

Staff Report 29

LESSEE:

City of Oakdale

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Stanislaus River, near Oakdale, Stanislaus County.

AUTHORIZED USE:

Construction and maintenance of a sanitary sewer pipeline and carrier bridge.

TERM:

49 years, beginning November 1, 1976.

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.

PROPOSED AMENDMENT:

- Authorize installation of three sewage pipelines (if high-density polyethylene pipeline material is used, the pipeline diameters would be 16-inch, 18-inch, and 22-inch; if polyvinyl chloride pipeline material is used, the pipeline diameters would be 12-inch, 14-inch, and 18-inch) in one borehole by horizontal directional drilled (HDD) construction method under the Stanislaus River.
- Replace the existing Section 4, Land Description, with the attached Exhibit A, Land Description, and incorporate the attached Exhibit B, Site and Location Map (for reference purposes only), into the Lease.
- Incorporate the attached Exhibit C, Mitigation Monitoring Program, into the Lease.

- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of as-built plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Office or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of execution of the amendment. The revised Exhibits shall be incorporated in the Lease as though fully set forth therein.
- At least 30 days prior to initiating ground-disturbing project activities, the Lessee shall notify the California Valley Miwok Tribe by telephone and email, and offer the Tribe the opportunity to have a tribal monitor present during implementation of the project, who would be authorized to discuss any concerns about culturally sensitive areas or Tribal cultural discoveries with the project's designated qualified cultural resource professional (as defined in Mitigation Measure CULT-2), including requesting redirection of work away from a Tribal cultural resource discovery.
- The Lessee shall notify the California Valley Miwok Tribe within 24 hours of any Tribal cultural resource discovery.
- Any Tribal cultural resources or artifacts discovered on State-owned lands that cannot be avoided and left in place shall be turned over to the California Valley Miwok Tribe. Repatriation/reburial by the Tribe on-site or near the site of discovery should be facilitated if feasible. Any Cultural Resources Management Plan prepared by the City pursuant to Mitigation Measure CULT-2 will incorporate a provision facilitating the return of any materials deemed eligible or significant to the Tribe after recording/cataloguing and photo-documenting the resource.
- 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 STATE'S BEST INTERESTS:

On January 26, 1977, the Commission authorized the issuance of Lease No. PRC 5221, for a term of 49 years to the City of Oakdale (City or Lessee) for the

construction and maintenance of a sanitary sewer pipeline and carrier bridge ([Item C3, January 26, 1977](#)). The lease will expire on October 31, 2025. The Lessee is now applying to amend Lease No. PRC 5221 for the proposed installation of an HDD pipeline under the Stanislaus River.

The Lessee is planning to replace the existing 18-inch-diameter sewer crossing pipeline suspended over the Stanislaus River from the intersection of Oak Avenue and Kimball Street, City of Oakdale to the City wastewater treatment plant located at 9700 Liberini Avenue. The existing pipeline was constructed in 1977 and is located above ground, supported by a utility bridge across the Stanislaus River. The pipeline conveys all the wastewater from the city.

The existing pipeline results in surcharging of the collection system and is hydraulically limited during peak flow conditions. The new pipeline will address these concerns. The pipeline will not increase the City system capacity but will allow for the existing wastewater treatment plant to realize its existing design capacity through improved delivery. The new pipeline will be approximately 1,400 feet in length (with approximately 150 feet located on sovereign land) and located below the bottom of the Stanislaus River using the HDD construction method for installation. Upon completion of installation, the existing pipeline will be capped and remain in place for possible future use. The new pipeline will be located north of the existing pipeline.

Staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in impacts to health such as asthma, low birth weight, and cardiovascular disease. In addition, the same data showed high burdens in drinking water. Furthermore, the data revealed the neighboring communities are disadvantaged. Staff believes that the lease amendment for installation of a new pipeline through the HDD construction method will result in possible future benefits to the nearby communities by improving the sewer system resulting in better conveyance of sewage to the City wastewater treatment plant. As part of an environmental justice outreach effort, staff contacted via letter several environmental justice organizations in Stanislaus county providing notification of the proposed lease amendment. The letter included a brief description of the project and included the name of a staff person as a point of contact. No comments have been received as a result of the environmental justice outreach.

Staff believes that the proposed lease amendment for the installation of a HDD pipeline in the Stanislaus River will not substantially interfere with Public Trust needs and values at this location because the installation of the new pipeline is below the

bed of the river and will have a minor, if any, impact on the recreational use of the Stanislaus River.

CLIMATE CHANGE:

The project area 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.

