

Staff Report 30

LESSEE:

George W. Corvallis, Jr. and Joetta K. Corvallis

APPLICANT:

Logan R. Holmes

PROPOSED ACTION:

Termination of a General Lease - Recreational and Protective Structure Use and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to 200 Miner Court, near Isleton, Sacramento County.

AUTHORIZED USE:

Removal of existing pilings and gangway; relocation of the boat dock; and installation of a walkway, gangway, three pilings, a 2-pile dolphin, and galvanized cables.

TERM:

10 years, beginning June 23, 2022.

CONSIDERATION:

\$137 per year, with an annual Consumer Price Index adjustment; and \$331 to compensate for the unauthorized occupation of state sovereign land for the period beginning February 6, 2020 through June 22, 2022.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

- Lessee agrees and acknowledges that hazards associated with sea level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.
- 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 the Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 2, 2019, the Commission authorized a 10-year General Lease – Recreational and Protective Use to George W. Corvallis and Joetta K. Corvallis (Corvallis) ([Item C39, February 4, 2019](#)) for an existing floating dock, five pilings, gangway, walkway, and bank protection. The lease expires on February 5, 2029.

On June 19, 2019, Corvallis transferred the property to Logan R. Holmes. The lease has neither been assigned nor quitclaimed.

On June 29, 2021, the Commission authorized a 20-year General Lease – Public Agency Use, Lease 9666, to the Brannan – Andrus Levee Maintenance District (District) ([Item 19, June 29, 2021](#)) for the construction, installation, and maintenance of the Sacramento River Levee Erosion Control/Habitat Enhancement Project (Project). The District requires the relocation of the existing floating boat dock, five pilings, gangway, walkway, and bank protection in the Sacramento River for levee habitat enhancements and has submitted an application on behalf of the

Applicant. The removal and relocation of the existing dock will result in a larger dock configuration and reconfiguration of the lease premises. The proposed lease will not include the bank protection as that will be under lease with the District.

Staff recommends termination of the existing lease because the Lessee sold the upland property without submitting a lease quitclaim deed, application for an assignment, and notification to staff. The Commission's accounting records show the annual rent is paid through February 5, 2020. Staff will request compensation for the unauthorized use of State land for the period beginning February 6, 2020 to June 22, 2022, the day before the start of the new lease.

Staff further recommends a provision in the lease applying the indemnity provision to the entire period of unauthorized occupation, beginning June 19, 2019, when the ownership was transferred to the Applicant, through June 22, 2022, the day before the proposed lease begins.

The District is constructing a new habitat bench in the levee as part of the project and requires the dock to be relocated approximately 30-feet waterward of its current location. The dock relocation will involve temporary removal of the dock and associated structures including removal of the five existing 12-inch-diameter wooden pilings.

The proposed, private aluminum boat dock will have overall dimensions of 8 feet. x 40 feet. Access from the dock to the upland will be accomplished via a 3-foot by 30-foot aluminum gangway and a 4-foot by 29-foot aluminum walkway connected to a new concrete landing near the levee crown. The walkway will be supported by two 8-inch-diameter steel pilings placed on the levee slope above Mean High Water (± 5.9 feet) and will serve as a hinge point for the gangway to move up or down with river level fluctuations. The dock will be floated into position with a work boat and used to facilitate placement of the access walkway and to string the anchor cables attached to the dock and concrete block anchors on the levee.

A crane operating from the berm or off a small work-barge will be necessary to off-load and install the walkway.

All concrete forming and pouring for the deadman anchors and landing can be accomplished by working around the residence on the urbanized berm. Construction practices will be in place to prevent any excavated material from entering the waterway.

The subject facilities have existed for many years at this location and are privately owned and maintained and facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public

Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on the Sacramento River, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The San Francisco tide gauge was used for the projected sea level rise scenario for the region as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise Guidance: 2018 Update

Note: Projections are with respect to a 1991 to 2009 baseline.

Sea level rise could increase the river's inundation levels within the lease area. In addition, 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, fire, drought, extreme heat,

and storms (especially when coupled with sea level rise). In rivers and tidally influenced waterways, 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. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The combination of these projected conditions could increase the likelihood of damage and affect access to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause facilities to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements and potentially leading to increased wear-and-tear on the facilities within the lease area. Lowered water levels could also reduce navigability of the channel, thereby increasing hazards and impacting the function and utility of the lease area structures.

The floating boat dock, gangway, and walkway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but may require more frequent maintenance or replacement to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features, such as the bank protection may need reinforcement to withstand higher levels of flood exposure and more frequent storm events.

Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change, including sea level rise.

CONCLUSION:

For all the reasons above, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine 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.

