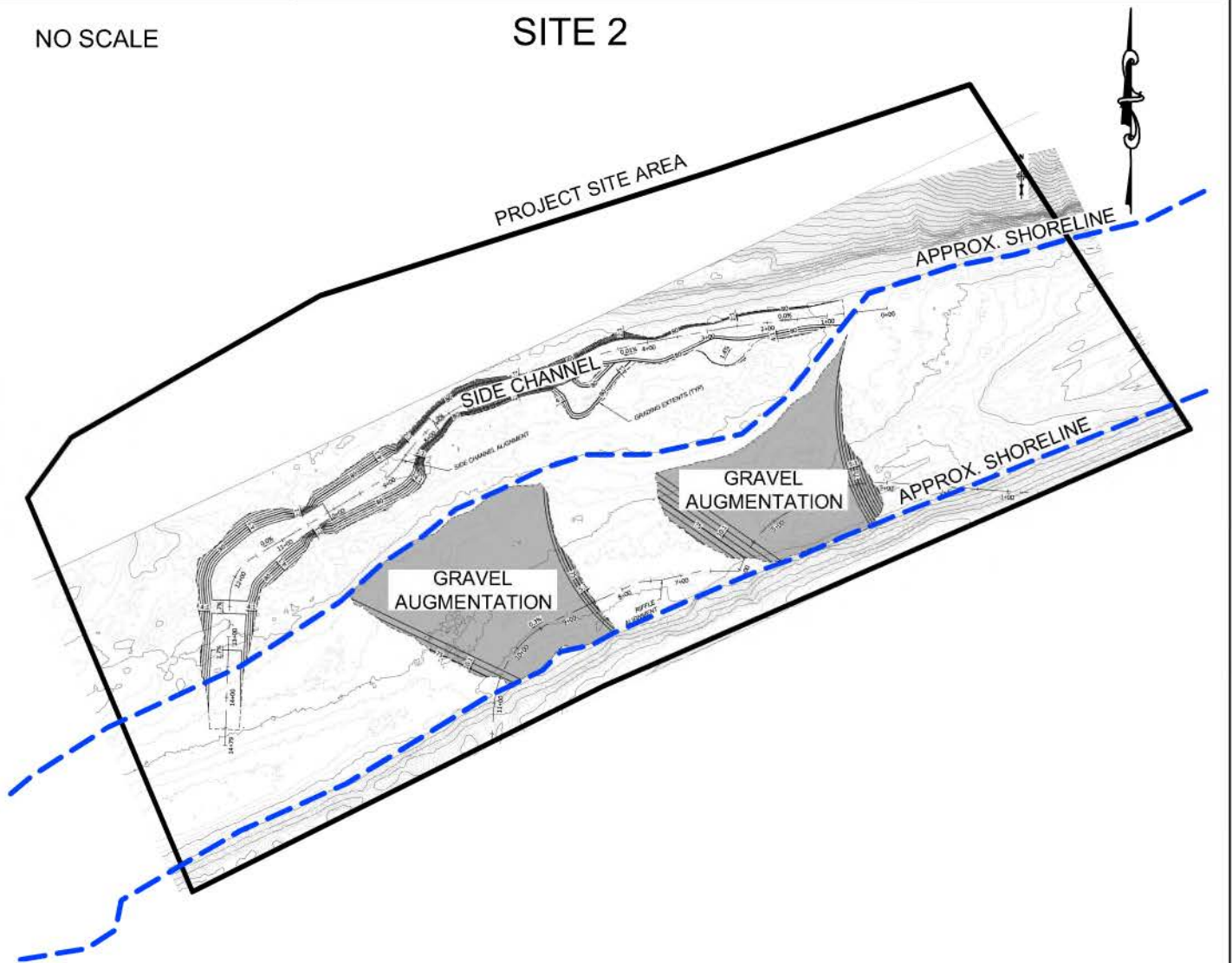
PRC 9574.1
CITY OF SACRAMENTO
GENERAL LEASE -
PUBLIC AGENCY USE
SACRAMENTO COUNTY



