

Staff Report 32

LESSOR/APPLICANT:

County of Stanislaus

PROPOSED ACTION:

Amendment of Master Lease; Acceptance of Partial Lease Quitclaim Deed; and Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Tuolumne River, adjacent to 7th Street, Modesto, Stanislaus County

AUTHORIZED USE:

Construction, use, and maintenance of a new bridge, known as the 7th Street Bridge; construction, use, and maintenance of a temporary pedestrian and bicycle crossing; and demolition and removal of the existing bridge.

TERM:

Master Lease (Lease Number PRC 7183): 49 years, beginning October 18, 1985.

New Bridge Lease (A3262): 20 years, beginning March 15, 2023.

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.

SPECIFIC LEASE PROVISIONS:

- Lessee shall not install, attach, or authorize the placement or expansion of any utilities or other improvements on the bridge or within the Lease Premises without Lessor's prior review and approval. Separate leases or subleases are required and shall be obtained for all utilities not operated by Lessee.

- Lessee agrees and acknowledges that the 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-1 (Land Description) and Exhibit B (Site and Location Map) to this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by 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 revised Exhibits shall be incorporated in this Lease as though fully set forth herein.
- Lessee shall execute a reimbursement agreement with Lessor to pay for any and all reasonable costs and expenditures paid or incurred by the Commission, its staff, or both for review and approval of any plan or related materials required herein, including but not limited to any review or preparation of reports, documents, or other actions as required pursuant to the California Environmental Quality Act (CEQA), plan reviews, or amendments. Payment by Lessee shall be in a form and manner which is determined by Lessor's staff and is consistent with the requirements of State law.
- Lessee shall place warning signage or buoys clearly visible from the shore and in the water both upstream and downstream of the construction site to provide notice of the bridge replacement and existing bridge demolition projects, and to advise the public to exercise caution. Lessee shall notify the California Department of Parks and Recreation's Division of Boating and Waterways of the location, description, and purposes of such signage or buoys upon installation and removal.

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 April 12, 1988, the Commission authorized a Master General Lease – Public Agency Use, Lease Number PRC 7183 (Master Lease), to the County of Stanislaus for the maintenance of five vehicular bridges, including the 7th Street Bridge,

crossing the San Joaquin, Stanislaus, and Tuolumne Rivers ([Item C04, April 12, 1988](#)). The Master Lease expires October 17, 2034.

On December 16, 1998, the Commission authorized an amendment of the Master Lease for reconstruction of the Roberts Ferry Bridge ([Item C56, December 16, 1998](#)). On December 18, 2015, the Commission authorized acceptance of a lease quitclaim deed releasing the Lessee's interest in the lease parcel for the Santa Fe Avenue Bridge, amendment of the lease to remove the Santa Fe Avenue Bridge from the Master Lease, and issuance of a separate lease to the Lessee for the Santa Fe Avenue Bridge ([Item C81, December 18, 2015](#)). The Santa Fe Avenue Bridge is authorized under Lease Number PRC 9301 and expires on December 17, 2040. On April 5, 2019, the Commission authorized acceptance of a lease quitclaim deed releasing the Lessee's interest in the lease parcel for the Crow's Landing Bridge, amendment of the lease to remove the Crow's Landing Bridge from the Master Lease, and issuance of a separate lease to the Lessee for the Crow's Landing Bridge ([Item C30, April 5, 2019](#)). The Crow's Landing Bridge is authorized under Lease Number PRC 9536 and expires on April 4, 2044.

The Lessee has submitted a partial lease quitclaim deed for the existing 7th Street Bridge and requests its acceptance. In addition, the Lessee has submitted an application for a General Lease – Public Agency Use for the construction, use, and maintenance of a new bridge; construction, use, and maintenance of a temporary pedestrian and bicycle crossing; and the demolition and removal of the existing bridge. Staff recommends taking a similar action to remove the 7th Street Bridge from the Master Lease and issuing a separate lease. This action will remove the existing bridge from the master lease and move it to a separate lease. The proposed lease will authorize the existing bridge while the Lessee prepares for construction, as well as authorize the removal and construction of the new bridge.

The 7th Street Bridge is an existing, two-lane roadway crossing of the Tuolumne River, connecting downtown Modesto with unincorporated Stanislaus County and the City of Ceres. The purpose of the proposed 7th Street Bridge Project is to create a structurally and functionally sufficient bridge crossing of the Tuolumne River along the 7th Street corridor. Because the 105-year-old bridge is a rare surviving example of a cantilevered arched bridge consisting of steel trusses encased in concrete) within California, it is eligible for listing in both the National Historic Preservation Act and the California Register of Historical Resources. However, the bridge is listed on the California Department of Transportation's Local Agency Bridge List with an extremely low sufficiency rating because of structural and functional deficiencies, and a load restriction of 4 tons. The structure is also potentially vulnerable to collapse during an earthquake or flood event. As discussed further below, selected features of the bridge will be preserved and

included in a proposed pedestrian plaza on the upland property adjacent to the proposed bridge.

The proposed bridge will carry two lanes of traffic in each direction and will also accommodate Class II Bike Lanes in each direction and separated combined use paths on both the east and west sides. The bridge will consist of precast concrete girders for the entire bridge superstructure and approximately seven piers, including one in the low-flow channel of the river. 7th Street will be closed for the duration of construction. Due to the length of the required detour for pedestrians, some accommodations will need to be made. To maintain pedestrian access during the closure of 7th Street, the Lessee will provide a temporary bicycle and pedestrian bridge crossing the Tuolumne River connecting to a trail system on the adjacent upland parcel. This temporary bridge will be authorized under the proposed lease. Following completion of the new bridge, the temporary pedestrian and bicycle bridge will be removed. At that time, the proposed lease will be amended to remove the temporary bridge as an authorized improvement and to remove the temporary construction area from the lease area. Motorists will need to use a parallel route, such as State Route 99 or the 9th Street Bridge. The majority of the diverted traffic is expected to shift to State Route 99.

The City of Modesto also plans to install a 16-inch-diameter water line in the new bridge. The new water line will connect to existing water lines at the intersections north and south of the bridge. The City of Modesto will submit a separate application to request a lease for the construction, use, and maintenance of the new water line. Because the water line will not be installed until after the new bridge is constructed, the City intends to submit an application when plans are formally initiated. Staff has contacted the City regarding the application requirements.

The 7th Street Bridge project will require demolition of the existing bridge. The concrete will be removed from the steel trusses with debris being caught on an underslung work platform or by constructing a temporary work trestle under the bridge that crosses the river. Once the steel trusses are exposed, cranes will likely be used to lift the spans off the piers and onto land for further demolition. Complete removal of the existing bridge is expected to proceed very rapidly. For all but the three spans near the low-flow channel, the work could likely proceed at any time of the year. The demolition work on the spans in the low-flow channel area will occur during the allowable in-water work window from June 1 to October 31 because of the need to catch debris from falling into the river and potentially use a work trestle in the river.