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 may be required to remove the existing dock, gangway, and wooden pilings and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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

4. **Issuance of the Lease:** A Mitigated Negative Declaration, State Clearinghouse No. 2020100329, and a Mitigation Monitoring and Reporting Program were prepared by Brannan-Andrus Levee Maintenance District and adopted on December 10, 2020, for this project. Commission staff reviewed these documents and prepared an independent Mitigation Monitoring Program (attached, Exhibit C) incorporating the District's document and recommends its adoption by the Commission.
5. 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.

APPROVALS OBTAINED:

CDFW Notification of Lake or Streambed Alteration No. 1600-2017-0091-R3.
Clean Water Act Section 401 Water Quality Certification and Order WDID No. 5A34CR00817.

Delta Stewardship Council Certification of Consistency: C20214.
USFWS BO Issued June 22, 2021. 08FBDT00-2021-F-0162.
NMFS BO Issued September 28, 2021. NMFS No: WCRO-2021-01158.

APPROVALS REQUIRED:

Clean Water Act Section 404 Permit
Section 10 of the Rivers and Harbors Act of 1899 Letter of Permission.
CVFPB Permit No. 19173.

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. 2020100329 and a Mitigation, Monitoring, and Reporting Program were prepared by the Brannan-Andrus Levee Maintenance District and adopted on December 10, 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 to be issued by this authorization has 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 proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with 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:

1. Terminate, effective February 5, 2020, Lease Number PRC 5615, a General Lease – Recreational and Protective Structure Use, issued to the Lessee.
2. Authorize acceptance of compensation from the Applicant in the amount of \$331 for unauthorized occupation of State land for the period beginning February 6, 2020 through June 22, 2022.
3. Authorize issuance of a General Lease - Recreational Use to the Applicant beginning June 23, 2022, for a term of 10 years, for removal of existing pilings and gangway; relocation of a boat dock; and installation of a walkway, gangway, three pilings, a 2-pile dolphin, and galvanized cables, as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$137 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
4. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction.

EXHIBIT A

LEASE 5615

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, in the vicinity of the Town of Isleton, lying adjacent to Swamp and Overflowed Land Survey 653, patented June 17, 1873, County of Sacramento, State of California, more particularly described as follows:

All those land underlying an existing dock facility (to be removed, or relocated) and proposed boat dock, gangway, walkway, gate, three pilings and one 2-pile dolphin lying adjacent to that parcel described in Deed of Trust, recorded June 19, 2019 in Document Number 201906191160 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

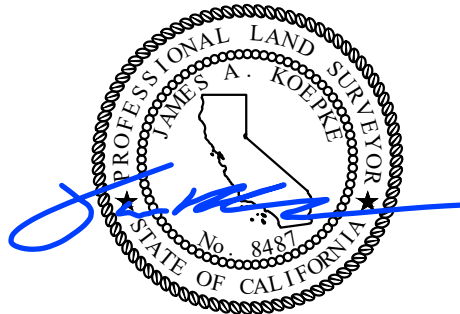
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on Applicant provided design plans for an existing boat dock to be removed, or relocated and proposed dock, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 02/02/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

