

**CALENDAR ITEM
C14**

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01/29/09
W 26268
PRC 8816
PRC 8730.9
R. Barham

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GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

California Department of Transportation
P.O. Box 3700
Eureka, CA 95502

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the bed of the Mad River, near the State Route 101 Bridge crossing between the towns of Arcata and McKinleyville, Humboldt County.

AUTHORIZED USE:

Construction and use of an engineered, self-maintaining salmonid "scour hole" feature; and the construction, use, and removal of temporary fish exclusion zone structures and a temporary sedimentation basin associated with the State Route 101 Mad River Bridge replacement project.

LEASE TERM:

"Scour Hole" Feature: 20 years, beginning January 29, 2009.

Sedimentation Basin and Fish Exclusion Zone Structures: Six years, beginning January 29, 2009 or the upon the completion of pile driving activities, whichever occurs first.

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 interest.

OTHER PERTINENT INFORMATION:

1. Applicant owns or has the use of the uplands adjoining the lease premises.

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2. On December 14, 2006, the Commission authorized Lease No. PRC 8730.9 to the California Department of Transportation (Caltrans), for the removal and construction of the State Route 101 northbound and southbound bridges over the Mad River pursuant to Section 101.5 of the Streets and Highways Code. Subsequently, Caltrans informed Commission staff that the National Marine Fisheries Service (NMFS) and the California Department of Fish and Game (DFG) are requiring two mitigation projects in the bed of the River in order to mitigate short and long term impacts to salmonids during and after completion of the Bridge project. Caltrans is also requesting a temporary work area for the construction and eventual removal of a sedimentation basin. Caltrans has now submitted an application for the temporary and long term use of additional state lands outside the Bridge right of way authorized under Lease No. PRC 8730.9.

3. The project will consist of the following improvements and activities:
 - a. The "scour hole" feature, as a mitigation measure for impacts to salmonids, will replace the existing naturally-occurring scour hole that the new bridge construction will eliminate. The feature will be constructed in the fourth or final bridge construction season and will be located approximately 200 feet downstream from the bridge. The feature will be comprised of up to three 24-inch diameter tree stumps with roots approximately 25 feet in length placed horizontally on and through a rock slope bank protection into the River streambed and will provide fish protection and spawning habitat. The feature will be dug to a depth of approximately two and one-half feet below the River streambed in order to develop and maintain a scour hole effect and it is anticipated that the scour hole will be self maintaining. The scour hole will be inspected by Caltrans for a minimum of three years after construction and then each five years for the remaining term of the lease. Any excess gravel removed from the scour hole will be spread out into the River streambed.

 - b. The temporary fish exclusion zone (FEZ) structures will be used for the sole purpose of excluding, to the extent feasible, juvenile and adult salmonids and other aquatic life forms from an area potentially impacted by excessive acoustic sound resulting from pile driving activities during bridge construction. The FEZ structures will be constructed of a series of adjacent weir panels comprised of a square wood frame with plastic or metal netting stapled to the frame and then held in place across the fish migration channel with T-bar fence posts.

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Where these two panels intersect the weirs, the cross-river weirs will have removable sections that will provide a corridor through the construction area when removed. The area of potential disturbance will be constantly monitored and the acoustic sound is projected to occur within the approximate zone limits of 450 feet and up to a maximum of 610 feet upstream and downstream from pile driving activities as shown on Exhibit A.

Caltrans estimates that pile driving activities will take two of the four or five construction seasons and are expected to begin construction in season one (2009) and again in season three (2011) which are expected to commence after July 1st and cease by September 1st of each year. The FEZ will be removed entirely from the River when no piling driving activities are taking place during the period from mid-September through mid-June.

Salmonids within the FEZ structures will be removed by seining, electro-fishing, and passive trapping at least two days prior to pile driving operations and will be released approximately 300 meters upstream and downstream of the FEZ structures. The fish migration channel operation will be directed by a DFG representative and the channel will be opened (for duration of not less than 24 hours) a minimum of six times during the in-water pile-driving work window, and when pile driving is scheduled to cease for more than 48 hours. In addition, the channel will be opened immediately at the end of a work day when directed by a DFG representative, in order to prevent predation of salmonids by pinnipeds and/or poachers. During periods when pile-driving would not occur for at least seven days, the corridor would be opened to allow fish migration and navigational access through the construction area.

When in place, the weir structures will exclude in-water navigational activities. Cautionary notices will be placed on the weirs and hazard signs and/or buoys 100 feet upstream of the weirs will be placed to warn boaters of a downstream navigational hazard. Notices will be posted at local sports and outfitter businesses indicating the tentative dates that the River will be closed and suggest alternative nearby location(s) that will be open to navigation. Commission staff has consulted with staff with the Department of Boating and Waterways (DBW) and provided a project description and Caltrans' program for their review. Caltrans has agreed to implement any additional measures that may be recommended by DBW, including posting notification of the River closures on DBW's website and posting on the

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“Notice to Mariners” web based information system. The FEZ structures may be placed across the active riverbed only between July and September and during those periods, portage access for kayaks and canoe users will be available around each end of the FEZ structures over the dry riverbed.

- c. A temporary sedimentation basin will be constructed upstream and adjacent to the bridge structure and will be used for dewatering bridge piling installations. The sedimentation basin will be removed and the River restored at completion of the Bridge project.
4. Staff is recommending a lease term of 20 years for the salmonid “scour hole” feature, with a lease provision for early termination by mutual agreement of the parties if this feature becomes completely displaced as a result of natural seasonal water flows and does not pose a present or future hazard to navigation. For the temporary construction work area for the fish exclusion zone structures and the sedimentation basin, staff is recommending that the lease terminate after six years or upon the completion of the pile driving activities, whichever occurs first.
5. A Mitigated Negative Declaration was prepared and adopted for this project by the California Department of Transportation. The California State Lands Commission’s staff has reviewed such document. A Mitigation Monitoring Program was adopted by the California Department of Transportation.
6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff’s consultation with the persons nominating such lands and through the CEQA review process, it is the staff’s opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Regional Water Quality Control Board, North Coast Region
California Department of Fish and Game
California Coastal Commission
U.S. Army Corps of Engineers
National Marine Fisheries Service

EXHIBITS:

- A. Site and Location Map
- B. Land Description

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN THE ENVIRONMENTAL DOCUMENT, WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION.

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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE, TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION BEGINNING JANUARY 29, 2009, FOR A TERM OF 20 YEARS FOR THE CONSTRUCTION AND USE OF AN ENGINEERED SELF-MAINTAINING SALMONID "SCOUR HOLE" FEATURE; AND FOR A TERM OF SIX YEARS OR UPON THE COMPLETION OF PILE DRIVING ACTIVITIES, WHICHEVER OCCURS FIRST, FOR THE CONSTRUCTION, USE, AND REMOVAL OF TEMPORARY FISH EXCLUSION ZONE STRUCTURES AND A TEMPORARY SEDIMENTATION BASIN AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND AS DESCRIBED IN EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.