The existing abutments, including the footings, will likely be completely removed. Where the old abutment piles interfere with the placement of new abutment piles, old piles will be extracted. Otherwise, existing piles will be removed to 5 feet below the mudline.

Promotion of public access to and use of California's navigable waters is a mandate of the California Constitution (article X, section 4), a condition of statehood in the Act of Admission of the State of California into the Union (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. Often the most logical location for access to a waterway is where a bridge crosses it. Kayakers, rafters, and others may legally utilize the public access easements around bridges to enter and exit navigable waterways. With those factors in mind, the Legislature adopted three code sections in 1972 to facilitate increased public access around bridges (Sts. & Hy. Code, §§ 84.5, 991, and 1809). All state or county highway projects and all city street projects that propose construction of a new bridge over a navigable waterway must consider, and report on, the feasibility of providing public access for recreational purposes to the waterway before the bridge is constructed. These code provisions apply to state agencies and city and county governments that approve bridge construction projects.

The Lessee prepared a report on the feasibility of public access. The project includes the development of a new pedestrian plaza that would connect the new bridge with the proposed Gateway Parcel of the Tuolumne River Regional Park (TRPA) and to the Tuolumne River itself. The Gateway Parcel is currently an undeveloped 90-acre parcel adjacent to the Tuolumne River that intersects with the 7th Street Bridge Project. There are no current recreational amenities although informal unpaved trails exist on the property. The public utilizes the unimproved property to access the river and for picnicking. A master plan has been created to develop the park through a joint powers agreement – the TRRP Commission – with the City of Modesto, City of Ceres, and Stanislaus County. The Gateway Parcel will be improved prior to and during construction of the bridge. The temporary bicycle and pedestrian bridge will connect to the trail system that will be constructed as a part of the TRRP's Gateway Parcel Project. During the final design phase, the Lessee will coordinate with the TRRP Joint Powers Authority to develop a design that provides access to the Gateway Parcel and to the river. The pedestrian plaza would include displays and selected features that would be preserved from the existing bridge such as concrete lions, railing/bench segments, bronze plaques, and other features such as an obelisk as feasible. In addition, as part of the TRRP master plan, the City of Modesto is constructing the Neece Drive Boat Launch and

River Access project located west of the 7th Street Bridge. The Commission authorized this project under Lease 9669 ([Item 22, June 29, 2021](#)).

The current bridge has existed for many years at this location. The proposed lease includes provisions protecting the public use of the proposed lease area and requires the Lessee to obtain necessary permits for the project. Furthermore, the existing and proposed bridges do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The lease requires the Lessee to conduct all repair and maintenance work safely and indemnify the Commission in the event of any liability resulting from the proposed action. The lease is limited to a 20-year term and does not grant the Lessee exclusive rights to the lease premises, which allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time.

CLIMATE CHANGE:

The Tuolumne River in the lease 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.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change.

TRIBAL COORDINATION AND CONSULTATION:

The Applicant contacted the California Native American Heritage Commission (NAHC) to request a search of the sacred lands file and an updated list of Native American contacts for the project area. The NAHC response letter indicated that the Sacred Lands record search was negative and provided the contact for eight tribes associated with the project area: California Valley Miwok Tribe, North Valley Yokuts Tribe, Southern Sierra Miwok Nation, Calaveras Band of Mi-Wuk Indians, Tuolumne Band of Me-Wuk, Buena Vista Rancheria Me-Wuk Indians, Dumna Wo-Wah Tribal Government, and Tule River Indian Tribe. The County sent an outreach letter to the tribes on May 7, 2014, and a follow-up phone call on July 9, 2014 during

the initial EIR process. The Southern Sierra Miwok Nation requested that any funerary items or burial items found during any excavations to contact the tribe for repatriation locations and to contact NAHC. In addition, the California Valley Miwok Tribe requested that they be notified of Miwok artifacts and/or human remains if any are found during the project implementation. Additionally, the tribes were given a copy of the Draft Environmental Impact Report and the Notice of Availability for additional comments. In the EIR prepared by the Applicant for the project, the Applicant evaluated impacts to cultural resources and imposed mitigation measures which provide inadvertent discovery measures for the protection of archeological cultural resources.

ENVIRONMENTAL JUSTICE:

Staff reviewed environmental justice data that indicated significant existing pollution burdens to the surrounding community. These existing burdens may result in impacts to health such as asthma and cardiovascular disease. In addition, the same data showed groundwater and drinking water threats, and high pesticide exposure. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in Stanislaus County providing notification of the proposed lease and requesting input. The letters sent included a brief description of the lease and conveyed a desire to learn from the perspective of the local community. Staff sent follow-up emails and made phone calls, however no comments on the proposed lease were received as a result of the outreach.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially impair 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 proposed lease; 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 not conduct the proposed Project activities within lands under the Commission's jurisdiction. The lessee 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. Acceptance of a partial quitclaim deed is not a project as defined by CEQA because it is an administrative action that will 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. An Environmental Impact Report (EIR), State Clearinghouse No. 2013092059, was prepared for this project by the County of Stanislaus (County) and certified on May 23, 2017. As part of its project approval, the County made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed these documents and prepared an independent Mitigation Monitoring Program (MMP) (attached, Exhibit C) that incorporates the County’s document. Staff recommends adoption of Exhibit C by the Commission.

Staff also prepared Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) contained in the attached Exhibit D.

The Findings determined that all but two potential impact(s) would be less than significant or less than significant with mitigation. The Findings identified that the project could cause a potentially significant impact to cultural resources (impacts CUL 3a and CUL 3b Demolition of Historic Properties) due to demolition of historic properties despite mitigation measures. Staff prepared a Statement of Overriding Considerations made pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) that balances the benefits of the project against its unavoidable impacts and finds that the potential impact is acceptable in light of the project benefits. Staff recommends the Commission adopt the Findings and Statement of Overriding Considerations contained in the attached Exhibit D.

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:

National Marine Fisheries Service
State Historic Preservation Office

APPROVALS REQUIRED:

California Department of Fish and Wildlife
Central Valley Flood Protection Board
Central Valley Regional Water Quality Control Board
U.S. Army Corps of Engineers
Union Pacific Railroad

EXHIBITS:

- A-1. Land Description – New Bridge
- A-2. Land Description – Temporary Pedestrian Bridge
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Findings and Statement of Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2013092059, was prepared for this project by the County and certified on May 23, 2017, and that the Commission has reviewed and considered the information contained therein.

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

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

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, section 15093, as contained in the attached Exhibit D.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; 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. Authorize acceptance of a partial lease quitclaim deed, effective March 15, 2023, for Lease Number PRC 7183, a General Lease – Public Agency Use, issued to the County of Stanislaus.
2. Authorize amendment of Lease Number PRC 7183 to remove that parcel of sovereign land in the Tuolumne River to be used for the planned 7th Street Bridge, as described in Exhibit A-1. All other terms and conditions of the lease shall remain in effect without amendment.
3. Authorize issuance of a separate General Lease – Public Agency Use to the County of Stanislaus, beginning March 15, 2023, for a term of 20 years, for construction, use, and maintenance of a new bridge; construction, use, and maintenance of a temporary pedestrian and bicycle bridge crossing; and demolition and removal of the existing bridge as described in Exhibits A-1 and A-2 and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; 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.
4. Authorize the Executive Officer or designee to approve the removal of the temporary pedestrian bridge consistent with the CEQA document and lease, to revise the lease to remove the temporary pedestrian bridge as an authorized improvement, to replace exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements, and to remove Exhibit A-2 describing the temporary construction area, following construction.