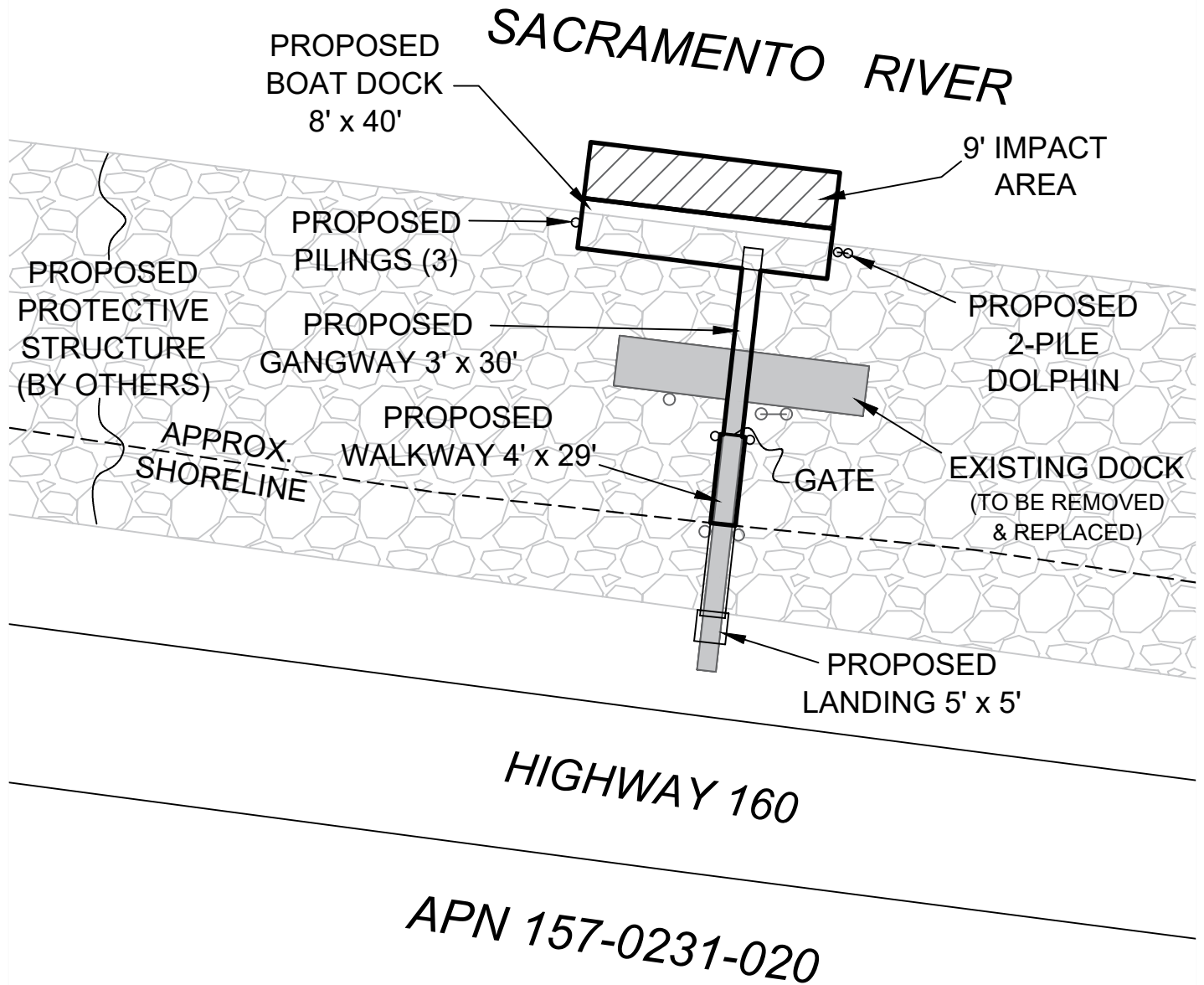


EXHIBIT A

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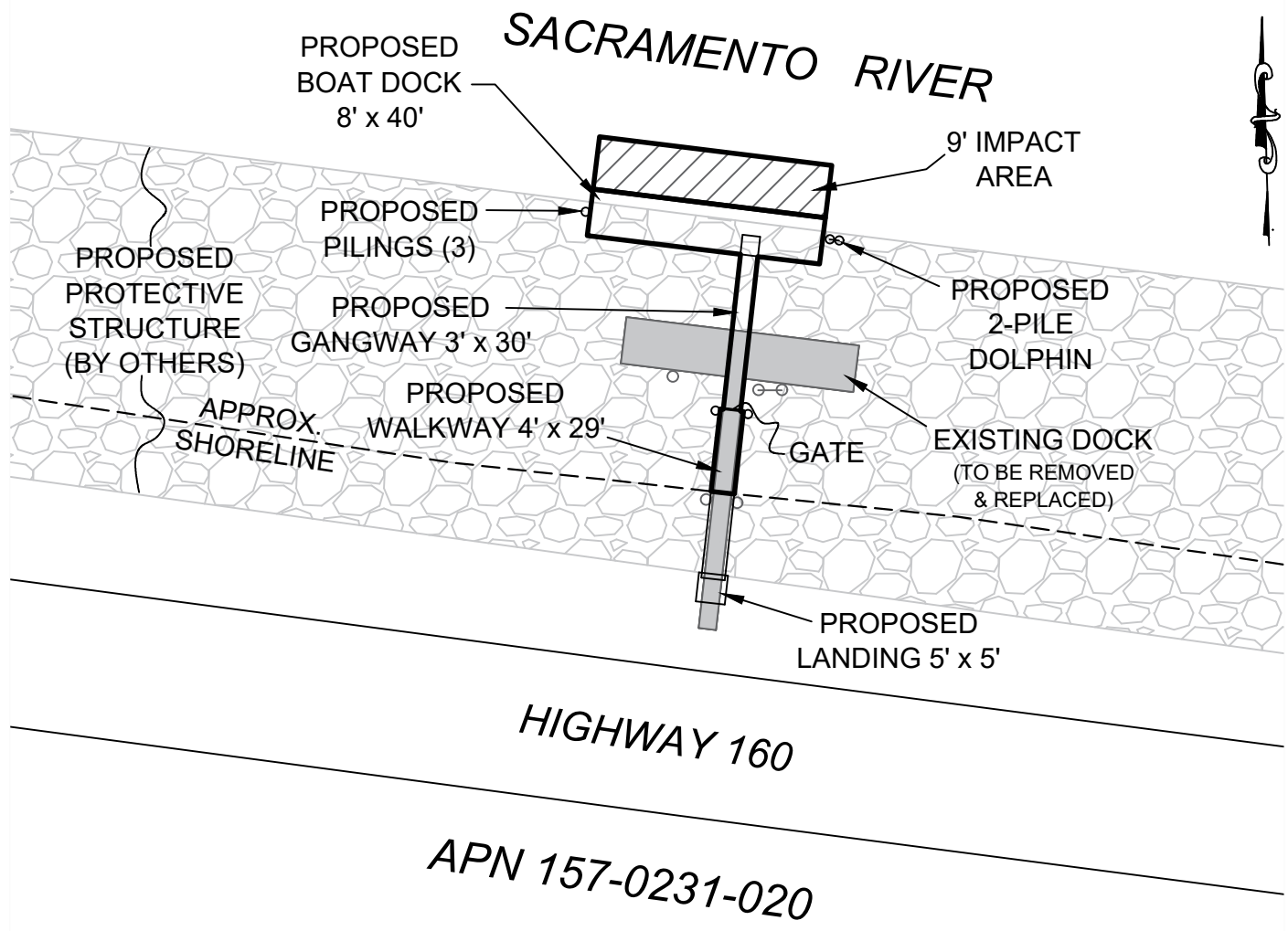
LAND DESCRIPTION PLAT
LEASE 5615, HOLMES
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