The proposed pipeline would be installed via HDD, extend across the river, and would be located at least 25 feet below the riverbed. Therefore, it is not likely to be affected by any future climate change-related riverine processes that can put pipelines at risk of exposure. The existing wastewater pipeline hangs suspended over the Stanislaus River and is subject to a 49-year General Lease – Public Agency Use that began on November 1, 1976, and may be subject to climate change effects described above. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the existing pipeline will be assessed at the time the lease expires in 2025 if an application is submitted for a new lease.

TRIBAL COORDINATION AND CONSULTATION

In the Mitigated Negative Declaration prepared for the project, the City discusses Native American outreach and Consultation it conducted, as lead agency, pursuant to AB 52. Specifically, in section 2.5 of the Mitigated Negative Declaration, the City indicates that a sacred lands file search conducted by the Native American Heritage Commission was negative and that all Tribes identified by the Native American Heritage Commission were contacted by the City and its consultant. Tiger Paulk, a representative from the California Valley Miwok Tribe, responded to the City requesting they be notified of any cultural discoveries, and requesting that any artifacts or burial remains be repatriated on site. Because these requests were not incorporated into the Mitigated Negative Declaration, and the City indicates that it did not follow up with The California Valley Miwok Tribe

regarding the requested mitigation measures, tribal coordination and consultation provisions will be included in the lease. Staff recommends authorizing the transfer of tribal artifacts discovered on lands under the jurisdiction of the Commission during construction to the California Valley Miwok Tribe.

CONCLUSION:

For all the reasons above, staff believes approval of the proposed amendment will not substantially interfere with the public rights to navigation, fishing, and commerce; or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the proposed 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 a trustee of the State's Public Trust lands as authorized by law. If the Commission denies the amendment, the Lessee will not be authorized to construct a new pipeline. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
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. A Mitigated Negative Declaration, State Clearinghouse No. 2019089122, and a Mitigation Monitoring Program were prepared by the City of Oakdale and adopted on January 21, 2020, for this project. Commission staff reviewed these documents and prepared an independent MMP (attached, Exhibit C) incorporating the City's document and recommends its adoption by the Commission.
4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but the activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the California Environmental Quality Act (CEQA) review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
Central Valley Flood Protection Board
Stanislaus County Air Pollution Control District
California Regional Water Quality Control Board
California Department of Fish and Wildlife

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2019089122, and a Mitigation Monitoring Program were prepared by the City of Oakdale and adopted on January 21, 2020, for this project and that 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 to be issued by this authorization 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.

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the approval of the proposed amendment will not be materially adverse to public health and safety; or substantially interfere with the public's right to navigation and fishing or with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the State's best interests.

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 amendment of Lease No. PRC 5221, a General Lease – Public Agency Use, of sovereign land located in the Stanislaus River, effective December 17, 2020; to allow the installation of three sewage pipelines (if high-density polyethylene pipeline material is used, the pipeline diameters would be 16-inch, 18-inch, and 22-inch; if polyvinyl chloride pipeline material is used, the pipeline diameters would be 12-inch, 14-inch, and 18-inch) in one borehole by horizontal directional drilled (HDD) construction method under the Stanislaus River; to delete Section 4, Land Description; to include Exhibit A, Land Description, Exhibit B, Site and Location Map (for reference purposes only), and Exhibit C, Mitigation Monitoring Program, attached and by this reference made a part hereof; to include provisions related to tribal coordination and consultation; to transfer tribal artifacts found on land under the jurisdiction of the Commission to the California Valley Miwok Tribe; and to include provisions related to construction; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 5221

LAND DESCRIPTION

PARCEL 1 – HDD SEWAGE LINES

A strip of submerged land 30 feet wide in the bed of the Stanislaus River adjacent to Section 10, Township 2 South, Range 10 East, M.D.B.&M., as shown on Official Government Township Plat approved December 30, 1854, County of Stanislaus, State of California, in the City of Oakdale, lying 15 feet on either side of the following described centerline:

COMMENCING at the northwest corner of Lot 6 as shown on that map entitled "Oak Park Estates" filed May 3, 1973 in Volume 25 of Maps, at Page 1, Stanislaus County Records from which a 2" iron pipe tagged L.S. 2423 on the northerly line of on Walnut Street bears South $0^{\circ}28'00''$ West 520.35'; thence leaving said Lot corner North $1^{\circ}4'19''$ West 195.16 feet more or less a point on the centerline of the City of Oakdale proposed sewage line at Engineer Station 23 + 00 as shown on plans entitled "Plan and Profile, Sta. 18 + 00 to Sta. 26 + 50", sheet 10 of 28 on file at the Department of Public Works of said County hereafter referred to as Point A and also being the POINT OF BEGINNING; thence continuing North $39^{\circ}08'02''$ West along said centerline 300 feet to Engineer Station 20 + 00 on the right bank of the Stanislaus River, and the Point of Termination.