MJF 3/23/2020

NO SCALE

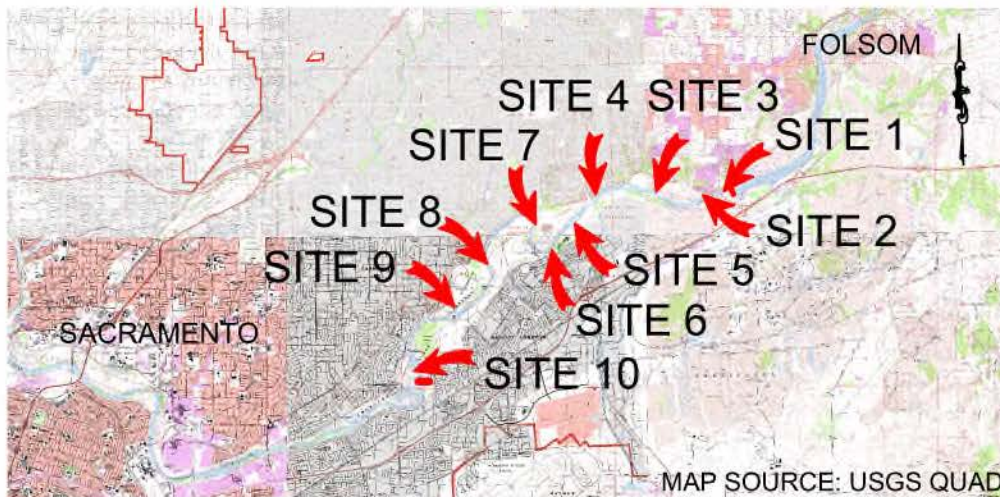
SITE 2



UPPER SAILOR BAR, RIVER MILE 22.5-22.75

NO SCALE

LOCATION



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EXHIBIT B-2

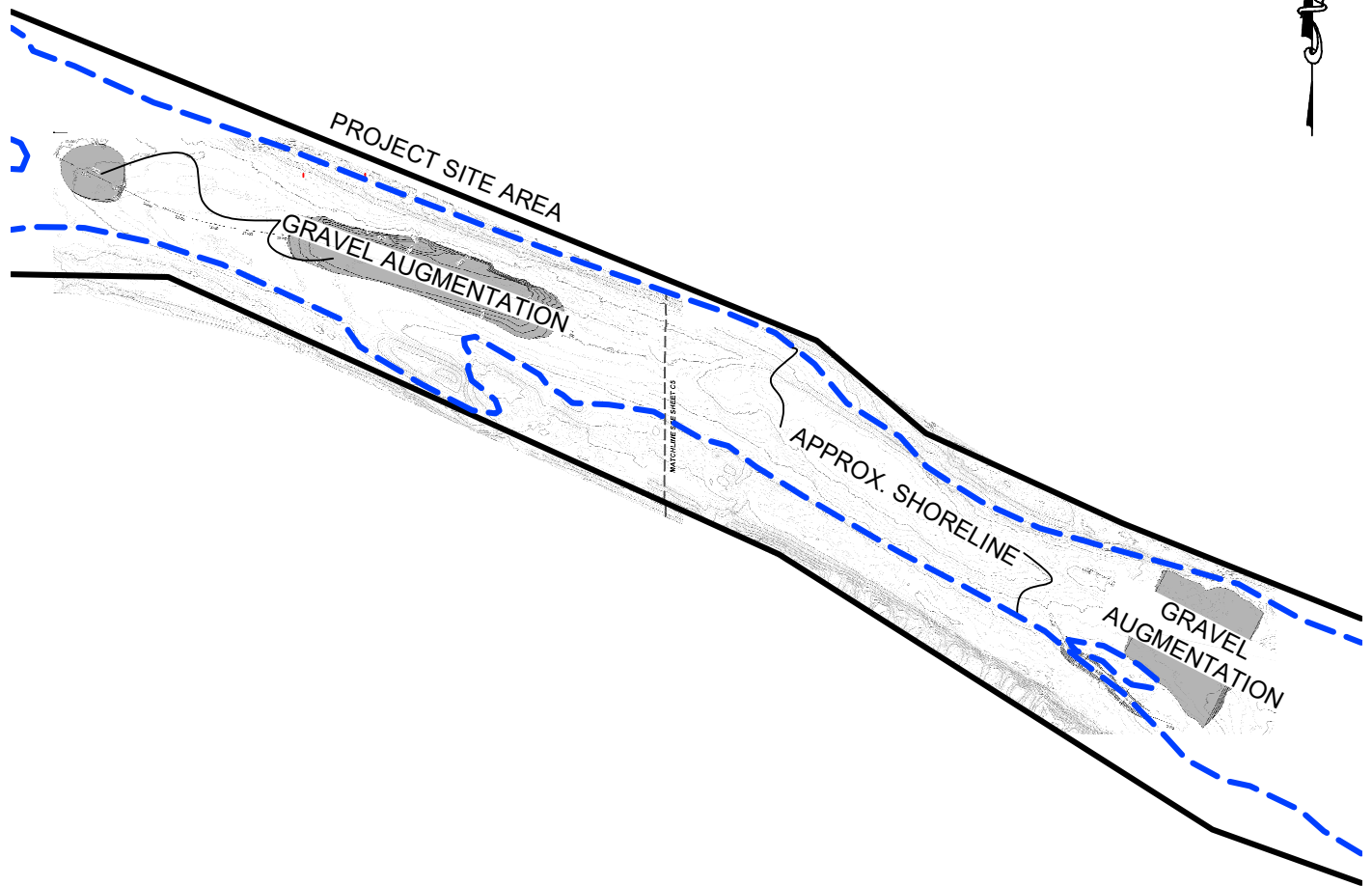
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MJF 3/23/2020