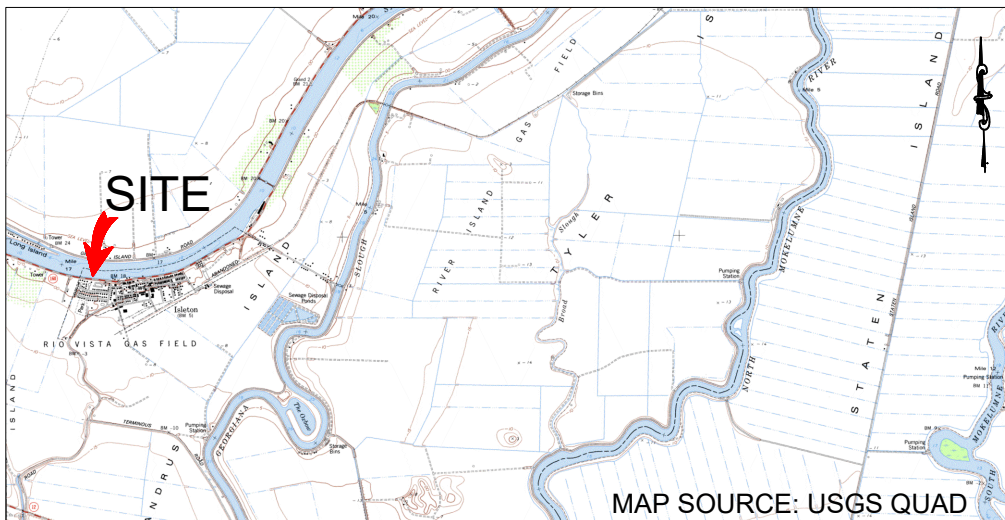
NO SCALE

SITE



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

LEASE 5615
HOLMES
APN 157-0231-020
GENERAL LEASE-
RECREATIONAL USE
SACRAMENTO COUNTY



TS 02/02/2022

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
SACRAMENTO RIVER EROSION CONTROL AND HABITAT ENHANCEMENT
PROJECT

(A2605, State Clearinghouse No. 2020100329)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Sacramento River Erosion Control and Habitat Enhancement Project (Project). The CEQA lead agency for the Project is Brannan-Andrus Levee Maintenance District.

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 Guidelines¹ section 15097, subdivision (a), states in part:

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. 2020100329, adopted a Mitigation Monitoring and Reporting Program (MMRP) 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 MMRP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and

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

- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMRP
3.4 (a) Special-Status Plants	BIO-1	None
3.4 (a) Nesting Birds	BIO-5	None
3.4 (d) Green Sturgeon	BIO-6	None
3.5 (a) Cultural Resources	CULT-1	See below
3.5 (b) Human Remains	CULT-2	None
3.7 (f) Paleontological Resources	GEO-1	See below
3.18 (a, b) Tribal Cultural Resources	TCR-1	None

Addition to MM CULT-1: Title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission. Commission staff shall be notified of any cultural resources discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources from such lands must be approved by the Commission.

Addition to MM GEO-1: Title to paleontological resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission. Commission staff shall be notified of any paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of paleontological specimens from such lands must be approved by the Commission.