Sidelines of said strip to be lengthened and shortened so as to terminate on the low water marks of the Stanislaus River.

EXCEPTING THEREFROM any portion lying landward of the low water marks of the right and left banks of the Stanislaus River.

PARCEL 2 – SANITARY SEWER LINE & UTILITY BRIDGE SUPPORT

A strip of submerged land 50 foot wide in the bed of the Stanislaus River adjacent to Section 10, Township 2 South, Range 10 East, M.D.B.&M., as shown on Official Government Township Plat approved December 30, 1854, County of Stanislaus, State of California, in the City of Oakdale, lying 25 feet on either side of the following described centerline:

COMMENCING at the above described "Point A" thence South 57 °14' 49" West 75.81 feet more or less to the centerline of an existing 18" sanitary sewer pipeline and utility bridge support; thence along said centerline 250 feet to a point on the right bank of the Stanislaus River and the POINT OF TERMINATION of said centerline.

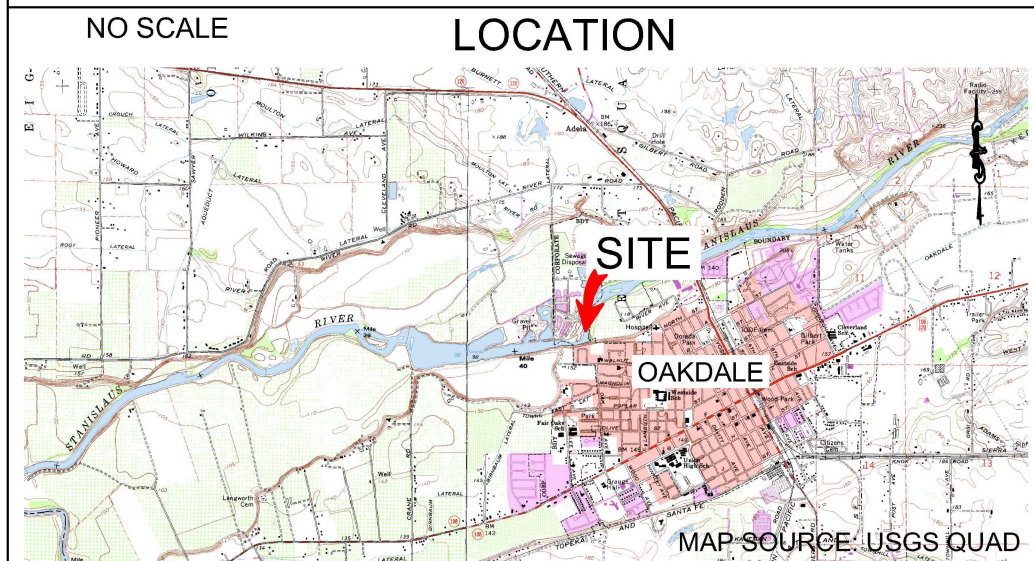
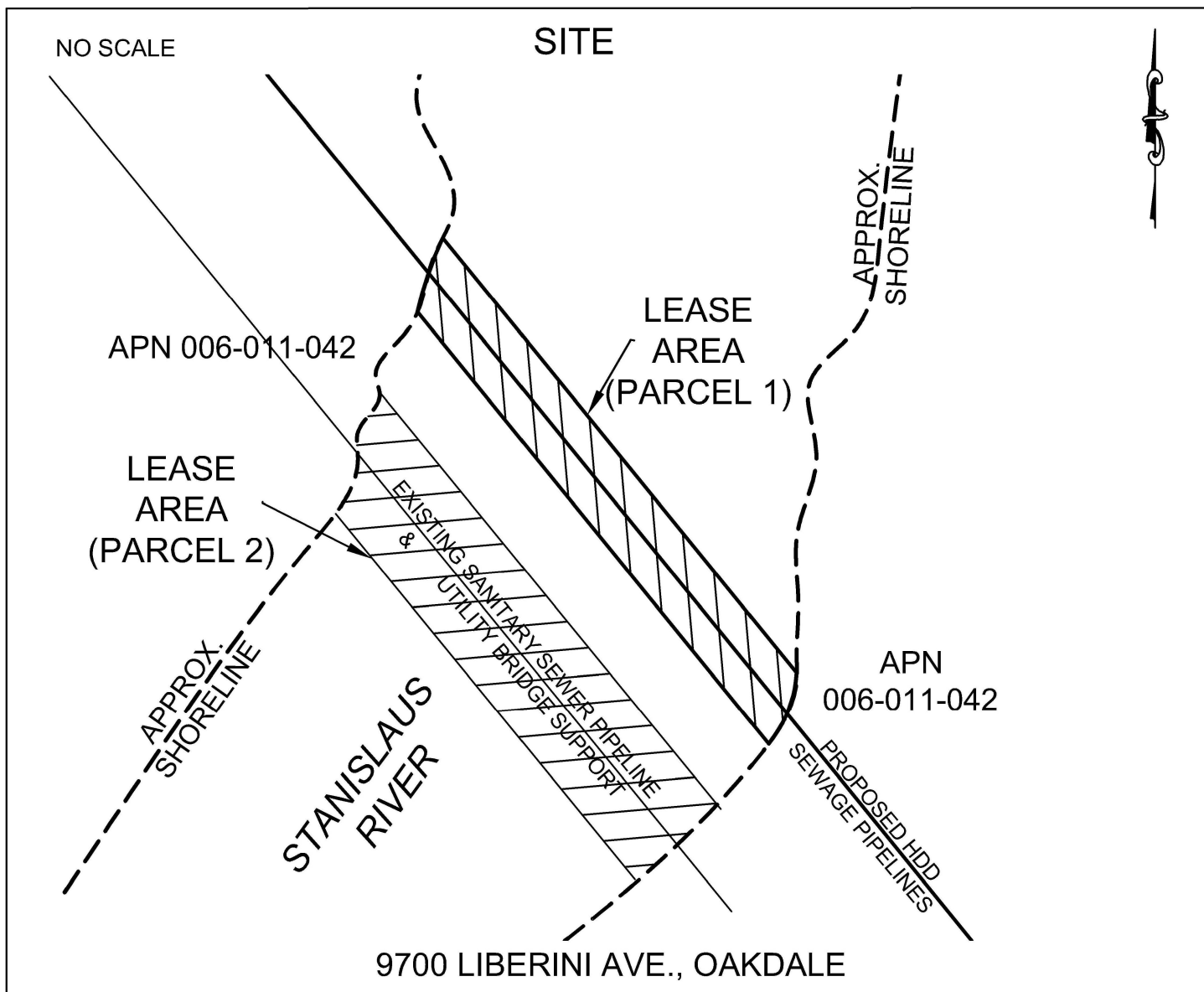
Sidelines of said strip to be lengthened and shortened so as to terminate on the low water marks of the Stanislaus River.