EXHIBIT "A-1"
LEGAL DESCRIPTION

7th Street Bridge

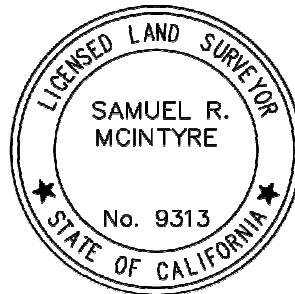
A strip of submerged land 110 feet wide in the bed of the Tuolumne River in Stanislaus County, State of California, being a portion of Section 32 & 33, Township 3 South, Range 9 East, Mount Diablo Meridian, the westerly line of which is parallel with and 110 feet westerly of the westerly right of way of Southern Pacific Railroad.

Sidelines of said strip shall extend and terminate at the low water mark on the right and left banks of said Tuolumne River.

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



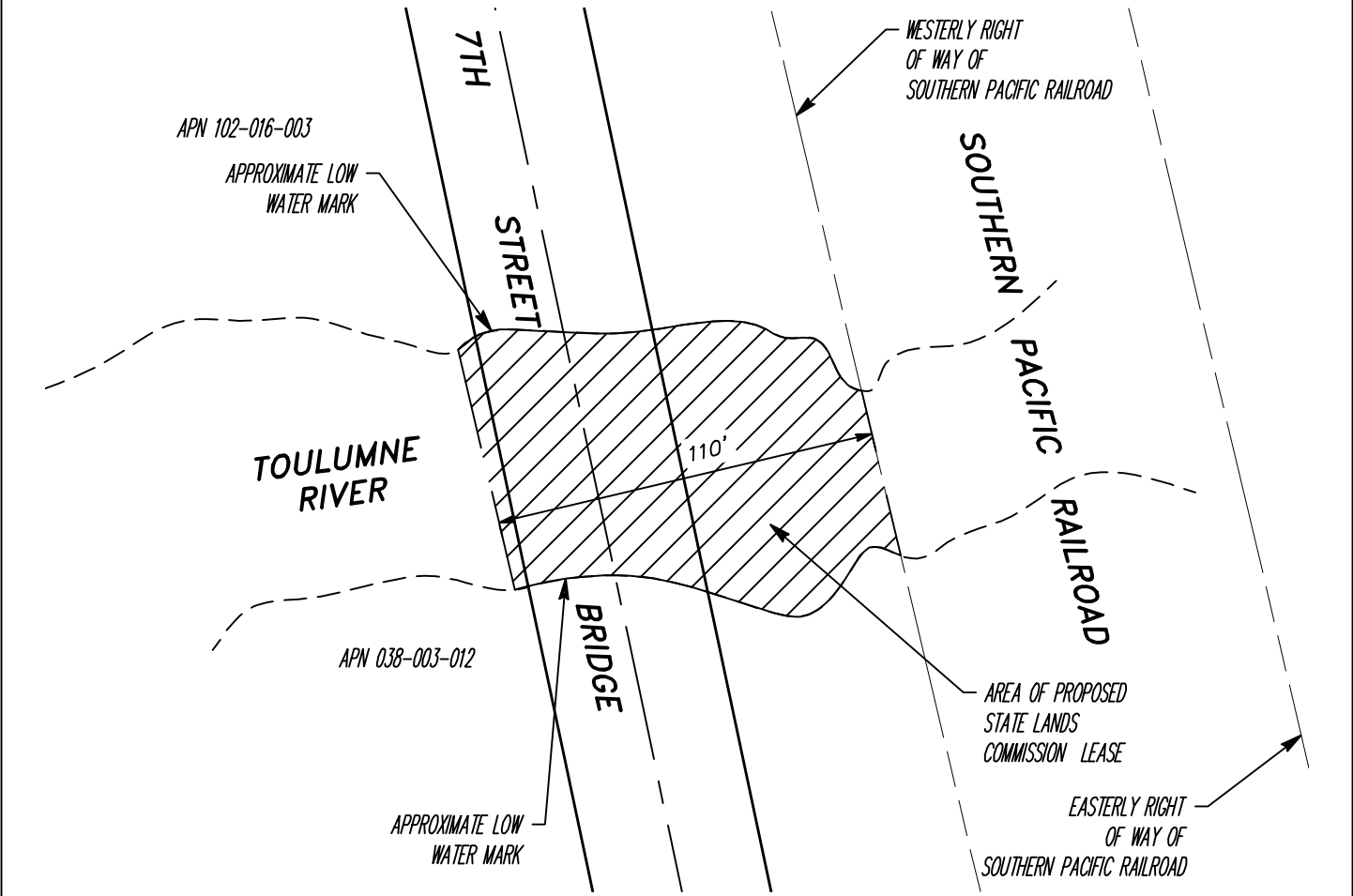
Samuel R. McIntyre, LS. 9313



5/19/2022

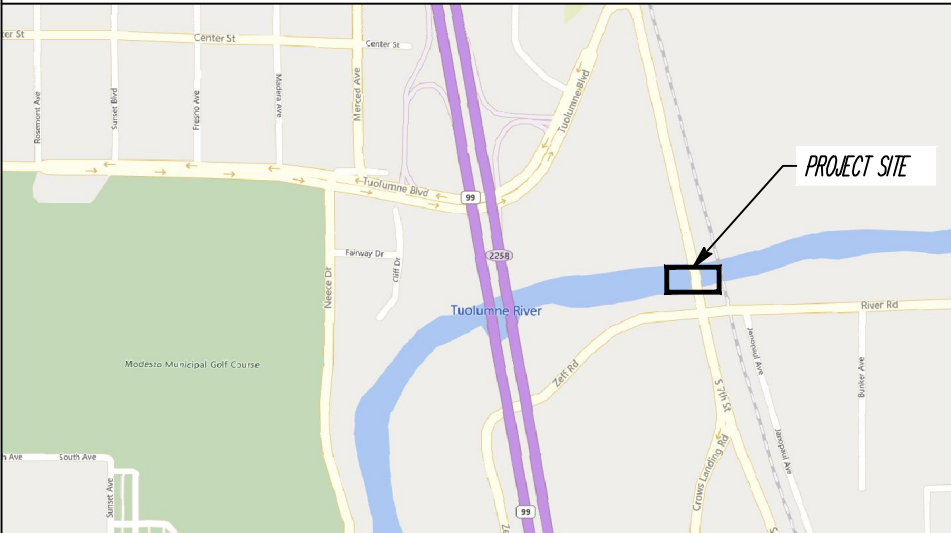
DATE

PROJECTED SECTIONS 32 & 33,
T3S, R9E M.D.M.