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

ATTACHMENT C-1

**Mitigation Monitoring and Reporting Program Adopted by the
Brannan-Andrus Levee Maintenance District**

MITIGATION MONITORING AND REPORTING PROGRAM
BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT
SACRAMENTO RIVER EROSION CONTROL AND HABITAT ENHANCEMENT PROJECT

December 10, 2020

In accordance with Section 15074(d) of the California Environmental Quality Act (CEQA) Guidelines, the following Mitigation Monitoring and Reporting Program (MMRP) identifies the mitigation measures for the Brannan-Andrus Levee Maintenance District A(BALMD) Sacramento River Erosion Control/Habitat Enhancement Project (Project). BALMD staff will be responsible for ensuring that the following mitigation measures are implemented for the Project. This includes ensuring that, where applicable, the appropriate mitigation measures are included in construction contracts and construction specifications and drawings that are prepared for the Project. The BALMD also will be responsible for overseeing field inspections that are conducted (as necessary) on a timely basis to ensure that the specified mitigation measures are being implemented. The construction contractor(s) selected for the Project will be required to implement the specified measures in a timely manner.

The following measures shown in **Table 1** must be adopted by the BALMD Board of Directors as part of the approval of this Project. The following table provides the adopted mitigation measures, including the timing, implementing responsibility, and monitoring responsibility for each measure.

CEQA Mitigation Monitoring and Reporting Program
Brannan-Andrus Levee Maintenance District
Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
AIR QUALITY			
<p>Mitigation Measure AQ-1. Best Available Construction Measures. BALMD would ensure Project contractors implement/adopt the relevant Sacramento Metropolitan Air Quality Management District Basic Control Emission Control Practices (also known as BMPs) during project construction including:</p> <ul style="list-style-type: none"> • Control of fugitive dust is required by District Rule 403 and enforced by District staff. • Watering of all exposed surfaces two times daily. Exposed surfaces include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads. • Covers or maintenance of at least two feet of free board space on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways should be covered. • Using wet power vacuum street sweepers to remove any visible track-out mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited. 	<p>Phase: Pre-construction and during construction.</p>	<p>Responsible Party: BALMD and environmental consultants.</p> <p>Activity: Conduct pre-construction surveys.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measure in the Project's construction specifications issued to contractors.</p>
BIOLOGICAL RESOURCES			
<p>Mitigation Measure BIO-1: Special Status Plants Avoidance. BALMD would retain a qualified botanist to conduct special status plant surveys using the approved CDFW 'Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities (2018)' during</p>	<p>Phase: Pre-construction and during construction.</p>	<p>Responsible Party: BALMD and environmental consultants.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measure in the</p>

CEQA Mitigation Monitoring and Reporting Program
 Brannan-Andrus Levee Maintenance District
 Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<p>the appropriate season for identification of covered and no-take plant species as follows:</p> <ul style="list-style-type: none"> • If detected, the location of all individual special status plant species shall be mapped. Where feasible, individuals shall be fenced for avoidance during construction. Where avoidance is not possible, losses shall be offset through inclusion of these species into the restoration planting palette. To the extent feasible, rhizomes of the Suisun Marsh aster and Mason's lilaeopsis shall be salvaged and stored in damp soil and cared for by a qualified biologist or nursery professional until restoration plantings are implemented. Salvage of Mason's lilaeopsis may require additional authorizations from CDFW due to its status as State rare species. Any consultation with CDFW, including the requirement to obtain a CESA Section 2081 incidental take permit, if this and other CESA listed plant species are found, shall be completed prior to the start of construction in occupied areas, and the applicant shall submit written documentation of the results of such consultations. Black walnut, Mason's lilaeopsis, and Suisun Marsh aster shall be included in the plant palette at a minimum 3 to 1 ratio of individuals planted to individuals removed. • BALMD will implement efforts to avoid the spread or introduction of invasive weeds during implementation of the Proposed Project. Appropriate BMPs (AMM 3) that are intended and designed to curtail the spread of invasive plant species shall be implemented during 		<p>Activity: Conduct pre-construction surveys.</p>	<p>Project's construction specifications issued to contractors.</p>