EXCEPTING THEREFROM any portion lying landward of the low water marks of the right and left banks of the Stanislaus River.

END OF DESCRIPTION

The above description prepared 12/02/2020 by the California State Lands Commission Boundary Unit.





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

PRC 5221
CITY OF OAKDALE
APN 006-011-042
GENERAL LEASE -
PUBLIC AGENCY USE
STANISLAUS COUNTY



MJF12/02/20

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM

CITY OF OAKDALE WASTEWATER RIVER CROSSING REPLACEMENT PROJECT
(Lease 5221/A2586, State Clearinghouse No. 2019089122)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the City of Oakdale Wastewater River Crossing Replacement Project (Project). The CEQA lead agency for the Project is the City of Oakdale.

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 adopted an MND, State Clearinghouse No. 2019089122, adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. 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 MMP 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 and Avoidance and Minimization Measures

Potential Impact	Mitigation Measure (MM) and Avoidance and Minimization Measure (AMM)²
Impacts from dust and other particulate matter	MM AQ-1: Dust Control MM AQ-3: Open Burning
Impacts to western pond turtle	AMM BIO-1: Environmental Awareness Training AMM BIO-3: Preconstruction Survey/Relocation for Western Pond Turtles AMM BIO-10: Hours of Construction AMM BIO-11: Avoid Inadvertent Animal Trapping During Construction
Impacts to fisheries	AMM BIO-1 AMM BIO-4: Work Window for Fisheries AMM BIO-5: Spills and Leaks AMM BIO-6: Install Barrier /Silt Fencing to Protect Water Quality AMM BIO-7: Erosion Control Plan/Best Management Practices (BMPs) to Protect Water Quality (Including NOI/NPDES/SWPPP)
Impacts to unanticipated cultural and tribal cultural resources	AMM CULT-1: see AMM BIO-1 MM CULT-2: Unanticipated Cultural Resource Discoveries
Impacts to unanticipated human remains	MM CULT-3: Human Remains
Impacts to unanticipated paleontological resources	MM CULT-5: Paleontological Resources
Impacts related to soil instability and erosion	MM GEO-1: Soil Testing AMM BIO-7
Impacts from greenhouse gas emissions	MM GHG-1
Impacts to Stanislaus River water quality	AMM BIO-1, AMM BIO-5, AMM BIO-6, AMM BIO-7

² See Attachment C-1 for the full text of each MM and AMM taken from the MMP prepared by the CEQA lead agency.