VICINITY MAP

NO SCALE



Plat to Accompany Description
Stanislaus County, California

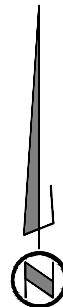


EXHIBIT "A-2"
LEGAL DESCRIPTION

7th Street Bridge (Temporary Construction Area)

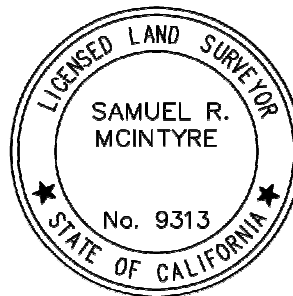
A strip of submerged land 65 feet wide in the bed of the Tuolumne River in Stanislaus County, State of California, being a portion of Section 32 & 33, Township 3 South, Range 9 East, Mount Diablo Meridian, the westerly line of which is parallel with and 175 feet westerly of the westerly right of way of Southern Pacific Railroad.

Sidelines of said strip shall extend and terminate at the low water mark on the right and left banks of said Tuolumne River.

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

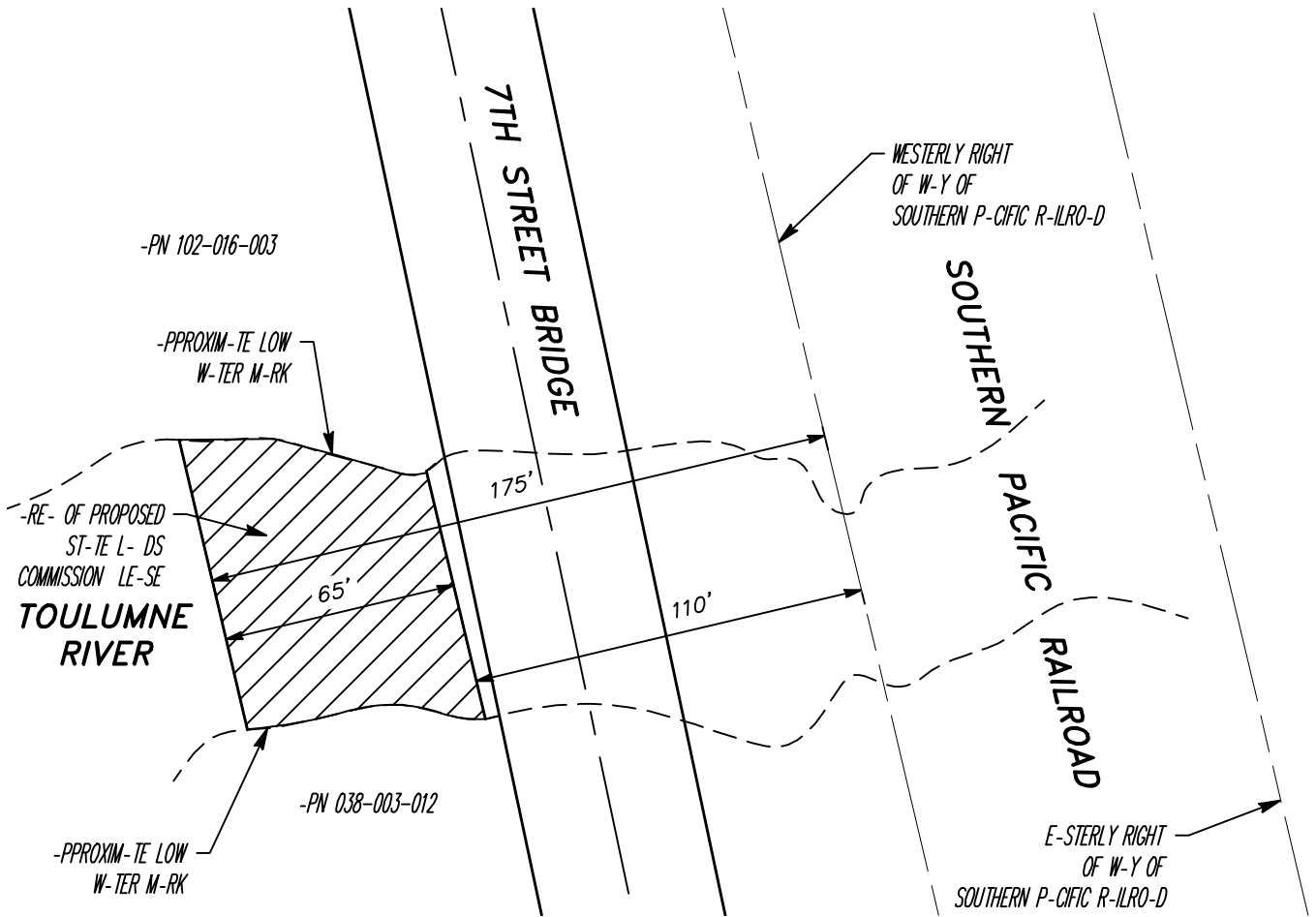


Samuel R. McIntyre, LS. 9313



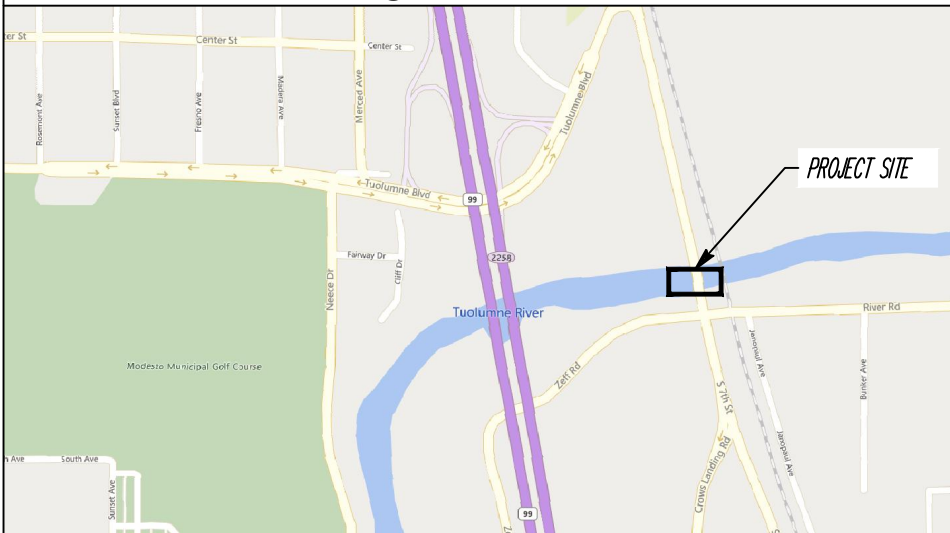
10/20/2022
DATE

PROJECTED SECTIONS 32 & 33,
T3S, R9E M.D.M.