CEQA Mitigation Monitoring and Reporting Program
Brannan-Andrus Levee Maintenance District
Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<p>construction. These include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • All reasonable efforts to ensure imported material is free of invasive plant species will be made • Equipment and vehicles must be free of caked on mud and weed seeds/propagules before accessing and leaving the project site. • Landscaping materials will not include invasive, non-native ornamentals as identified by the California Invasive Plant Council (Cal-IPC) Inventory. 			
<p>Mitigation Measure BIO-2. Roosting Bats Impact Avoidance and Minimization.</p> <p>Prior to removal of trees or large shrubs, BALMD would ensure a qualified biologist conduct a survey of potential bat roosts to determine if roosting bats are present.</p> <ul style="list-style-type: none"> • If a bat roost is found, further analysis shall be conducted sufficient to determine the species present and the type of roost (day, night, maternity, etc.). • If the bats are not part of an active maternity colony, passive exclusion measures may be implemented prior to removal of the affected vegetation. These exclusion measures may include one-way valves that allow bats to exit the structure but are designed so that the bats may not re-enter if the roost is a cavity roost. • For non-maternity tree roosts, the roost shall be checked daily until the bats have moved and then vegetation removal can proceed with a monitor present. 	<p>Phase: Pre-construction.</p>	<p>Responsible Party: BALMD and environmental consultant.</p> <p>Activity: Conduct pre-construction surveys and establish exclusions if active roosts are found.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>

CEQA Mitigation Monitoring and Reporting Program
Brannan-Andrus Levee Maintenance District
Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<ul style="list-style-type: none"> Maternal bat colonies shall not be disturbed while young are present and dependent on the roost. Any tree trimming or tree removal required for the project shall be limited to seasonal periods of bat activity: between August 31 and October 15, when bats would be able to fly and feed independently, and between March 1 and April 15 to avoid hibernating bats, and prior to the formation of maternity colonies. 			
<p>Mitigation Measure BIO-3. General Wildlife Best Management Practices. BALMD would ensure the following general wildlife Best Management Practices are implemented during project construction:</p> <ul style="list-style-type: none"> No pets shall be allowed at the project site. All trash that may attract predators shall be properly contained in covered containers and removed from the work site on a regular basis. No plastic monofilament netting shall be utilized on-site. 	<p>Phase: Pre-construction and during construction.</p>	<p>Responsible Party: BALMD and environmental consultant.</p> <p>Activity: Conduct regular inspections.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>
<p>Mitigation Measure BIO-4: Raptor Avoidance and Minimization Efforts. BALMD will implement the following measures to minimize and avoid impacts to raptors:</p> <ul style="list-style-type: none"> If feasible, all vegetation clearing, tree removal and tree trimming shall occur outside of the nesting season (February 15 through August 31). If construction activity is scheduled during the nesting season, a qualified biologist shall conduct a pre- 	<p>Phase: Pre-construction and during construction.</p>	<p>Responsible Party: BALMD and environmental consultant.</p> <p>Activity: Conduct pre-construction surveys and establish buffer</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>

CEQA Mitigation Monitoring and Reporting Program
 Brannan-Andrus Levee Maintenance District
 Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<p>construction survey for active Swainson’s hawk and white-tailed kite nests. Surveys shall be conducted within two weeks of the start of construction activities that are scheduled to occur during the nesting/breeding season. Specific surveys for Swainson’s Hawk will be conducted in accordance with the Swainson’s Hawk Technical Advisory Committee’s Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (Swainson’s Hawk Technical Advisory Committee 2000). The survey shall include the project site plus a 0.5-mile buffer. The pre-construction survey shall be conducted during the time of day when the birds are active and shall be of sufficient duration to reliably conclude presence/absence of Swainson’s hawk and white-tailed kite nests. A report of the survey results shall be submitted to the BALMD prior to issuance of any grading or building permits. As a fully protected species, there is no allowable “take” for white-tailed kite under any circumstances. As a State endanger species, there is no “take” of Swainson’s hawk without “take” authorization from CDFW.</p> <ul style="list-style-type: none"> • If no active Swainson’s hawk or white-tailed kite nests are detected, no additional action is required. • If active Swainson’s hawk nests are observed within 0.5 mile of the project site, a minimum 0.25-mile avoidance buffer shall be established around each nest. If active white-tailed kite nests are identified within 0.5 mile of the project, a minimum avoidance 		<p>zones if active nests are found.</p>	

CEQA Mitigation Monitoring and Reporting Program
Brannan-Andrus Levee Maintenance District
Sacramento River Erosion Control and Habitat Enhancement Project (BA-15-1.0-SP)

Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<p>buffer of 500 feet shall be established. Any variance for smaller avoidance buffers shall only be allowed through approval by the CDFW and the BALMD. Active nests shall be monitored by a qualified biologist during project-related activities. The avoidance buffer shall be maintained for the duration of the project, unless the biologist has determined that the young have fledged or are no longer dependent upon the nest and parental care.</p> <ul style="list-style-type: none"> • If a Swainson's hawk or white-tailed kite is observed perched or foraging in the project area, all project-related work shall cease and the individual shall be allowed to leave the project site unimpeded and of its own accord before work may resume. • Work activities shall be prohibited within active raptor nest buffers until the qualified biologists has determined that young birds have fledged and left the nest(s). Readily visible exclusion zones shall be established in areas where nests must be avoided. 			
<p>Mitigation Measure BIO-5: Non-Raptor Avoidance and Minimization Efforts. BALMD will implement the following avoidance and minimization efforts:</p> <ul style="list-style-type: none"> • If feasible, removal and/or trimming of trees shall be scheduled to occur in the outside of the nesting season during non-breeding fall/winter months (September 1 through February 14), after fledging and before the initiation of the nesting season. 	<p>Phase: Pre-construction and during construction.</p>	<p>Responsible Party: BALMD and environmental consultant.</p> <p>Activity: Conduct pre-construction surveys and establish buffer</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>