NO SCALE

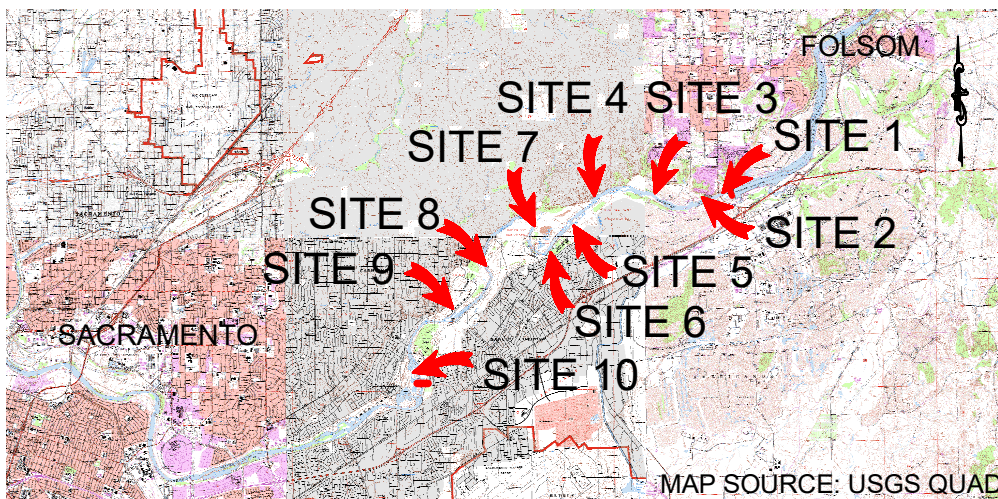
SITE 3



LOWER SAILOR BAR, RIVER MILE 20.75-22.25

NO SCALE

LOCATION



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EXHIBIT B-3

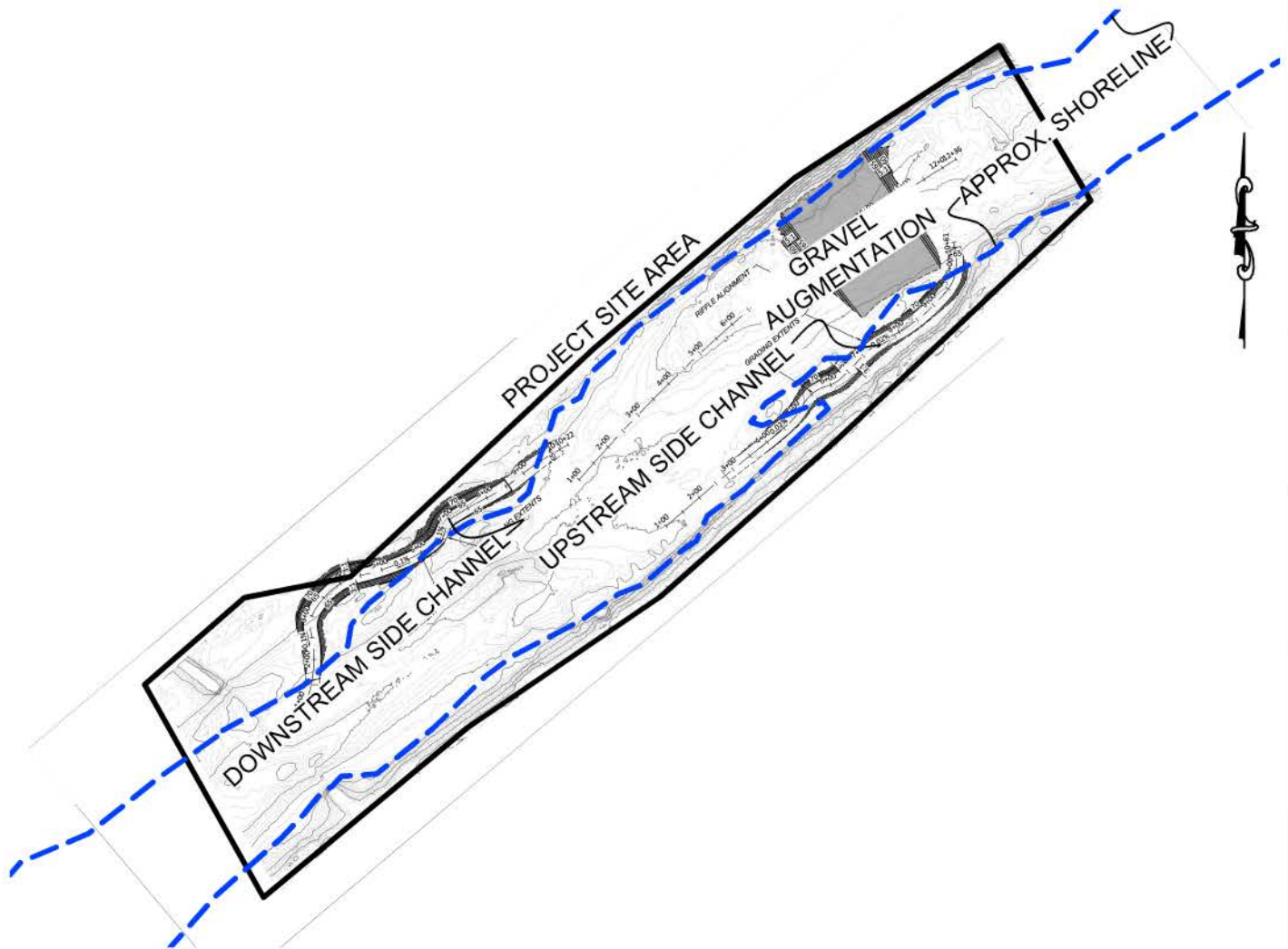
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NO SCALE