ATTACHMENT C-1

Mitigation Monitoring Program Adopted by the City of Oakdale

**ATTACHMENT A Incorporating Response to Comments and FINAL public hearing:
Mitigation Monitoring and Reporting Plan Oakdale Sewerline Easement Across the Stanislaus**

Air Quality

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
AQ-1	<p>Mitigation Measure AQ-1: Dust Control Throughout project construction, site clearing, grading and associated activities, the Construction Contractor shall be responsible for dust abatement including:</p> <p>A. A water truck or other watering device shall be on the construction site on all working days when natural precipitation does not provide adequate moisture for complete dust control. Said watering device shall be used to spray water on the site at the end of each day and at all other intervals, as need dictates, to control dust. All activities shall be effectively controlled of fugitive dust emissions using application of water.</p> <p>B. All material excavated, stockpiled, or graded shall be sufficiently watered, treated, or covered to prevent fugitive dust from leaving the property boundaries and causing a public nuisance or a violation of an ambient air standard.</p> <p>C. All land clearing, grading, earth moving, or excavation activities at the Project site shall be suspended as necessary to prevent excessive windblown dust when winds are expected to exceed 20 mph.</p> <p>D. All material transported off-site shall be either sufficiently watered or securely covered to prevent public nuisance and visible dust plumes.</p> <p>E. Vehicular traffic speeds on unpaved surfaces shall not exceed 10 miles per hour.</p>	Throughout project construction	Construction contractor	
AQ-2	<p>Mitigation Measure AQ-2: Equipment Emissions Throughout Project construction:</p> <p>A. Properly tune and maintain construction equipment and vehicles. Use low-sulfur fuel in all construction equipment as provided in California Code of Regulations (CCR) Title 17, Section 93114 (Compliance with Caltrans' Standard Specifications, Section 14-9).</p> <p>B. On-site idling of construction equipment shall be minimized (no more than five minutes maximum);</p> <p>C. Grid (electrical) power shall be used (as opposed to diesel generators) for job site power needs where feasible during construction. Alternatively, biodiesel shall be used as an alternative fuel diesel for at least 15 percent of the construction vehicles/equipment used if there is a biodiesel station within five miles of the Project site and if the construction vehicles/equipment are able to use biodiesel without adverse effects.</p>	Throughout project construction	Construction contractor	
AQ-3	<p>Mitigation Measure AQ-3 Open Burning If any minor vegetation clearing or grubbing activities are necessary to remove non-natives; alternatives to open burning of vegetative material will be used unless otherwise deemed infeasible by the SJVAPCD. Suitable alternatives include chipping, mulching, or conversion to biomass fuel.</p>	During clearing and grubbing	Construction contractor	

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Biological Resources

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
BIO-1	<p>Avoidance and Minimization Measure BIO-1: Environmental Awareness Training</p> <p>Construction bid packages and contractual requirements shall include a requirement for tail-gate training by the project’s designated qualified biologist and cultural resource professionals. All contractors involved in site development, affected City Staff and environmental specialists will attend a mandatory Environmental Awareness Training prior to any site disturbances. The program will address proper implementation of minimization and avoidance measures contained herein including, but not limited to:</p> <ul style="list-style-type: none">• VELB avoidance• Turtle conservation• Nesting birds• Bat conservation• Avoiding inadvertent animal trapping• Site maintenance• Controlling invasive species• Construction windows• Handling leaks and spills• Fencing environmentally sensitive areas• Native Oak Tree Protection measures (avoiding driplines, no equipment or materials storage in driplines, avoid cutting oak roots, avoid equipment damage to limbs, trunks, and roots of oaks trees; do not attach signs, ropes, cables or other items to trees)• Cultural resources training to inform construction personnel of the types of cultural resources they may encounter, the laws protecting those resources, and the standard protocols to be implemented.• Hazardous materials response	Incorporated into the project bid package and contract and implemented throughout project construction. The City shall have the authority to stop work or remove any construction worker on site that has not completed training.	Construction contractor; Project biologist; Project archaeologist	
BIO-2	<p>Avoidance and Minimization Measure BIO-2 Valley elderberry longhorn beetle Protection</p> <p>The following applies to the elderberry shrub located within 100 feet of the active construction area on the north (WWTP) side of the project.</p> <ol style="list-style-type: none">1. All ground disturbance within 100 feet of the driplines of elderberry shrubs shall occur outside the flight period for VELB.<ol style="list-style-type: none">a. Prior to ground disturbance, erect brightly colored temporary fencing (e.g., safety fencing): Along the boundary of the buffer area designated for elderberry shrub protection (20 feet from the dripline of the shrub)b. Temporary fencing shall be maintained throughout project construction and restoration activities.2. Throughout construction activities:<ol style="list-style-type: none">a. No dumping of trash or other material may occur within 20 feet of elderberry shrubs. Any trash or other foreign material found deposited within this buffer area shall be removed within 10 working days of discovery.b. No insecticides, no herbicides, no fertilizers or other chemicals shall be used that might harm the beetle or its host plant shall be used within 100 feet of any elderberry bush.	Temporary safety fencing (i.e., environmentally sensitive area fencing) shall be installed prior to ground disturbance and be verified by the Project biologist. The required fencing and mitigation measure provisions will be implemented and maintained throughout Project construction.	Construction contractor; Project biologist	