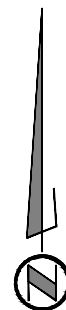


VICINITY MAP

NO SCALE



Plat to Accompany Description
Stanislaus County, California



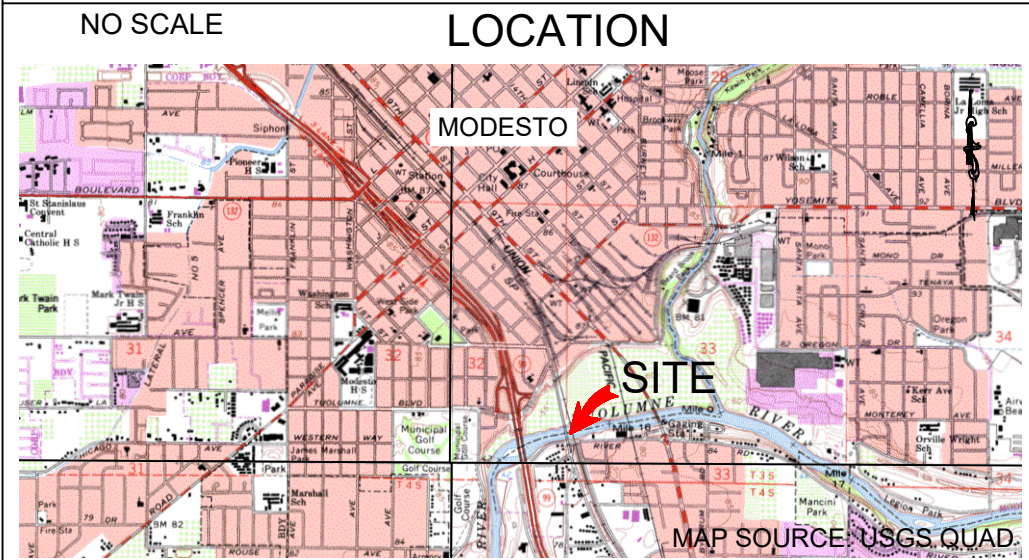
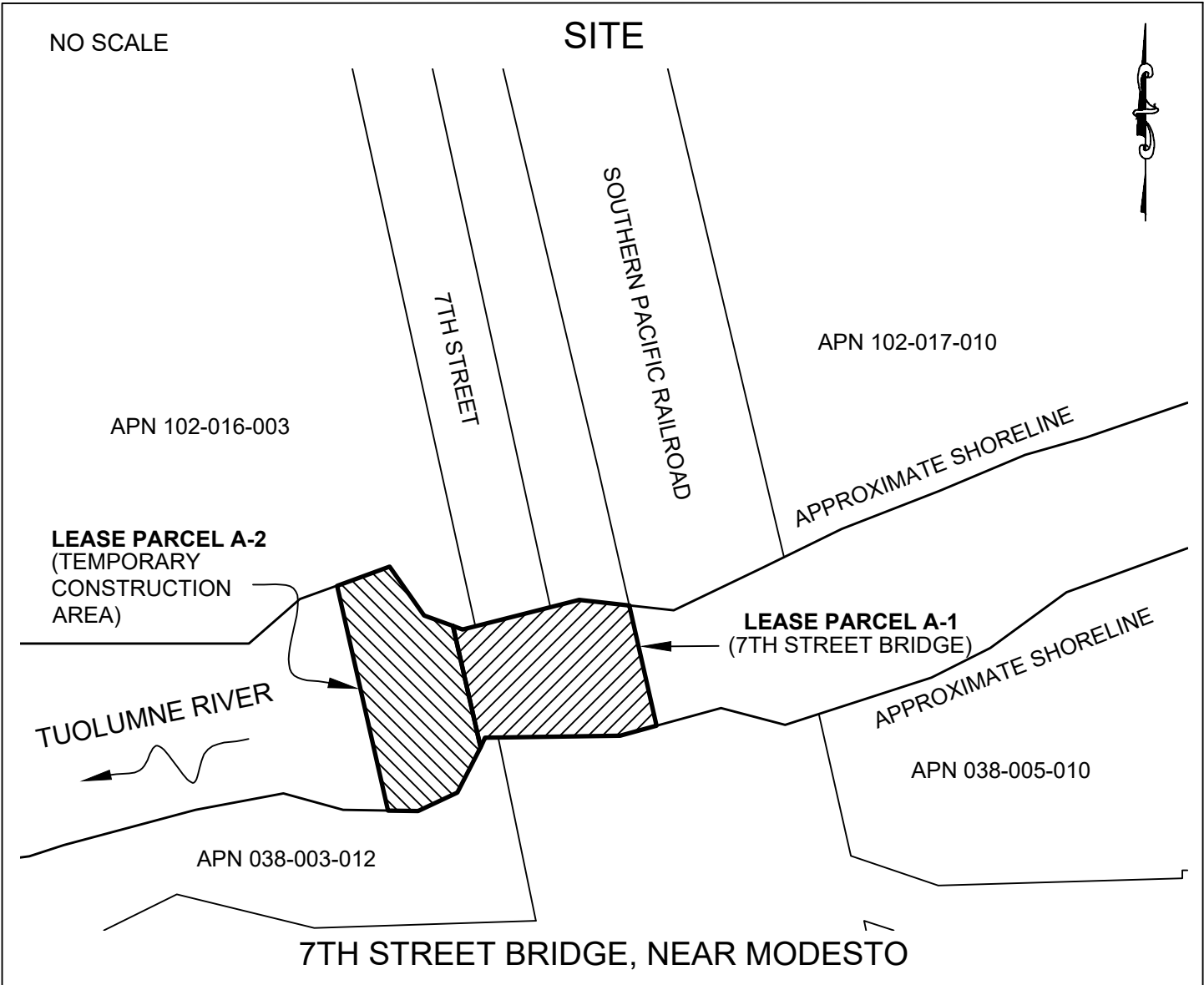


EXHIBIT B

A3262
 COUNTY OF STANISLAUS
 GENERAL LEASE -
 PUBLIC AGENCY USE
 STANISLAUS COUNTY



DJF 10/14/2022

THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
7TH STREET BRIDGE PROJECT
(A3262, State Clearinghouse No. 2013092059)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the 7th Street Bridge Project (Project). The CEQA lead agency for the Project is Stanislaus County.

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 State 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 certified an EIR, State Clearinghouse No. 2013092059, 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

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

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
- 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
BIO 1.	MM BIO 1.	None
CUL 1.	MM CUL 1.	See below
CUL 2.	MM CUL 2.	None
CUL 3a.	MM CUL 3a.	None
CUL 3b.	MM CUL 3b.	None
CUL 4.	MM CUL 4.	None
HAZ 1.	MM HAZ 1.	None

MM CUL 1. If previously unidentified cultural materials are unearthed during construction of the project, work will be halted in that area until a qualified archaeologist can assess the significance of the find. Then a mitigation plan will be created before ground disturbing activities may resume. Additional archaeological survey will be needed if project limits are extended beyond the present survey limits. The final disposition of archaeological, historical, and paleontological resources recovered on State land under the jurisdiction of the California State Lands Commission 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
COUNTY OF STANISLAUS**

Mitigation Monitoring and Reporting Program 7th Street Bridge Project, Modesto, California

Prepared for
Stanislaus County

March 2017

Preface

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the MMRP is to ensure compliance with the mitigation measures during project implementation.

