

**CALENDAR ITEM
C29**

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06/01/09
W 26062
K. Foster

GENERAL LEASE - PUBLIC AGENCY USE

APPLICANT:

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, 7th Floor
Fresno, CA 93721

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Kings River, near the city of Sanger, Fresno County.

AUTHORIZED USE:

Demolition of the existing Goodfellow Avenue Bridge crossing the Kings River; and the construction, use, and maintenance of a new bridge within the same alignment, placement of rock bank protection, and the potential abandonment in place of two bridge pilings.

LEASE TERM:

20 years, beginning June 1, 2009.

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.

SPECIFIC LEASE PROVISIONS:

1. Lessee shall not place, attach, or authorize the placement of any utilities or other improvements on the Bridge or within the Lease Premises without the Lessor's prior review and approval. Separate leases shall be obtained for all utilities not operated by Lessee.

2. Lessee shall place warning signage and/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 project and to advise the public to exercise caution. Lessee shall place and maintain such signage

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at all times during bridge removal and construction activities, and shall notify the California Department of Boating and Waterways of the location, description, and purpose of such signage upon their installation and removal.

OTHER PERTINENT INFORMATION:

1. Applicant owns and has the right to use the uplands adjoining the lease premises.
2. The existing Goodfellow Avenue bridge crossing the Kings River in Fresno County was constructed in 1938, but was not authorized by the Commission. A California Department of Transportation (CalTrans) inspection determined that the Bridge is structurally deficient and functionally obsolete, and therefore qualifies for federal replacement funding under the Federal Highway Administration's (FHWA) Federal Highways Bridge Replacement and Rehabilitation Program. CalTrans will provide oversight authority for the project on behalf of the FHWA.

The replacement bridge will consist of a single, undivided, two-lane approximately 34-foot wide by 520-foot long cast-in-place concrete box girder structure supported on each end by abutments anchored with concrete cast-in-steel-shell piles, with two concrete cast-in-drilled-hole piles supporting the span.

- 3 The Bridge will be closed to traffic during construction and the existing structure will be removed in its entirety, with the exception that the existing foundation piles may be cut-off below the mud line and left in place if the County is unsuccessful in its attempts to remove the piles completely. Removal of the Bridge and construction of the substructure will begin in September when River flows are low. Once this phase is completed, construction of the superstructure will begin in December and end in June, at the beginning of irrigation season. Rock slope protection will be placed at each abutment to protect the roadway embankments from scour. A construction cofferdam is proposed to be located on the upstream side of the River to divert water and to allow construction access across the River. Alternatively, the contractor may construct a temporary low water trestle bridge to access both sides of the River. Whichever River access is constructed, the River bed and banks will be returned to their original condition upon completion of construction activities. The County will place warning signage and/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 project and to advise the public to

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exercise caution. The signage will remain in place by the County at all times during bridge removal and construction activities.

4. In the event the County is unable to remove the piles completely, the County will remain responsible for any abandoned structures. Should the Commission determine that any abandoned structures have become a hazard to the public, the County will be required to remedy the hazard.
5. A Mitigated Negative Declaration was prepared and adopted for this project by the county of Fresno on December 18, 2007. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the county of Fresno on December 18, 2007.
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:

County of Fresno; California Regional Water Quality Control Board; United States Fish and Wildlife Service; and the United States Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

California Department of Fish and Game; and the Central Valley Flood Protection District

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

June 8, 2009

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 COUNTY OF FRESNO ON

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DECEMBER 18, 2007 AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, ATTACHED AS EXHIBIT C.