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Mitigation Monitoring and Reporting Plan Oakdale Sewerline Easement Across the Stanislaus**

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
	<i>Mitigation Measure BIO-2 shall not apply if VELB is delisted pursuant to the federal endangered species act prior to (or during) project construction.</i>			
BIO-3	Avoidance and Minimization Measure BIO-3: Preconstruction Survey/Relocation for Western Pond Turtles Within 48 hours of commencing site disturbances, the City, or its representative, shall have a qualified biologist survey for and, if present, relocate any non-nesting western pond turtles from the project site. If found on site in locations where harm to the turtle may occur from project activities, the turtle first will be given the opportunity to leave the site on its own if the turtle actively is in the process of attempting to leave the site and is likely to successfully do so within the hour in the opinion of the qualified biologist. Otherwise, the qualified biologist will relocate the turtle outside the work area to habitat upstream (if located near the river) or to the adjacent wildland park pond off-site (if found in on-site WWTP ponds). [California Code of Regulations, Title 14, Division 1, Chapter 5, Subsection 40(b)] ¹ .	Mitigation measure will be incorporated into the project bid package and contract and implemented prior to ground disturbances (including staging).	Construction contractor and project biologist	
BIO-4	Avoidance and Minimization Measure BIO-4: Work Window for Fisheries Project construction activities involving drilling, reaming, and pull-back will occur outside the critical spawning period for steelhead and salmon (i.e., work may occur June 1 st through September 30 th).	Mitigation measure will be incorporated into the project bid package and contract	Construction contractor	
BIO-5	Avoidance and Minimization Measure BIO-5: Spills and Leaks Prior to commencing construction, the contractor shall submit to the California Department of Fish and Wildlife and the City and gain approval of an HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan (i.e., Emergency Response Fracture Plan) and maintain all necessary equipment on site to implement the plan throughout construction involving pipe installation.	Measure to be identified in project construction/bid package. Approval of plan prior to project construction with implementation throughout project construction.	Construction contractor	
BIO-6	Avoidance and Minimization Measure BIO-6: Install Barrier /Silt Fencing to Protect Water Quality Prior to implementing staging, construction, or ground disturbing activities: Install temporary silt fencing, fiber rolls, or equivalent erosion and sediment control devices along the southern boundary of the southern construction area (between the construction area and the river) and along the northern boundary of the construction area (between the construction area and the river) as necessary to protect water quality. Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. These areas will be monitored by the project manager throughout construction.	Measure to be identified in project construction/bid package. Initiated prior to ground disturbance. Implemented and maintained throughout project construction.	Construction contractor	

¹ Pursuant to California Fish and Game Code Title 14, Subsection 40(b) the capture, temporary collection, or temporary possession of native amphibians done to avoid mortality or injury in connection with lawful activities is permitted and such live capture and release of native amphibians done to avoid death or injury may occur with the permission of the CDFW. Because WPTs are not listed species pursuant to the state or federal endangered species act, neither an incidental take permit nor consultation beyond securing permission from CDFW to capture and release the individuals, is required.