The Environmental Impact Report (EIR) for the 7th Street Bridge Project concluded that the implementation of the project could result in significant impacts to the environment, and therefore mitigation measures were incorporated into the proposed project and are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented (see Table 1). Proposed project oversight is the responsibility of Stanislaus County.

This document does not discuss those subjects for which the EIR concluded that the impacts from implementation of the project would be less than significant.

Trans 1. Increased traffic at SR 99/Crows Landing Road and SR 99/Tuolumne Blvd. intersections.

MM Trans 1. Significant impacts are identified for both study intersections at SR 99 in the Design Year condition – primarily the SR 99/Crows Landing Road intersections and to a lesser extent the SB SR 99/Tuolumne Boulevard intersection. To mitigate this impact, Stanislaus County and the City of Modesto have committed to improving these intersections in the future as part of a locally sponsored project that could include signalization of the ramp intersections.

Method of Compliance: The County will work with the Stanislaus Council of Governments to program these improvements into the 2018 Regional Transportation Plan.

Responsible for Implementation: Stanislaus County

Timing of Compliance: After project construction.

Trans 2. Temporary increased traffic on SR 99 because of potential full closure of the 7th Street Bridge.

MM Trans 2. MM TRANS 2. A temporary short term significant impact is identified on the SR 99 SB mainline segment between Tuolumne Boulevard and Crows Landing Road during the PM peak hour as a result of the potential full closure of the existing 7th Street Bridge. To mitigate this impact, a Traffic Management Plan (TMP) will be implemented before construction begins. As part of the TMP, public information will be distributed by using local news television and radio broadcasts, informational flyers and mailers, Web sites, and other outreach options. Signs will be installed and public notices will be distributed regarding construction work before disruptions occur; the notifications will identify detours to maintain access. The TMP will also include procedures to do the following:

- Notify and coordinate with emergency responders of potential road closure before construction.
- Ensure access for emergency vehicles to and around the project site.
- Notify and coordinate with transit operators of potential road closures before construction.

Method of Compliance: The County will ensure that the TMP is completed and include these provisions in the construction specifications.

The construction contractor shall provide evidence of compliance to the County.

Responsible for Implementation: Stanislaus County

Timing of Compliance: Prior to and during construction.

BIO 1. Impacts to protected species and habitats.

MM BIO 1. Implement the avoidance and minimization measures listed in the Natural Environment Study. Implement compensatory mitigation as described in the Natural Environment Study or as required by the National Marine Fisheries Service or California Department of Fish and Wildlife.

Method of Compliance: The County will include these provisions in the construction specifications. The Construction contractor shall provide evidence of compliance to the County.

Responsible for Implementation: Construction Contractor

Timing of Compliance: During all phases of construction.

CUL 1. Potential to find unanticipated archaeological resources.

MM CUL 1. If previously unidentified cultural materials are unearthed during construction of the project, work will be halted in that area until a qualified archaeologist can assess the significance of the find. Then a mitigation plan will be created before ground disturbing activities may resume. Additional archaeological survey will be needed if project limits are extended beyond the present survey limits.

Method of Compliance: The County will include these provisions in the construction specifications.

Responsible for Implementation: Construction Contractor

Timing of Compliance: During all phases of construction.

CUL 2. Potential to find unanticipated human remains.

MM CUL 2. To minimize potential impacts on and disturbances to human remains and associated or unassociated funerary objects exposed during construction, the following measures will be implemented:

- Pursuant to State Health and Safety Code Section 7050.5(e) and PRC Section 5097.98, if human bone or bone of unknown origin is found at any time during on or offsite construction, all work will stop near the find, and

the Stanislaus County Coroner's Facility will be notified immediately. If the remains are determined to be Native American, the County Coroner will notify the California State Native American Heritage Commission, which will identify the person believed to be the most likely descendant. The archaeologist, project proponent, and most likely descendant will make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Section 15064.5[d]). The agreed upon treatment plan will address the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. California PRC allows 48 hours to reach agreement on a treatment plan. If the most likely descendant and the other parties do not agree on the reburial method, the project would follow PRC Section 5097.98(b), which states that "the landowner or his or her authorized representative will reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."

- The treatment plan will be implemented and findings will be recorded in a professional report by the archaeologist and submitted to the Stanislaus County Coroner's Facility, Stanislaus County, the City of Modesto, and the CHRIS/Northwest Information Center.

Method of Compliance: The County will include these provisions in the construction specifications.

Responsible for Implementation: Construction Contractor

Timing of Compliance: During all phases of construction.

CUL 3a. Demolition of historic property
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MM CUL 3a. Prior to the start of any work that could adversely affect characteristics that qualify the 7th Street Bridge as a historic property, Stanislaus County shall ensure that the bridge shall be the subject of recordation by photography and drawing following the standards of the Historic American Engineering Record (HAER) prior to the start of the undertaking.

- The appropriate level of documentation shall specifically follow HAER criteria at the level specified by the National Park Service (NPS) Regional HAER coordinator. Documentation shall be completed by a qualified

professional who meets the standards for History, Architectural History, or Architecture (as appropriate) set forth by the Secretary of the Interior's Professional Qualification Standards, (36 CFR, Part 61).

- The draft documentation will be submitted for review and approval by the NPS. The final documentation will be distributed to the Library of Congress, the California SHPO, Caltrans District 10, and the Caltrans Transportation History Library in Sacramento. Stanislaus County shall also offer copies of the documentation and provide copies upon request to, at a minimum, the City of Modesto Landmark Preservation Committee; Stanislaus County Public Library, Modesto Branch; McHenry Museum & Historical Society; and the California State University, Stanislaus, Special Collections.

Method of Compliance: The County will prepare the HAER as part of final design.

Responsible for Implementation: Stanislaus County

Timing of Compliance: Prior to construction.

CUL 3b. Demolition of historic property
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MM CUL 3b. Stanislaus County shall implement measures to interpret the 7th Street Bridge's historic significance for the public. A Caltrans PQS Architectural Historian or Principal Architectural Historian shall review and approve the format, text, photographs, and visual simulations / animations. All interpretive materials shall also be made available for review and approval by the SHPO prior to fabrication, installation, or publication.

- Stanislaus County shall install an interpretive display within the pedestrian plaza. The display shall include historical data taken from the HAER documentation and/or other cited archival sources and shall also include photographs. Displayed photographs shall include information about the subject, the date of the photograph, and photo credit / photo collection credit. The interpretive display installed in the pedestrian plaza shall be sufficiently durable to withstand typical Modesto weather conditions for at least ten years, like fiber glass embedment panels, that meet NPS, or similar, signage standards. The interpretive display shall be installed in the pedestrian plaza within 12 months of the completion of the new 7th Street Bridge.
- Stanislaus County shall investigate the feasibility of removing historic elements from the 7th Street Bridge prior to its demolition. If feasible, Stanislaus County shall remove the selected features and install them

within the pedestrian plaza. These features may include one of the concrete lions, railing/bench segments, an obelisk, and one of the bridge's bronze plaques. The concrete lion installed in the pedestrian plaza may be replicated from an original if it is determined that the historic lions are too deteriorated.