SIGNIFICANT LANDS INVENTORY FINDING:

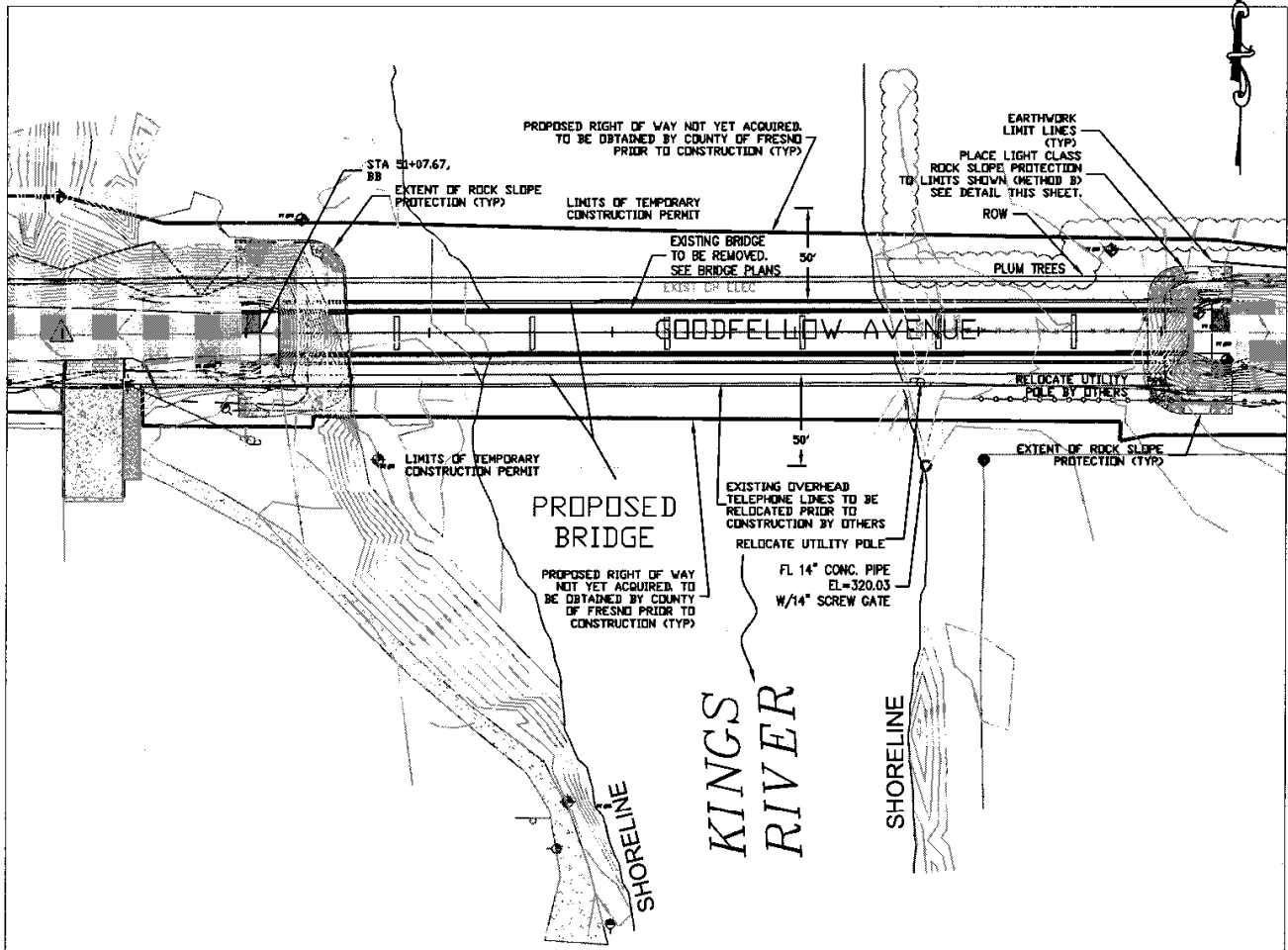
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE TO THE COUNTY OF FRESNO BEGINNING JUNE 1, 2009, FOR A TERM OF 20 YEARS, FOR THE DEMOLITION OF THE EXISTING GOODFELLOW AVENUE BRIDGE AND THE CONSTRUCTION, USE, AND MAINTENANCE OF A NEW BRIDGE CROSSING THE KINGS RIVER, ROCK BANK PROTECTION, AND THE POTENTIAL ABANDONMENT IN PLACE OF TWO BRIDGE PILINGS, 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 IS 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.