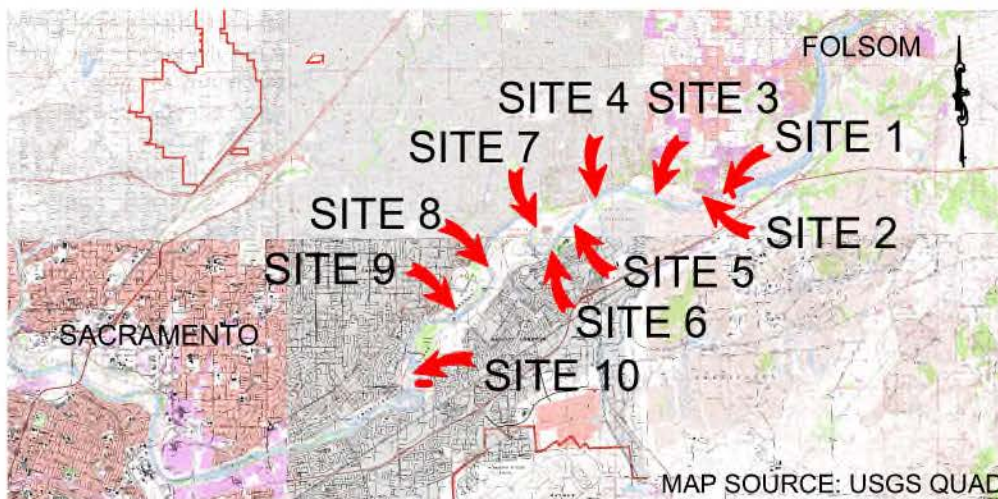
SITE 4



SUNRISE, RIVER MILE 19.75-20.5

NO SCALE

LOCATION



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EXHIBIT B-4

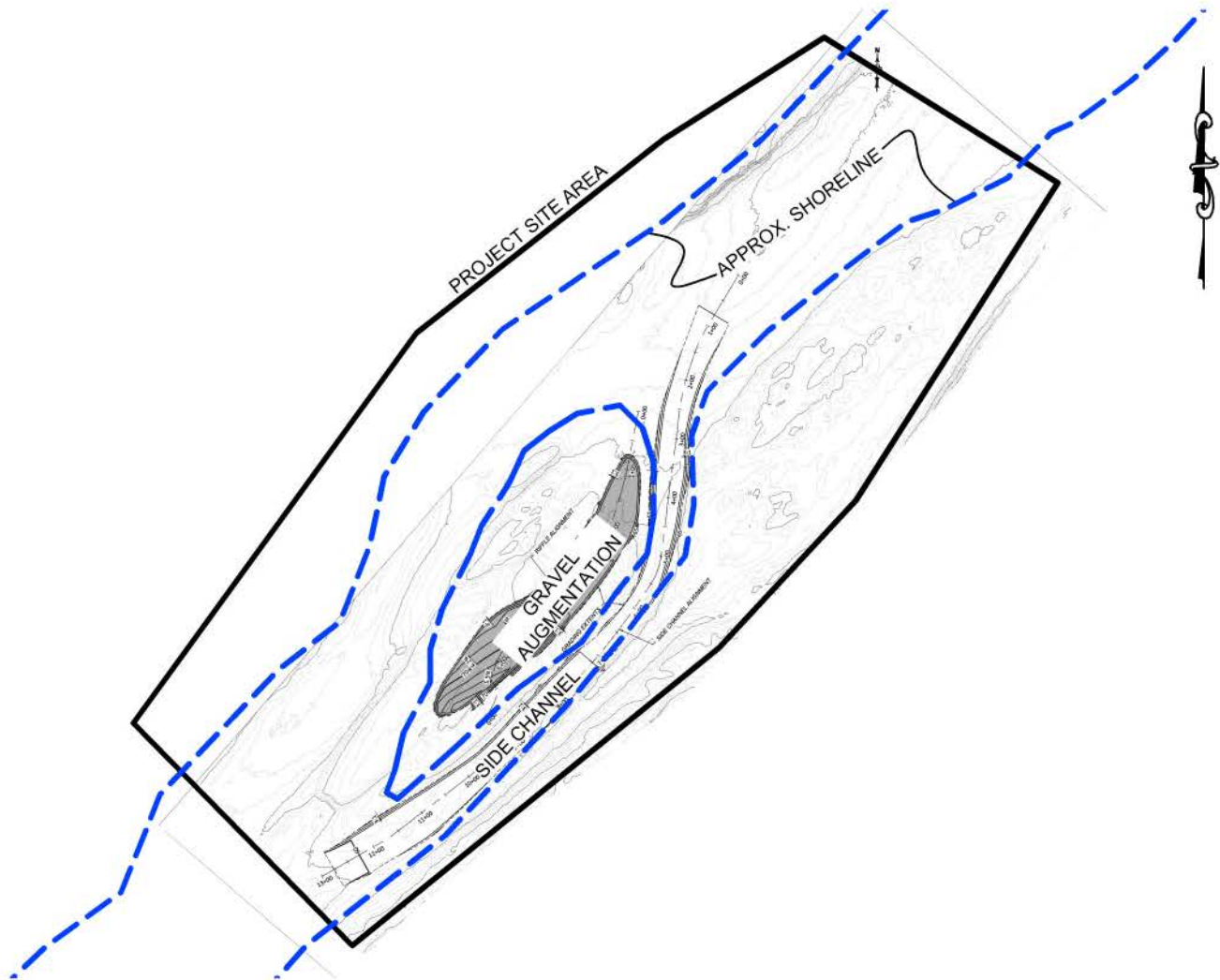
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NO SCALE