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Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
BIO-7	<p>Avoidance and Minimization Measure BIO-7: Erosion Control Plan/Best Management Practices (BMPs) to Protect Water Quality (Including NOI/NPDES/SWPPP)</p> <ul style="list-style-type: none">The Contractor shall prepare an Erosion Control Plan for implementation for any construction to take place between October 15 and May 15 of any year. In the absence of such an approved plan, all construction shall cease on or before October 15, except that necessary to implement erosion control measures. If necessary, the plan shall be submitted to the City for review and approval. Submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).All necessary erosion and siltation controls will be in place during all construction activity associated with the proposed project. A Stormwater Pollution Prevention Plan (SWPPP) consistent with best management practices (BMPs) will be in place during the entire project to ensure that construction activities adjacent to the Stanislaus River will not result in sediment transport into the creek and thus, the stormdrain system. Erosion control measures including hay bales, wildlife-friendly hay wattles, and silt fencing will be installed between the work area and the river. No work will occur 24 hours before or 24 hours after a storm event. There will be no vehicle passage or operation, vehicle parking, or materials storage below top of bank (TOB), except as otherwise permitted by the resource agencies.	Measure to be identified in project construction/bid package. Erosion control plan to be completed prior to October 15 th . NOI/NPDES to be secured prior to ground disturbance. Implemented and maintained throughout project construction.	Construction contractor	
BIO-8	<p>Avoidance and Minimization Measure BIO-8: Preconstruction Surveys Birds</p> <p>To avoid impacts to nesting birds and raptors, pre-construction nesting bird surveys for active nests of raptors and migratory birds within and in the vicinity of the project site will be conducted by a qualified biologist in accordance with CDFW guidelines within 15 days prior to the start of construction if construction (including equipment staging, site preparation, vegetation removal, grading, excavation and other project-related construction activities) commences during the nesting season (February 1st through August 31st). If no active nests are detected, construction activities may proceed. No trees will be removed except that the two oaks specifically identified herein may be trimmed.</p> <p>If an active nest is located during pre-construction surveys, the construction activities shall be restricted as necessary to avoid disturbance of the nest until the nesting cycle is completed. Restrictions may include establishment of non-disturbance nest protection buffers around any active nest as prescribed by a qualified biologist. Typically passerine buffers under all circumstances would be a minimum of 50 feet and raptor nests a minimum of 100 feet, but buffers could be substantially greater as determined by a qualified biologist. The buffer should be demarcated via the installation of orange construction fencing where the buffer intersects the project site. Disturbance within the buffer shall be postponed until it is determined by the qualified biologist that</p>	Measure to be identified in project construction/bid package. Surveys will occur within three days of commencing construction that occurs between February 1 st and August 30 th .	Construction contractor and project biologist	

**ATTACHMENT A Incorporating Response to Comments and FINAL public hearing:
Mitigation Monitoring and Reporting Plan Oakdale Sewerline Easement Across the Stanislaus**

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
	the young have fledged and have attained sufficient flight skills to leave the area or that the nesting cycle has otherwise completed.			
BIO-9	<p>Avoidance and Minimization Measure BIO-9: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified</p> <ul style="list-style-type: none">15 days or less before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries.If bats are not found and there is no evidence of bat use, construction may proceed. <p>If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery. Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.</p>	Measure to be identified in project construction/bid package. Surveys will occur within 15 days of commencing construction that occurs between April and September	Construction contractor and project biologist	
BIO-10	<p>Avoidance and Minimization Measure BIO-10: Hours of Construction.</p> <p>Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists or during HDD operation when construction must continue to avoid creating hazardous situations associated with starting and stopping work.</p>	Measure to be identified in project construction/bid package and implemented throughout project construction except in emergency situations	Construction contractor	
BIO-11	<p>Avoidance and Minimization Measure BIO-11: Avoid Inadvertent Animal Trapping During Construction</p> <p>To avoid inadvertently trapping special status or common animal species during construction, all excavated steep-walled holes or trenches more than two feet deep shall be covered at the end of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks, or equivalent, at each end of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped animal is discovered, the contractor shall place an escape ramp or other appropriate structure to allow the animal to escape. Alternatively, the contractor shall contact the project biologist or California Department of Fish and Wildlife for assistance. Similarly, stored pipes or other materials providing potential cover for animals will be inspected prior to installation or use to ensure that they are unoccupied.</p>	Throughout project construction	Construction contractor	
BIO-12	<p>Mitigation Measure BIO 12:</p> <p>Two live oak trees shall be replanted on the WWTP site for any oak tree removed in association with the project</p>	Planting shall occur in the first fall of the year following project completion	Construction contractor; City	

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		just prior to rains commencing.		
BIO-13	<p>Avoidance and Minimization Measure BIO-13: Minimize the Spread of Invasive Plant Species</p> <p>Throughout project construction:</p> <ul style="list-style-type: none">• All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed² seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).• All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401). <p>All material brought to the site, including rock, gravel, road base, sand, and top soil, shall be free of noxious weeds³ and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).</p>	Measure to be identified in project construction/bid package and implemented throughout project construction	Construction contractor	

² Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy – Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

³ Ibid.