NO SCALE

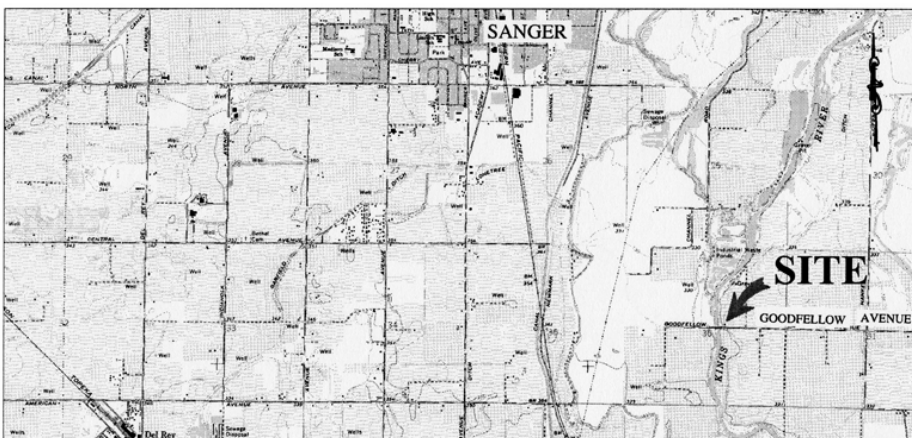
SITE



GOODFELLOW AVENUE @ KINGS RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

W26062
 COUNTY OF FRESNO
 GENERAL LEASE -
 PUBLIC AGENCY USE
 FRESNO COUNTY



SITE

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

MITIGATION MEASURES

W 26062

Initial Study Application No. 5240 (Kings River Bridge on Goodfellow Avenue)

This project has been modified to incorporate the following provisions to mitigate potential adverse environmental effects identified in the above environmental document. A change in these provisions may affect the validity of the current environmental document, and a new or amended environmental document may be required. The mitigation measures must be included as project conditions and be identified with an asterisk () so they can be readily identified as mandatory mitigation measures for this project.*

- *1. Potential impacts to biological resources as identified in the May 2007 Natural Environmental Study Report prepared for the project shall be addressed by compliance with the mitigation measures noted in Chapter 4 of the Study and summarized below:
 - A. Prior to the start of construction the County or its contractor shall install orange construction barrier fencing around the sensitive biological resources adjacent to the construction area.
 - (1) Prior to the start of construction, the construction contractor shall work with the project engineer and a qualified wildlife biologist to identify the locations for the barrier fencing and shall place stakes around the sensitive resources. The sensitive resources shall be designated an environmentally sensitive area and shall be identified clearly on the construction plans.
 - (2) The temporary fencing shall be installed as specified in Chapter 4 of the Natural Environmental Study dated May 2007.
 - (3) The following paragraph shall be included in the construction specifications:

"The contractor's attention is directed to the areas designated as "environmentally sensitive areas". These areas are protected, and no entry by the contractor for any purpose shall be allowed unless specifically authorized in writing by Fresno County. The contractor shall take measures to ensure that contractor's forces do not enter or disturb these areas, including giving written notice to employees and subcontractors. Vehicle operation, material and equipment storage, and other surface-disturbing activities are prohibited within the fenced environmentally sensitive areas."
 - B. The County or its contractor shall avoid and minimize potential indirect disturbance of riparian communities by, to the maximum extent feasible, trimming rather than removing vegetation and by retaining a certified arborist to perform any necessary pruning or root cutting of riparian trees. The County or its contractor shall comply with the measures noted on page 4-2 of the May 2007 Natural Environmental Study regarding trimming vegetation and tree removal.
 - C. Prior to the start of construction, including grading, a qualified wildlife biologist shall conduct mandatory contractor/worker awareness training for construction

personnel. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work.