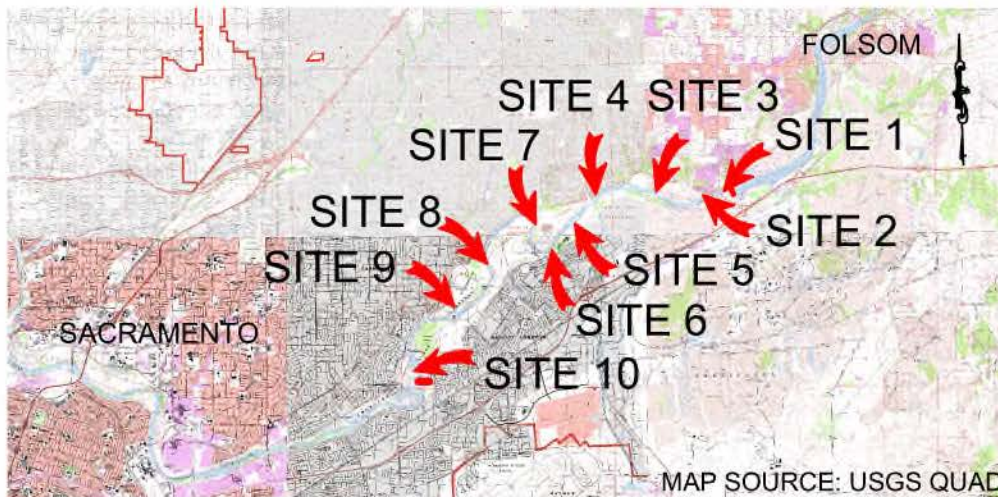
SITE 5



LOWER SUNRISE, RIVER MILE 19.25-19.75

NO SCALE

LOCATION



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EXHIBIT B-5

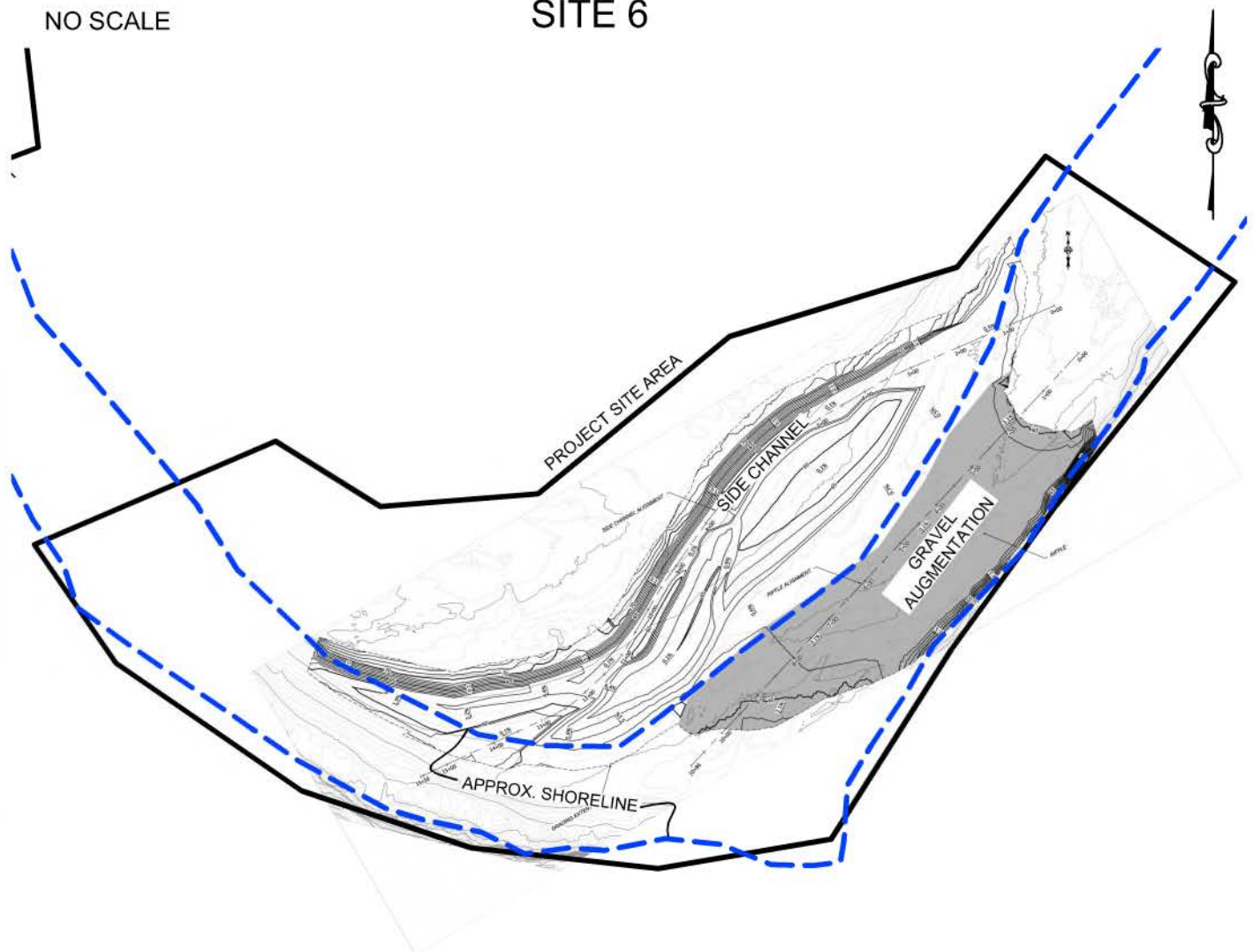
PRC 9574.1
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SACRAMENTO COUNTY