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 Brannan-Andrus Levee Maintenance District
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Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<ul style="list-style-type: none"> Nesting Bird Assessment and Avoidance: Prior to the initiation of construction, including ground disturbing activities scheduled to occur between February 15 and September 15, the Qualified Biologist shall conduct a habitat assessment and nesting survey for nesting bird species no more than five (5) days prior to the initiation of work. Surveys shall encompass all potential habitats (e.g., grasslands and tree cavities) within 250 feet of the Project site. The Qualified Biologist conducting the surveys shall be familiar with the breeding behaviors and nest structures for birds known to nest in the Project site. Surveys shall be conducted during periods of peak activity (early morning, dusk) and shall be of sufficient duration to observe movement patterns. Survey results, including a description of timing, duration and methods used, shall be submitted to CDFW for review forty- eight hours prior to the initiation of the Project. If a lapse in Project activity of seven days (7) or more occurs, the survey shall be repeated, and no work shall proceed until the results have been submitted to CDFW. If nesting birds are found, as described above, then no work shall be initiated until species-specific buffers have been established in consultation with CDFW. The buffer area(s) shall be demarked from work activities and avoided until the young have fledged, as determined by the Qualified Biologist. Active nests found inside the limits of species specific buffer zones or nests within the vicinity of the Project site showing signs of distress from Project activity as determined 		zones if active nests are found.	

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<p>by the Qualified Biologist shall be monitored daily during the duration of the Project for changes in bird behavior. Buffer areas of active nests within the vicinity of the Project site showing signs of distress or disruptions to nesting behaviors from Project activity, as determined by the Qualified Biologist, shall have their buffers immediately adjusted by the Qualified Biologist until no further interruptions to breeding behavior are detectable.</p> <ul style="list-style-type: none"> • If no active nests are detected, no additional action is required. • If applicable (i.e., nests are detected as a result of the pre-construction surveys), the qualified biologist shall perform at least two hours of preconstruction monitoring of the nest to characterize “typical” bird behavior. The qualified biologist shall monitor the nesting birds and shall increase the buffer if the qualified biologist determines the birds are showing signs of • unusual or distressed behavior by project activities. Atypical nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed toward project personnel, standing up from a brooding position, and flying away from the nest. • If applicable, the qualified biologist shall have authority to order the behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. To prevent encroachment, the 			

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established buffer(s) shall be clearly marked by high visibility material. The established buffer(s) shall remain in effect until the young have fledged or the nest has been abandoned as confirmed by the qualified biologist. Any sign of nest abandonment shall be reported to CDFW within 48 hours.			
<p>Mitigation Measure BIO-5: Green Sturgeon Mitigation Acreage and Mitigation Credits. BALMD will implement the following mitigation/avoidance and minimization efforts for the Project:</p> <ul style="list-style-type: none"> Mitigation acreage created by habitat benches: <ul style="list-style-type: none"> 0.96 acres of riparian forest 0.90 acres of freshwater marsh/tule habitat 0.73 acres of scrub shrub Total acreage created = 2.59 acres Impacts (5.63) less created bench habitat (2.59) will require purchase of 3.04 acres of Green Sturgeon mitigation credit. Mitigation bank credits will be purchased from Fremont Landing Conservation Bank (operated by Wildlands) prior to project impacts. 	Phase: Prior to construction.	Responsible Party: BALMD.	<p>Responsible Party: BALMD and Mitigation Bank. Activity: Provide proof of purchase to NMFS and USACE.</p>
CULTURAL RESOURCES			
<p>Mitigation Measure CULT-1. Unanticipated Discovery of Archaeological Resources. BALMD will implement the following measures to reduce impacts to cultural resources:</p> <ul style="list-style-type: none"> If prehistoric or historic artifacts, or other indications of archaeological resources such as unusual deposits 	Phase: During construction	<p>Responsible Party: BALMD and construction contractors. Activity: Retain qualified</p>	<p>Responsible Party: BALMD and construction contractors. Activity: Include the identified measures in the Project's construction</p>