- Stanislaus County shall ensure that the selected features are adequately stored and protected during the interim between their removal and installation in the pedestrian plaza. The selected features shall be installed in the pedestrian plaza within 12 months of the completion of the new 7th Street Bridge.
- Stanislaus County shall place historical information from the HAER report on a County or City of Modesto website, with a link provided on a public library website. The historical information shall be made available to the public within 6 months following the demolition of the 7th Street Bridge and shall be available to the public for a minimum period of 3 years. The text shall be written for popular consumption, but also be properly cited following historical documentation standards. The information link shall also be made available to the Caltrans Transportation Library and History Center at Caltrans Headquarters in Sacramento for inclusion on their website.
- Stanislaus County shall provide visual simulations and/or animations of the 7th Street Bridge on the website. The simulations and/or animations will be based from the LIDAR data collected of the structure and may include still images, flythrough images, and point cloud(s). These images are intended to supplement the photographs included in the HAER report. The visual simulations and/or animations shall be made available to the public within 6 months following the demolition of the 7th Street Bridge and shall be available to the public for a minimum period of 3 years.

Method of Compliance: The County will incorporate interpretive exhibits into the final design.

Responsible for Implementation: Stanislaus County

Timing of Compliance: Prior to project completion.

CUL 4. Potential to find unanticipated paleontological resources.
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MM CUL 4. The following MMs would reduce potential adverse impacts on paleontological resources to a less than significant level:

- Prior to working on the site, all personnel involved in earth moving activities will receive Paleontological Resources Awareness Training. Workers will be informed that fossils may be encountered during deeper excavations, are of scientific importance, and need to be reported immediately if they are encountered. The training will provide information on the appearance of fossils, their scientific importance, the role of paleontological monitors, and proper notification procedures.
- A Paleontological Resources Monitoring and Mitigation Program (PRMMP) will be developed before construction to assess the need for construction monitoring. Project design plans will be reviewed to determine whether sensitive geologic units will be disturbed. If monitoring is determined to be necessary, the program will include monitoring and coordination protocols; emergency discovery procedures; and provisions for museum storage of any specimens recovered. Provisions will be made to suspend monitoring should construction activities be restricted to previously disturbed fill and to adjust monitoring protocols based on updated evaluations of sensitivity subsequent to initial excavations.

Method of Compliance: The County will include these provisions in the construction specifications. The County will ensure development of a PRMMP prior to construction to assess the need for paleontological construction monitoring.

Responsible for Implementation: Construction Contractor

Timing of Compliance: Prior to and during all phases of construction.

HAZ 1. Potential release of hazardous materials
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MM HAZ 1. To minimize potential hazards and hazardous materials impacts, the following measures will be implemented:

- A Certified Asbestos Inspector will be retained to conduct an evaluation regarding ACM in the building materials of the bridge.
- The white and yellow road striping paint will be characterized for Pb in the white road striping paint and for Pb and chromium in the yellow road striping paint. If found, hazardous materials would be disposed of according to Caltrans guidance.
- An ADL assessment will be conducted to characterize soils that would be disturbed by the project according to the Caltrans DTSC ADL variance.

- The former orchard soils will be assessed for metals such as Pb and arsenic, organochlorine pesticides, and organophosphates.
- In the Crows Landing Road and 7th Street vicinity locations where right of way will be acquired, the properties will be assessed for soil and groundwater impacts from petroleum hydrocarbon compounds such as gasoline and gasoline additives, diesel, motor oil, automatic transmission fluid, and hydraulic fluid.
- Where right of way is being acquired adjacent to the agricultural products business, a limited assessment of groundwater impacts from pesticides and fertilizers will be conducted to determine possible effects on the study area.
- If hazardous materials are found, federal, state, and local regulations and ordinances will be followed for hazardous material handling and disposal.

Method of Compliance: The County will conduct these studies as part of the final design. The construction contractor shall provide evidence of compliance to the County.

Responsible for Implementation: Construction Contractor

Timing of Compliance: Prior to construction and during demolition.

EXHIBIT D – 7th STREET BRIDGE PROJECT
CALIFORNIA STATE LANDS COMMISSION
STATEMENT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these Findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of an amendment of an existing lease, to Stanislaus County (County), for use of sovereign land associated with the proposed 7th Street Bridge Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines¹, § 15381.) The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306, 6009, subd. (c).) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust.

The Commission is a responsible agency under CEQA for the Project because the Commission must amend a lease for the Project to go forward and because Stanislaus County, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The County analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (FEIR) (State Clearinghouse [SCH] No. 2013092059), and on May 23, 2017, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings, and a Statement of Overriding Considerations.

The Project involves the demolition of the existing 7th Street Bridge over the Tuolumne River, which is a rare surviving example of a cantilevered concrete (“canticrete”) arched bridge, consisting of steel trusses encased in concrete. The 1,170-foot-long bridge was built in 1916 for \$110,000 and is composed of a series of 14 arched spans. Although the bridge is open to traffic, it has been weight restricted to 4 tons gross load since 1979.

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

The newly constructed bridge will be a 1,238-foot-long 8-span arched concrete box girder bridge and will carry two lanes of traffic in each direction. The 79-foot-wide bridge will also accommodate Class II Bike Lanes in each direction and separated combined-use paths on both the east and west sides. The bridge profile will be raised to meet the current hydraulic design requirements. Full roadway closure is required during construction since the proposed alignment of the new bridge is coincident with the existing bridge alignment.

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

- Transportation
- Noise
- Air Quality and Greenhouse Gases
- Energy
- Aesthetics
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning

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

- Cultural Resources
- Biological Resources
- Hazards and Hazardous Materials

In certifying the FEIR and approving the Project, the County imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant for most resource areas. However, even with the integration of all feasible mitigation, the County concluded in the EIR that some of the identified impacts would remain significant. As a result, the County adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The County determined that, after mitigation, the Project may still have significant impacts on Cultural Resources, Noise, and Transportation. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts the

Statement of Overriding Considerations set forth in this exhibit as part of its approval.

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

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

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

3.0 FINDINGS

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the FEIR certified by the County for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.)

While the Commission must consider the environmental impacts of the Project as set forth in the DEIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing an amendment of an existing lease for this Project, the Commission is responsible for considering only the environmental impacts related to lands or

resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the FEIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project FEIR. All significant adverse impacts of the Project identified in the DEIR relating to the Commission's approval of an amendment of an existing lease, which would allow the reconstruction of the 7th Street Bridge, are included herein and organized according to the resource areas affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which a FEIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

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

A discussion of supporting facts follows each Finding.

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

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

consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological, or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the FEIR.