MJF 3/23/2020

NO SCALE

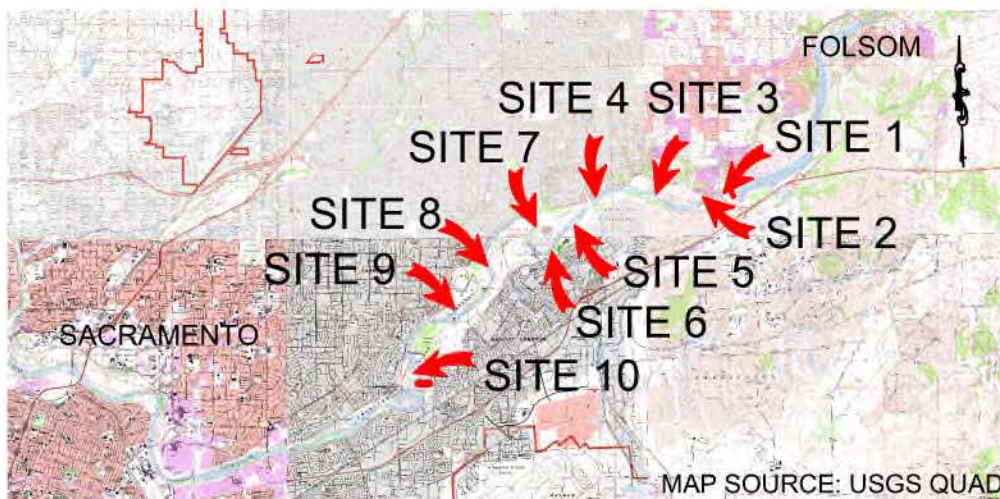
SITE 6



SACRAMENTO BAR, RIVER MILE 18.5-19.0

NO SCALE

LOCATION



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EXHIBIT B-6

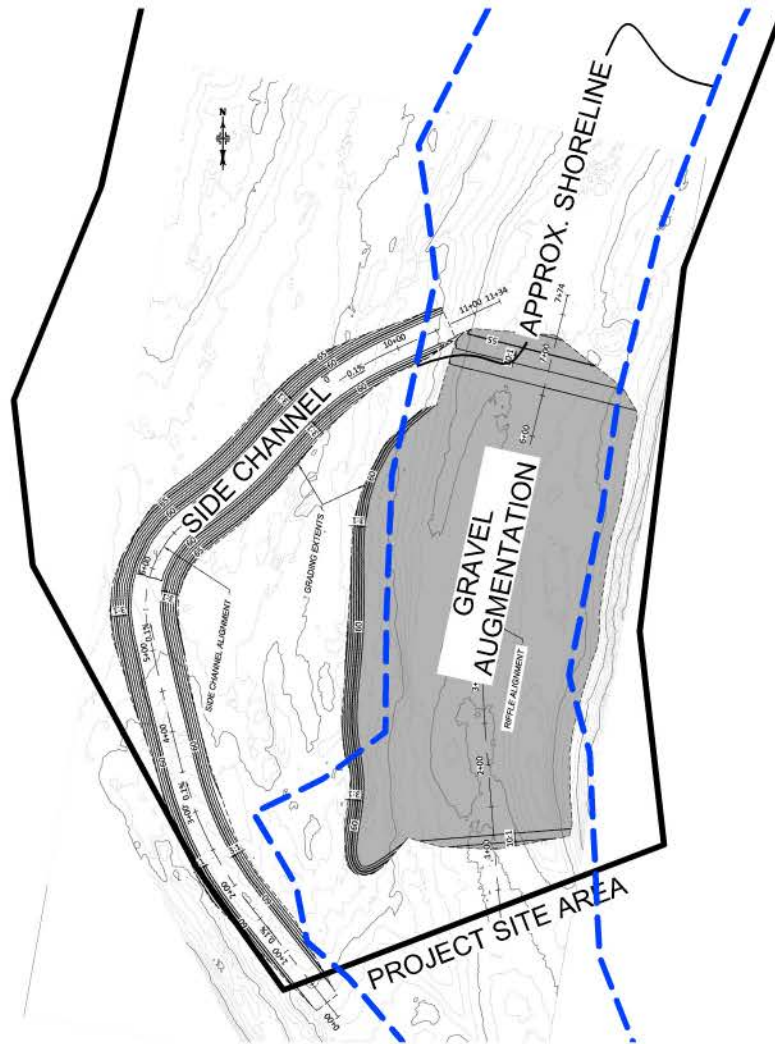
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MJF 3/23/2020

NO SCALE

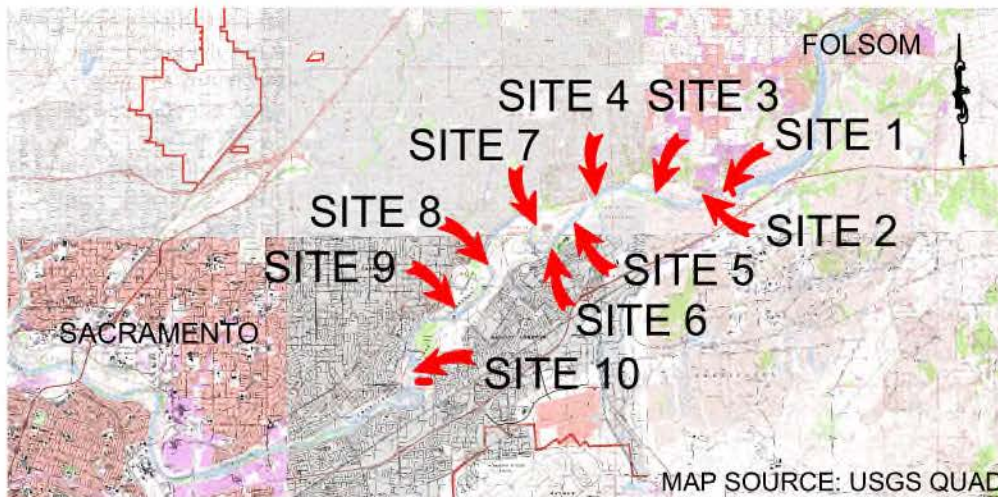
SITE 7



EL MANTO, RIVER MILE 18.0-18.5

NO SCALE

LOCATION



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EXHIBIT B-7

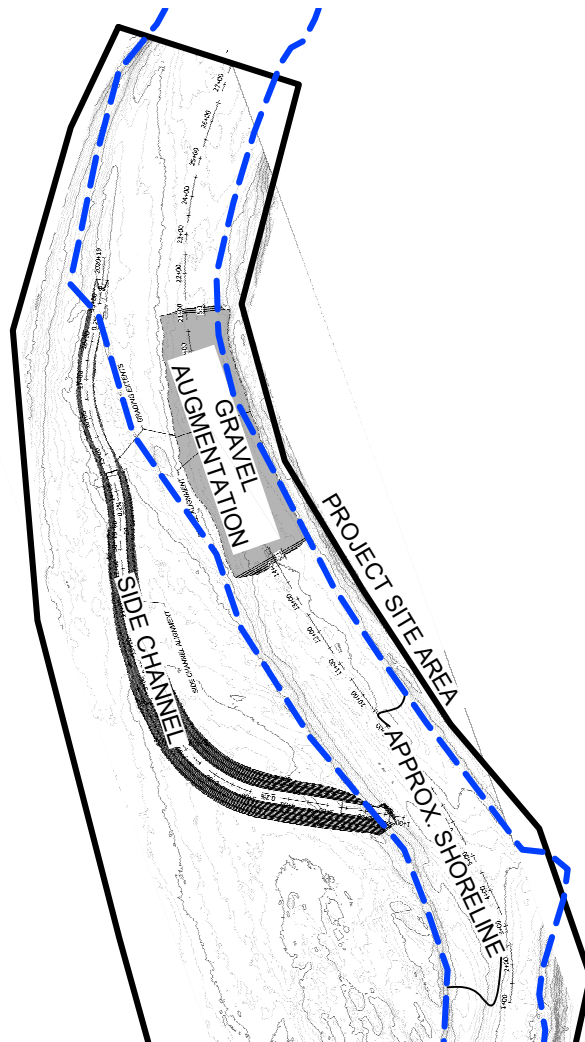
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MJF 3/23/2020