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Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
of stone, bone or shell, stone artifacts, or historic trash deposits or foundations are discovered once ground-disturbing activities are underway, the find(s) shall be immediately evaluated by a qualified archaeologist. If the find is determined to be a historical or unique archaeological resource, contingency funding and a time allotment to allow for implementation of avoidance measures or appropriate mitigation shall be made available, as provided in §15064.5 of the CEQA Guidelines. Such measures may include, but not be limited to, Phase II archaeological evaluation and Phase III data recovery excavation. Work may continue on other parts of the Proposed Project Area while historical or unique archaeological resource mitigation takes place on-site.		archaeologist to conduct survey if resources are found onsite and consult on other appropriate avoidance and mitigation actions.	specifications issued to contractors.
<p>Mitigation Measure CULT-2. Discovery of Human Remains. BALMD will implement the following measures to reduce impacts to human remains if discovered:</p> <ul style="list-style-type: none"> If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the county coroner must be notified immediately. If the human remains are determined to be prehistoric, the coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify a most likely descendant (MLD). 	Phase: During construction	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Halt all work within a minimum of 50 feet of the discovery site and notify the County Coroner.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>

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The MLD shall complete the inspection of the site within 48 hours of being granted access and may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. If the landowner or authorized representative rejects the recommendation of the MLD, either the landowner or the MLD may request mediation by the NAHC, which would include the meaningful and timely discussion and careful consideration of the views of each party to come to an agreement. If the NAHC is unable to identify a MLD or the MLD fails to make a recommendation within 24 hours after notification by the NAHC, or the landowner or his authorized agent rejects the recommendation by MLD and mediation by the NAHC fails to provide a measure acceptable to the landowner, then the landowner or his authorized representative shall rebury the human remains and grave goods with appropriate dignity at a location on the property not subject to further disturbances.			
GEOLOGY/SOILS			
Mitigation Measure GEO-1. Accidental Discovery of Paleontological Resources. BALMD will implement the following measures to reduce impacts to paleontological resources: <ul style="list-style-type: none"> If vertebrate fossils (e.g., teeth, bones) are unearthed by the construction crew anywhere on the project, the finds should be set aside and all excavation activity cease at the specific place of discovery until a 	Phase: During construction	Responsible Party: BALMD and environmental consultant Activity: Halt all work within a minimum of 50	Responsible Party: BALMD and construction contractors Activity: Include the identified measures in the Project's construction

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<p>paleontologist has assessed the find and, if deemed significant, salvaged the find in a timely manner. The decision to conduct paleontological salvage operations will be determined by the paleontologist in consultation with District staff. Work may proceed on other parts of the project while assessment and/or salvage by the paleontologist is underway. Finds determined significant by the paleontologist shall be conserved and deposited with a recognized repository such as the University of California Museum of Paleontology.</p> <ul style="list-style-type: none"> The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission. 		<p>feet of the discovery site and retain qualified paleontologist to conduct survey. Consult on other appropriate avoidance and mitigation actions.</p>	<p>specifications issued to contractors.</p>
NOISE			
<p>Mitigation Measure NZ-1. Minimize Woodchipper Related Noise.</p> <p>BALMD and its construction contractor will implement the mitigation measure listed below, to reduce woodchipper-related noise:</p> <ul style="list-style-type: none"> Selection of low noise components, e.g. engine. Optimization of the knife mounting configuration to reduce noise. Selection of a low noise exhaust system; and/or Use of low-noise operating mode. 	<p>Phase: During construction.</p>	<p>Responsible Party: BALMD and construction contractors</p> <p>Activity: Project construction will occur between 7:00 a.m. and 10:00 p.m.</p>	<p>Responsible Party: BALMD and construction contractors</p> <p>Activity: Include the identified measure in the Project's construction specifications issued to contractors.</p>
TRIBAL CULTURAL RESOURCES			

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Measure	Timing	Implementation Responsibility	Monitoring/Reporting Responsibility
<p>Mitigation Measure TCR-1. Accidental Discovery of Tribal Cultural Resources.</p> <p>BALMD will implement the following measures to reduce impacts to cultural resources:</p> <ul style="list-style-type: none"> If any resources of Native American origin are discovered once ground-disturbing activities are underway, the BALMD shall contact local Native Americans to consult on the find. If the find is determined to be a tribal cultural resource, contingency funding and a time allotment to allow for implementation of avoidance measures or appropriate mitigation determined in consultation with local Native Americans shall be made available. Work may continue on other parts of the project site while tribal cultural resource mitigation takes place on-site. 	<p>Phase: During construction.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Retain qualified archaeologist to conduct survey if resources are found onsite and consult on other appropriate avoidance and mitigation actions.</p>	<p>Responsible Party: BALMD and construction contractors.</p> <p>Activity: Include the identified measures in the Project's construction specifications issued to contractors.</p>