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Cultural Resources; Tribal Cultural Resources

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
	<p>Mitigation Measure CULT-3: Human Remains</p> <p>If human remains, burial, cremation of other mortuary feature are uncovered during construction activities; upon discovery, secure the location, do not touch or remove remains and associated artifacts; do not remove associated spoils or go through them; document the location and keep notes of activity and correspondence. All work within 100 feet of the discovery shall stop until the County Coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission to obtain the Most Likely Descendent (MLD) and follow state law (PRC 5097.9 et seq. and Health and Safety Code 7050.5(c)-7054.1 and 8100 et seq.). Should human remains be discovered on state land, the City of Oakdale shall also notify the California State Lands Commission within 24 hours of the discovery. No further work or disturbance shall occur within 100 feet until all of the preceding actions, as applicable to the discovery, are implemented and completed. Preserve associated spoils without further disturbance, do not touch or remove remains or associated artifacts, document the location and maintain notes of activity and correspondence. Preservation <i>in situ</i> is the preferred treatment of human remains and associated burial artifacts. [Public Resources Code Sections 5097.94, 5097.98 and Health and Safety Code Section 7050.5(c) and Section 15064.5 of the California Code of Regulations implementing the California Public Resources Code, Sections 21000-21177]</p>	Throughout project construction	City and the City's Construction contractor	
	<p>Mitigation Measure CULT-4: Project Scope Changes</p> <p>If the project develops beyond the scope and project description as described herein, further archaeological study and an addendum to this study may be required.</p>	Assess pre-construction during plan reviews and throughout project construction by site visits conducted by cultural resource monitoring.	City and the City's Construction contractor	
	<p>Mitigation Measure CULT-5: Paleontological Resources</p> <p>If paleontological resources are encountered during Project construction and no paleontological monitor is present, all ground disturbing activities within 50 feet of the find shall be redirected to other areas until a qualified paleontologist (as determined by the City) can be contacted to evaluate the find and make recommendations. If determined significant pursuant to CEQA and Project activities cannot avoid the paleontological resources, a paleontological evaluation and monitoring plan shall be implemented.</p> <p>Adverse impacts to significant paleontological resources shall be mitigated, which may include monitoring, data recovery and analysis, a final report, and the curation of all fossil material to a paleontological repository, museum, or academic institution, as appropriate. Upon completion of Project ground-disturbing activities, a report documenting methods, findings, and recommendations shall be prepared and submitted to the paleontological repository.</p>	Throughout project construction	Construction contractor	

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Geology & Soils

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
	<p>Mitigation Measure GEO-1 Soil Testing</p> <p>Prior to initiating construction, a geotechnical investigation shall be conducted and a geotechnical design report shall be prepared by a licensed geotechnical engineer. Recommendations and design criteria presented in the report shall be used in the design of the Project.</p> <p>Additionally, the following measures will be incorporated into the design: designing the alignment to avoid adverse soil conditions, such as gravel layers; using steep angles to get through problematic soils faster and installing a conductor casing.</p>			

Greenhouse Gases

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
GHG-1	<p>Mitigation Measure GHG-1: To the extent feasible and to the satisfaction of the City of Oakdale, the following measures shall be incorporated into the design and construction of the Oakdale River Crossing Project:</p> <p>A. On-site idling of construction equipment shall be minimized (no more than five minutes maximum);</p> <p>B. Biodiesel shall be used as an alternative fuel diesel for at least 15 percent of the construction vehicles/equipment used if there is a biodiesel station within five miles of the Project site and if the construction vehicles/equipment are able to use biodiesel without adverse effects;</p> <p>C. At least 10 percent of the building material used for the proposed project shall be local to the extent feasible (i.e., “local” shall be defined as building materials secured within 43± miles of the Project site consistent with Caltrans’ standard for reducing vehicle miles traveled by 15% of the average 50 miles traveled to secure building materials) to the extent feasible; and</p> <p>D. At least 50 percent of construction waste or demolition materials shall be recycled to the extent feasible.</p>	Throughout project construction	Construction contractor	

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Hazards and Hazardous Materials

Mitigation Measure Reference	Mitigation Measure	Timing/Frequency	Responsible Entity	Initial/Date
	Mitigation Measure HAZ-1 (Traffic Access Management Plan) Prior to commencing work within public roadways, the Contractor will prepare (to the City’s satisfaction), and throughout project construction will implement, a traffic access management plan to maintain emergency ingress, egress, and daily traffic flows throughout the Project boundaries. The access management plan should address public notification of upcoming construction, anticipated road closures, and detours (e.g., mailers in invoices, publication in local newspaper, website notices, postings along streets to be closed, electronic message boards). The City will coordinate road closures with the fire and police departments to ensure that emergency ingress and egress is addressed prior to and during street closures.	The traffic access management plan will be prepared prior to initiating project construction and implemented throughout project construction.	Construction contractor in consultation with the City	