A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Noise

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

- Air Quality and Greenhouse Gases
- Energy
- Aesthetics
- Hydrology and Water Quality
- Land Use and Planning

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

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table D-1 were determined in the DEIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the County concluded in the DEIR that the other identified potentially significant impacts will remain significant. Table D-1 identifies those impacts that the County determined would be, after mitigation, significant and unavoidable (SU).

Table D-1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. (LTSM)	Impact Nos. (SU)
Biological Resources	BIO 1	
Cultural Resources	CUL 1, CUL 2, CUL 4	CUL 3
Hazards and Hazardous Materials	HAZ 1	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the FEIR to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

1. BIOLOGICAL RESOURCES

<p>CEQA FINDING NO. BIO 1</p> <p>Impact: Impact BIO 1. Impacts to protected species and habitats.</p> <p>Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the DEIR.</p>

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in impacts to protected species and habitats.

Implementation of MM BIO-1 has been incorporated into the Project to reduce this impact to a less than significant level by avoiding and minimizing construction effects on sensitive species and habitats through the implementation of seasonal restrictions, preconstruction surveys, construction

worker awareness training, best management practices, and similar actions which would prevent harassment or mortality below environmental thresholds identified in the DEIR.

MM BIO-1.

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

2. CULTURAL RESOURCES

CEQA FINDING NO. CUL 1

Impact: **Impact CUL 1. Potential to find unanticipated archaeological resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the DEIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to find unanticipated archaeological resources.

Implementation of MM CUL-1 has been incorporated into the Project to reduce this impact to a less than significant level. MM CUL-1 requires work on the project to be halted in the event cultural resources are discovered and assessment of the find by a qualified archaeologist. In addition, it requires a mitigation plan to be created before further ground-disturbing work may resume. These measures will reduce impacts to unanticipated archeological finds below environmental thresholds identified in the DEIR.

MM CUL-1.

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

CEQA FINDING NO. CUL 2

Impact: **Impact CUL 2. Potential to find unanticipated human remains.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the DEIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to find unanticipated human remains.

Implementation of MM CUL-2 has been incorporated into the Project to reduce this impact to a less than significant level. MM CUL-2 requires the Project to be halted in the event that a human bone or bone of unknown origin is found and the immediate notification of the appropriate person (i.e., Stanislaus County Corner's Facility and the Native American Heritage Commission) to assess the proper handling of the human remains. These measures will reduce the impacts to the human remains below environmental thresholds identified in the DEIR.

MM CUL-2.

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

CEQA FINDING NO. CUL 4

Impact: **Impact CUL 4. Potential to find unanticipated paleontological resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the DEIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential find unanticipated paleontological resources.

Implementation of MM CUL-4 has been incorporated into the Project to reduce this impact to a less than significant level. MM CUL-4 requires that all personnel involved in earth-moving activities receive Paleontological Resources Awareness training which will reduce the impacts to unanticipated paleontological resource finds below environmental thresholds identified in the DEIR.

MM CUL-4.

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

3. HAZARDS AND HAZARDOUS MATERIALS

CEQA FINDING NO. HAZ 1

Impact: **Impact HAZ 1. Potential release of hazardous materials.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the DEIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to release of hazardous materials.

Implementation of MM HAZ-1 has been incorporated into the Project to reduce this impact to a less than significant level by requiring potential hazards and hazardous materials, including asbestos-containing materials, aerially deposited lead, and soil and groundwater pollution from prior agricultural and industrial uses to be inspected by appropriate personnel. In the event that hazardous materials are found, federal, state, and local regulations and ordinances will be followed for proper handling and disposal which will reduce the impacts from hazards and hazardous materials below environmental thresholds identified in the DEIR.

MM HAZ-1.

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

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the FEIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

4. CULTURAL RESOURCES

CEQA FINDING NO. CUL 3

Impact: **Impact CUL 3. Demolition of historic property**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the DEIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the demolition of historic property. The 7th Street Bridge is the sole historic property in the architectural Area of Potential Effect. The structure was previously determined eligible for the listing in the National Register of Historic Places (NRHP) as a result of the Caltrans Historic Bridge Inventory conducted in 1986, a conclusion that was reaffirmed in the Caltrans Historic Bridge Inventory of the early 2000s. The structure is also listed in the California Register of Historic Resources, based on the formal determinations of eligibility to be listed in NRHP. In addition, the bridge was designated a Landmark Preservation Site by the Modesto City Council in 1992. The Project would have a direct adverse effect to the historic property because it would demolish the bridge to construct a new bridge.

Implementation of MM CUL-3a and CUL-3b has been incorporated into the Project and would reduce the severity of Impact CUL 3, although not necessarily to a less than significant level.

MM CUL-3a.

MM CUL-3b.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

E. FINDINGS ON ALTERNATIVES

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

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

is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The five alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) Alternative 2A: Existing Bridge Alignment (Arch Bridge);
- 2) Alternative 2B: Existing Bridge Alignment (Standard Bridge);
- 3) Alternative 3: Existing Alignment with Stage Construction;
- 4) Alternative 4: Retrofit and New Two-Lane Bridge; and
- 5) No Project Alternative.

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Based on the analysis contained in the DEIR, Alternative 2A: Existing Bridge Alignment (Arch Bridge) is the environmentally superior alternative. No one alternative would eliminate the significant and adverse impacts of the proposed Project.

The County independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the County's independent judgment as to alternatives. The County found that the Project provides the best balance between the Project goals and objectives and the Project's benefits. The five CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible due to the higher costs of the other alternatives.

Based upon the objectives identified in the FEIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the 7th Street Bridge Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable, and the decision-making agency may approve the underlying project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the County and Commission have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under one resource area: Cultural Resources (see Table D-2). This impact is specifically identified and discussed in more detail in the Commission's CEQA Findings and in the County's FEIR. While the Commission has required all feasible mitigation measures, this impact remains significant for purposes of adopting this Statement of Overriding Considerations.

Table D-2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Cultural Resources	
CUL 3. Demolition of historic property	The proposed 7 th Street Bridge Project would result in significant unavoidable demolition of the 7 th Street Bridge which is eligible for listing in both the National Historic Preservation Act and the California Register of Historical Resources because it is a rare surviving example of a

Impact	Impact Description
	canticrete bridge within California. There are no other feasible mitigation measures that are available to offset this significant impact.

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the DEIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the DEIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Project seeks to rebuild the 7th Street Bridge, an important thoroughfare across the Tuolumne River serving communities in south Modesto. The existing bridge is near the end of its serviceable life, and its replacement is a

matter of safety to the public crossing the bridge and to preserve Public Trust values in the river below, which could be affected by a failure or collapse of the bridge. The benefits of the Project outweigh the significant effects of demolition of the existing bridge provided the long-expected lifespan on the new bridge and its ability to reduce traffic and congestion on the 9th Street Bridge or Highway 99 bridges, nearby. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the DEIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

D. CONCLUSION

The Commission has considered the FEIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect Public Trust uses of State sovereign land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the FEIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.