- D. Prior to the start of construction the County shall retain a qualified wildlife biologist to conduct weekly site visits to monitor construction activities in and adjacent to environmentally sensitive habitat areas. The biological monitor shall assist the construction crew as needed to comply with all relevant permits and conditions of approval.
- E. The County or its contractor shall compensate for temporary construction-related disturbance of riparian vegetation at the Kings River Bridge by replanting temporarily impacted areas with native species that were removed. Replanting shall occur after completion of construction activities at the bridge.
 - (1) The County or its contractor shall compensate for permanent loss of 0.473 acres of riparian vegetation within the permanent impacted area of the project site at a minimum ratio of 1:1 (1 acre restored or created for every 1 acre permanently affected.) This ratio shall be confirmed through coordination with State and Federal agencies as part of the permitting process for the project.
 - (2) All replacement riparian planting shall be conducted in accordance with the mitigation measure noted in section 4.1.1.4 of Chapter 4 of the Natural Environmental Study prepared for the project.
- F. To avoid construction-related impacts to Western pond turtles, the County or its contractor shall retain a qualified wildlife biologist to conduct a preconstruction survey for Western pond turtle, no more than 48 hours prior to the start of construction. The survey shall be conducted according to section 4.3.2.2, of Chapter 4 of the Natural Environmental Study prepared for the project.
- G. To avoid and minimize impacts on nesting migratory birds the County or its contractor shall implement either of the following survey and restrictions:
 - (1) Tree and shrub removal shall occur during the non-breeding season for most migratory birds and raptor generally between September 1 and February 28.
 - (2) If construction activities (including tree and shrub removal) are scheduled to occur during the breeding season (generally between March 1 and August 31) the County shall retain a qualified wildlife biologist to conduct nesting migratory bird and raptor surveys before the start of construction. The nesting survey shall be conducted within one week before the start of construction, including tree removal between March 1 and August 31st. If surveys indicate the presence of migratory birds or raptor, a no disturbance buffer shall be established around the site as noted in section 4.3.3.2, Chapter 4 of the Natural Environmental Study, prepared for the project.
- H. The County or its contractor shall conduct a preconstruction nesting swallow survey and perform exclusion measures if necessary on the underside of the bridge to prevent swallows from nesting. The survey and the swallow exclusion shall be conducted as noted in section 4.3.6.2, Avoidance and Minimization Measures, of Chapter 4 of the Natural Environmental Study, prepared for the project.

- I. The County's contractor shall be responsible for avoiding the introduction of new invasive plants and the spread of invasive plants previously documented in the study area. The measures noted in section 4.5.1.2 of Chapter 4 of the Natural Environmental Study shall be provided in the request for construction bids for the proposed project and the selected contractor shall be financially responsible for complying with and implementing the invasive plant control measures. The measure noted in section 4.5.1.2 of the Natural Environmental Study shall be implemented during construction.
- *2. In order to minimize impacts to Federal listed species as well as compliance with State and Federal law, the following is required:
 - A. The County shall comply with the provisions of the Biological Opinion rendered by the U.S. Fish and Wildlife Service (Service) on 10/26/06, and the Service approved Valley Elderberry Longhorn Beetle Habitat and Monitoring Plan prepared by H.T. Harvey and Associates, dated 03/23/07.
 - (1.) Within three months prior to construction, an elderberry shrub survey shall be performed on the shrub that will be transplanted to verify the number of stems that will be affected by this project. If the stem count is different from the amount specified in the 10/26/06 Biological Opinion rendered by the Service, the Service shall be contacted to adjust the number of plantings required for compensation.
 - (2.) Prior to the start of any construction, the Shrub that will not be removed shall be encircled by a minimum 20-foot buffer area. The buffer area and the shrub itself shall be depicted on the construction plans, designated as an environmentally sensitive area on the construction plans and fenced with orange mesh fencing prior to construction.
 - (3.) Impacts to the Valley Elderberry Longhorn Beetle (VELB) shall be compensated by transplanting the permanently impacted Elderberry shrub identified in the Biological Opinion, and planting an additional four Elderberry seedlings and four associated native plants. The Elderberry shrub to be removed shall be transported and transplanted at the Jensen River Ranch Habitat Restoration and Public Access or other Service approved site. The transplant and new plantings shall be conducted in accordance with the Service's Conservation Guidelines for the Valley Elderberry Longhorn Beetle.
 - (4.) The County shall obtain a Memorandum of Understanding (MOU) with the San Joaquin River Conservancy, documenting that the VELB habitat mitigation site shall be preserved in perpetuity and protected from physical alterations.
 - (5.) Dust control measures, including application of water to graded and disturbed areas that are un-vegetated, shall be implemented during *transplanting* activities at the Jensen River Ranch Habitat Restoration and Public Access or other Service approved site.
- *3. To protect water quality in the study area, the County's contractor shall implement the following water quality BMP's before and during construction:

- (1) Equipment used in and around waters of the United States shall be in good working order and free of dripping or leaking equipment fluids. All vehicle maintenance, staging, and materials storage shall occur at least 300 ft. from all waters of the United States. Any necessary equipment washing shall occur where the water cannot flow into the stream channel.
 - (2) Any surplus concrete rubble, asphalt or other rubble from construction shall be taken to a local landfill.
 - (3) An erosion control plan shall be prepared and implemented for the project and shall include the provisions and protocols listed on pages 4 and 5 of the May 2007, Natural Environmental Study, prepared for the project,
- *4. In the event cultural resources are unearthed during grading or construction, all work shall be halted in the area of the find, and an archaeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.
- *5. Noise sources associated with construction are exempt from the Fresno County Noise Ordinance between the hours of 6:00am and 9:00pm, Monday through Friday and between 7:00a.m. and 5:00p.m. on Saturday and Sunday. The proposed project shall comply with the Fresno County Noise Ordinance. Construction specifications for the project shall require that all construction equipment be maintained according to the manufacturers' specifications, and that noise generating construction equipment is equipped with mufflers.
- *6. In order to comply with State and Federal law, prior to the start of construction, the County shall obtain and implement the conditions of the following permits:
- Clean Water Act (CWA) Section 404 nationwide permit from the U.S. Army Corps of Engineers – NWP#3 (maintenance of existing transportation structure) or NWP#14 (linear transportation projects) and NWP #33 (temporary access and dewatering).
 - CWA Section 401 Water Quality Certification from the Regional Water Quality Control Board.
 - California Fish and Game Code Section 1602 Streambed Alteration Agreement from the California Department of Fish and Game.
 - CWA Section 402/National Pollutant Discharge Elimination System permit from the State Water Resources Board.
- *7. The Design Division shall survey the bridge for lead paint and asbestos prior to the start of construction and if found, special provisions will be included in the project specifications addressing worker safety during construction and proper disposal of lead paint and asbestos. In addition, mandatory contractor/worker awareness training shall be held prior to construction for construction personnel to address safety and hazardous materials.

The mitigation measures listed above shall be included in all design plans and specifications and are offered as conditions of project approval.



Signature of Applicant or
Authorized Representative

10-23-07

Date

The following are regulatory requirements and shall be incorporated into the project as are project notes:

1. An application, filing fee, and processing fee is required by the California State Land Commission for a lease for bridge encroachment. Please contact Jane Smith from the State Land Commission Office at (916) 574-1892 for more information.
2. The project may be subject to permitting requirements of the San Joaquin Valley Air Pollution Control District and require a Permit to Operate and/or an Authority to Construct. The project is subject to compliance with the Air District's Regulation VIII (Fugitive PM 10 Prohibitions) and Rule 4641 (Cutbacks, Slow Cures and Emulsified Asphalt, Paving and Maintenance Operations.). For more information please contact Renee Devere, Air Quality Specialist 230-5800.