NO SCALE

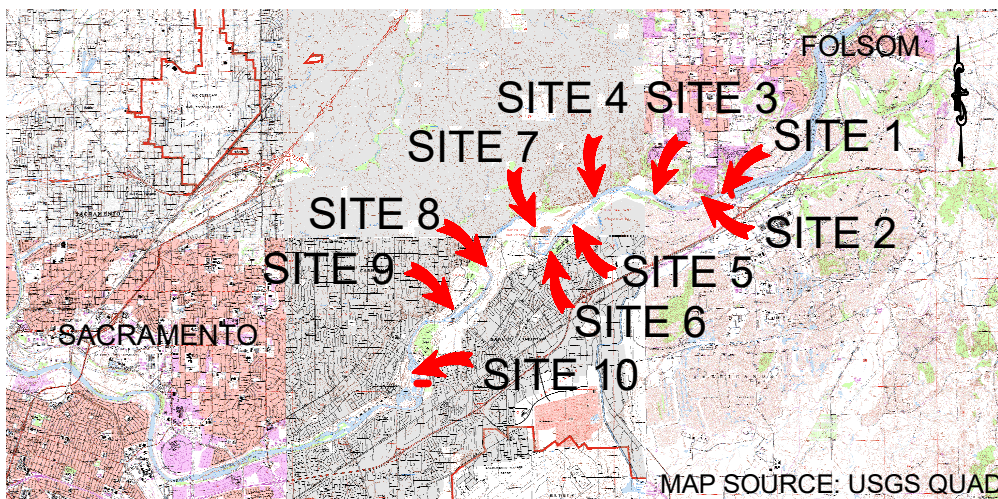
SITE 8



ANCIL HOFFMAN, RIVER MILE 16.0-16.75

NO SCALE

LOCATION



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EXHIBIT B-8

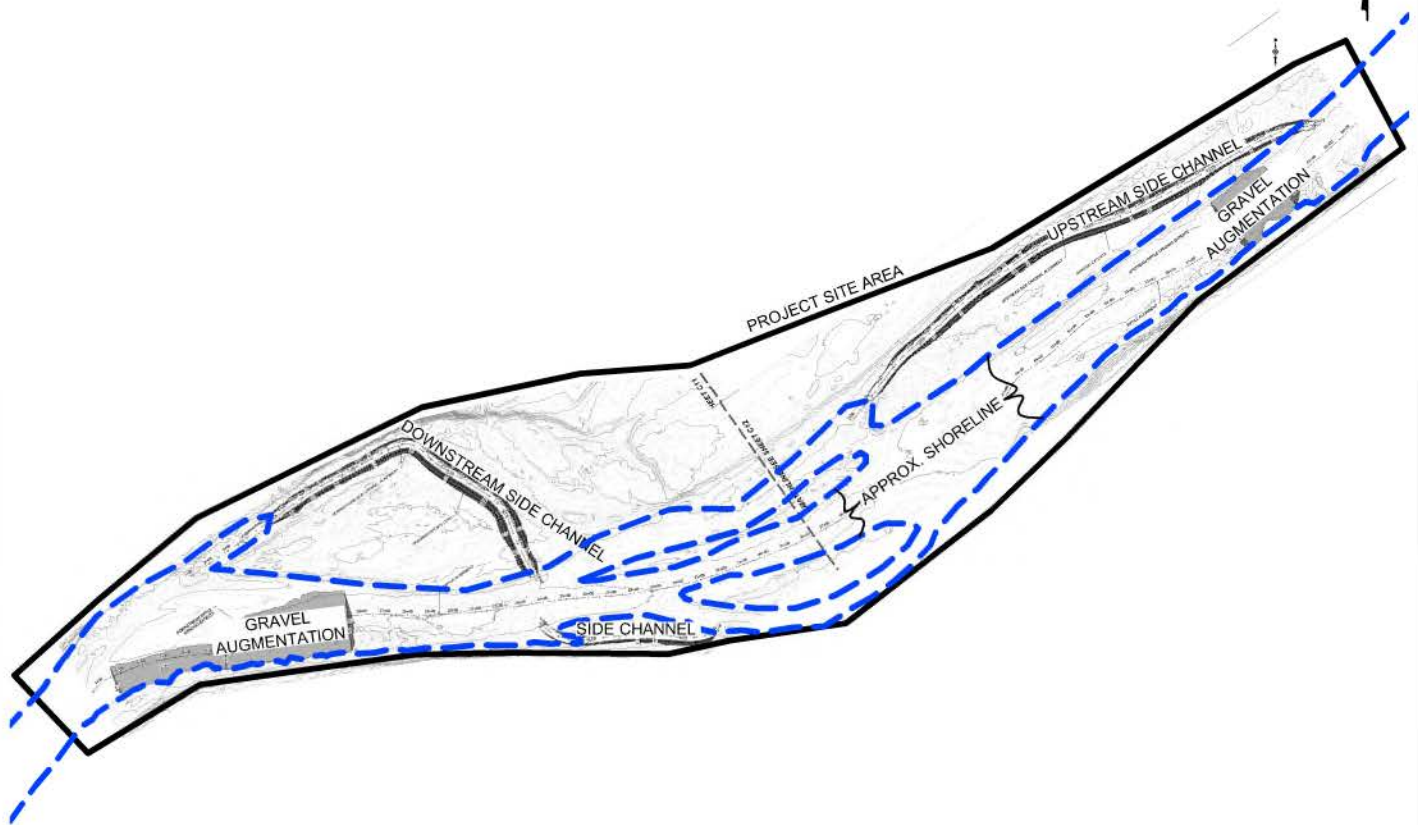
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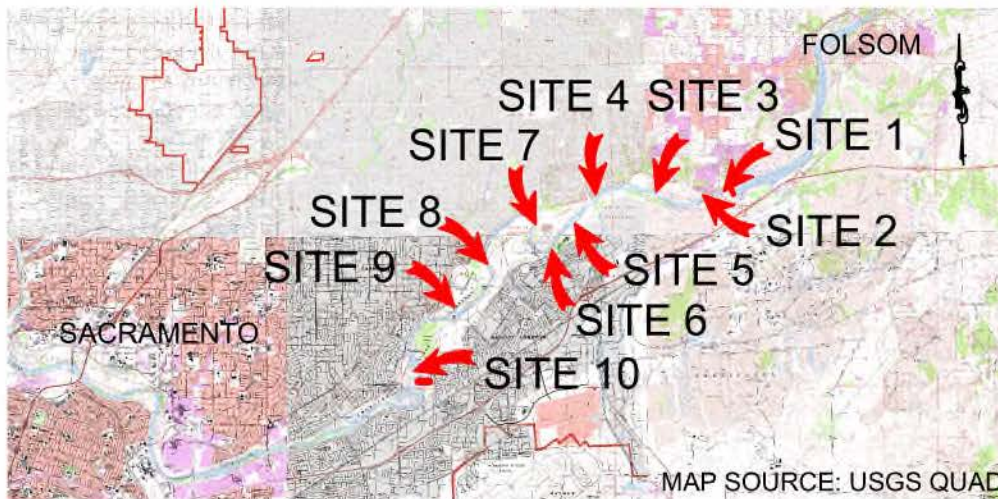
SITE 9



