

**CALENDAR ITEM
C34**

A 17,25,29,31

08/11/09

W 26341

S 12,14,16

J. Smith

GENERAL LEASE - PUBLIC AGENCY USE

APPLICANT:

California Department of Water Resources
3374 E. Shields Avenue
Fresno, California 93726

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the San Joaquin River at various locations from Friant Dam downstream to the confluence with the Merced River, Stanislaus, Merced, Fresno, and Madera counties.

AUTHORIZED USE:

Installation and maintenance of stream gages, water level recorders, and scour chains.

LEASE TERM:

20 years, beginning August 11, 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.

OTHER PERTINENT INFORMATION:

1. Applicant has a right to use the lands adjoining the lease premises.
2. The California Department of Water Resources (DWR) has submitted an application requesting that the Commission authorize the installation of stream gages, water level recorders, and scour chains in the San Joaquin River (River) at various locations from Friant Dam downstream to the confluence with the Merced River in Stanislaus, Merced, Fresno, and Madera counties.

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On September 13, 2006, after more than 18 years of litigation, a settlement was reached in a federal lawsuit known as *NRDC, et al., v. Kirk Rodgers, et al.* The Settling Parties (Natural Resources Defense Council, Friant Water Users Authority, and the U.S. Departments of the Interior and Commerce) reached agreement on terms and conditions, which were subsequently approved by the U.S. District Court on October 23, 2006. The two primary goals of the Settlement are (1) to restore self-sustaining populations of spring and fall run Chinook salmon in the San Joaquin River, and (2) to ensure irrigation supplies to Friant Division contractors.

The San Joaquin River Restoration Program (Program) is a multi-agency effort to implement the conditions of the Settlement. The "Implementing Agencies" responsible for the management of the Program include the U.S Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, the California Department of Water Resources, and the California Department of Fish and Game.

DWR's installation of the stream gages, water level recorders, and scour chains will provide data necessary to develop and calibrate hydraulic and sediment transport models that will be used to support the engineering designs for the Program.

3. **Stream Gages:** A Mitigated Negative Declaration SCH #2008092116 was prepared and adopted by the California Department of Water Resources on March 17, 2009, for the portion of the project that proposes to install and retrofit stream gages. The Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the California Department of Water Resources.

Water Level Recorders and Scour Chains: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that the activity of installing scour chains and water level recorders is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 6, Information Collection; Title 2, California Code of Regulations, 2905 (e)(5).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

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4. 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:

U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game, and the Central Valley Flood Protection Board

EXHIBITS:

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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

STREAM GAGES: FIND THAT A MITIGATED NEGATIVE DECLARATION SCH #2008092116 AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES ON MARCH 17, 2009, AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

WATER LEVEL RECORDERS AND SCOUR CHAINS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 6, INFORMATION COLLECTION; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (e)(5).

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.

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AUTHORIZATION:

AUTHORIZE ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES BEGINNING AUGUST 11, 2009, FOR A TERM OF 20 YEARS, FOR INSTALLATION AND MAINTENANCE OF STREAM GAGES, WATER LEVEL RECORDERS, AND SCOUR CHAINS AT VARIOUS LOCATIONS IN THE SAN JOAQUIN RIVER, AS SHOWN ON EXHIBIT A (FOR REFERENCES PURPOSES ONLY) AND DESCRIBED ON 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.