UPPER RIVERBEND, RIVER MILE 14.5-15.5

NO SCALE

LOCATION



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EXHIBIT B-9

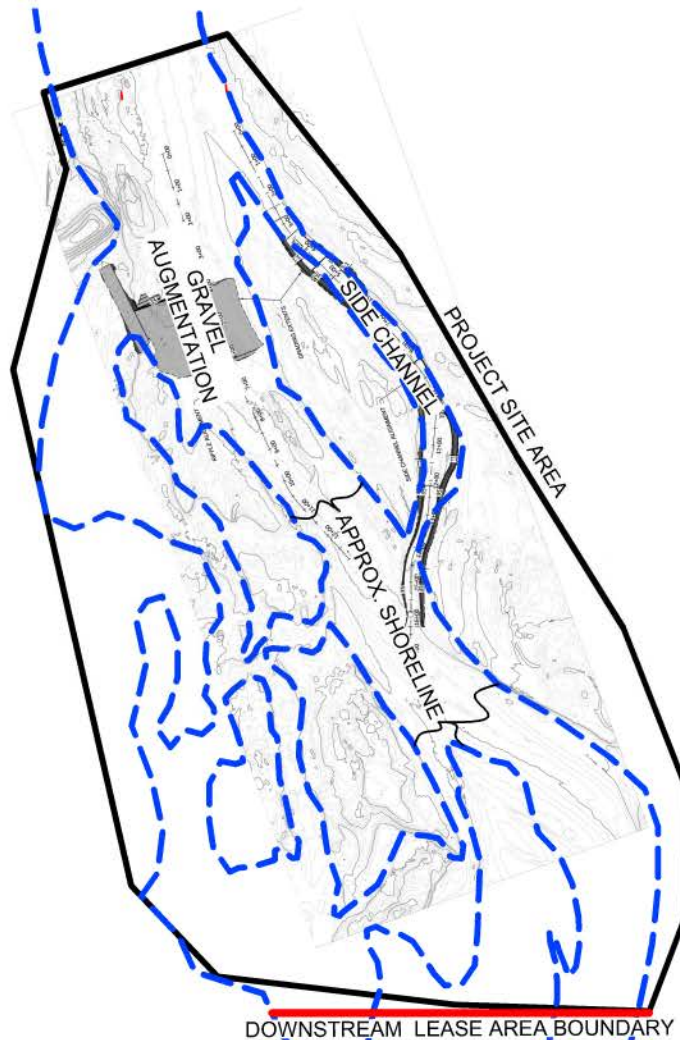
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NO SCALE

SITE 10



RIVERBEND, RIVER MILE 13.25-13.75

NO SCALE

LOCATION

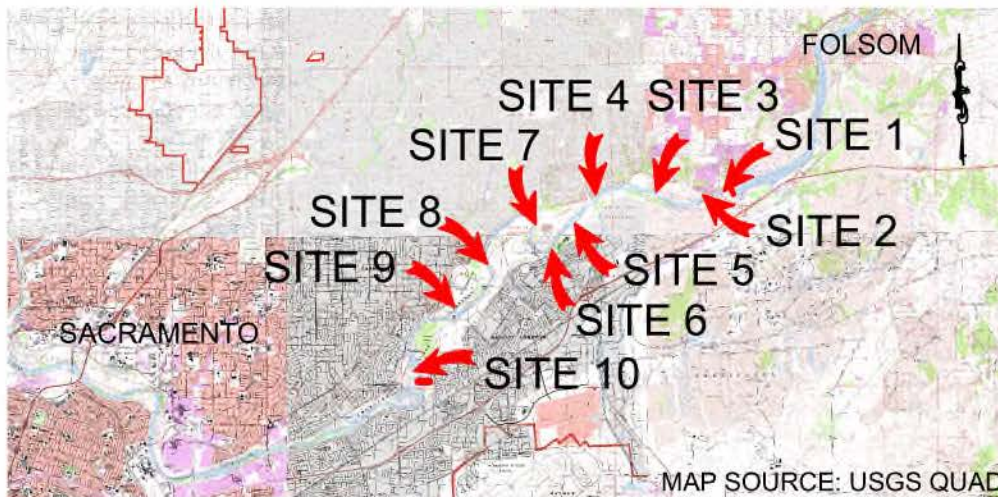


EXHIBIT B-10

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