

**CALENDAR ITEM
C54**

A 12

02/22/13

W 26598

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G. Asimakopoulos

GENERAL LEASE – DATA COLLECTION USE

APPLICANT:

FISHBIO Environmental, LLC, A California Limited Liability Company
1617 South Yosemite Avenue
Oakdale, CA 95361

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Stanislaus River, adjacent to Assessor's Parcel Numbers 074-003-022 (Stanislaus County) and 247-250-12 (San Joaquin County), near the town of Riverbank at river-mile 31.4

AUTHORIZED USE:

Seasonal installation, use, maintenance, and removal of a resistance board fish counting weir used to conduct research and collect data on upstream migrating adult Chinook Salmon and Central Valley Steelhead, and temporary placement of warning buoys, not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 22, 2013

CONSIDERATION:

The public use and benefit, as the information collected will result in a public 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:

Insurance:

Liability insurance with coverage of no less than \$1,000,000

Other:

Applicant agrees to install and maintain at all times during operation, precautionary signage or warning buoys upstream and downstream of the operation in the river to provide adequate warning notices to recreational users of the potential safety hazards associated with the operation.

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OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the upland adjoining the lease premises.
2. For the past 10 years, and under the direction of the U.S. Fish and Wildlife Service, both Cramer Fish Sciences (from 2002 to 2006), and FISHBIO Environmental, LLC (Fishbio, from 2007 to present), companies specializing in monitoring, tracking, and analyzing trends in fish populations and habitat, have been operating a fish counting weir in the Stanislaus River. The weir is located on State-owned sovereign land, but has not been previously authorized by the Commission. Fishbio is now applying for a General Lease – Data Collection Use.
3. The purpose of the project is to collect biological data from upstream migrating adult Chinook Salmon and Central Valley Steelhead. The data collected is used by various agencies. The project is currently funded by the Tri-Dam Project, which is a joint-venture (partnership) between the Oakdale Irrigation District and the South San Joaquin Irrigation District, and consists of the seasonal installation, operation, and removal (September through June of each year), of a portable resistance board weir in the lower Stanislaus River for fisheries monitoring. The floating weir creates a temporary barrier in the river and is designed to guide the migrating adult salmonids and steelhead through a confined area where they can be enumerated. The collection of important salmon and steelhead migration information is beneficial to the recovery of the species.
4. The project is located adjacent to upland property owned by the U.S. Army Corps of Engineers (USACE). USACE has issued an easement to Fishbio to access the river via its property. The project area consists of the 0.10-acre project footprint including the 0.05-acre area occupied by the weir itself, as well as the additional 0.05-acre of directly abutting onshore areas used for staging and computer lock box installation. The weir is installed and removed by personnel wading in the river and using hand tools to drive rebar stakes and anchors. No heavy equipment or machinery is used during the duration of the project. There are no effects on levees in the project location.
5. A resistance board weir consists primarily of an array of rectangular panels made of evenly spaced PVC pickets aligned parallel to the direction of flow. The upstream end of each panel is hinged to a rail that is

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anchored to the substrate and the downstream end of the panel is lifted above the surface by a resistance board that planes upward in flowing water. When all components are installed, the resulting barrier inhibits fish from migrating upstream except through the passing chute, yet allows water to pass. A passing chute on one of the panels guides fish into a livebox where they can be visually counted, electronically counted, or captured, before being allowed to pass upstream.

6. Because the Stanislaus River is a navigable waterway and is frequently used for recreation, the weir was designed to be passable by boat. The Stanislaus River weir has a boat passage area where specially designed resistance panels allow boats to pass either upstream or downstream over the weir.
7. To minimize erosion of the stream bank in the project area, coir logs are placed on the bank. Warning buoys are located upstream and downstream of the project area to provide adequate warnings to recreational users on the Stanislaus River of potential safety hazards associated with the project, and notifying boaters to maintain a speed of no more than five miles per hour.
8. The staff recommends that the Commission find this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, Title 14, section 15306.

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

9. 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 the staff's consultation with the person's 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

U.S. Department of the Interior, Fish and Wildlife Service

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NOAA's National Marine Fisheries Service, Biological Opinion
California Department of Fish and Wildlife

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 6, Information Collection; California Code of Regulations, Title 14, section 15306.

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:

Authorize the issuance of a General Lease – Data Collection Use to FISHBIO Environmental, LLC, a California Limited Liability Company, beginning February 22, 2013, for a term of 10 years, for the seasonal installation, use, maintenance, and removal of a resistance board fish counting weir used to conduct research and collect biological data from upstream migrating adult Chinook Salmon and Central Valley Steelhead, and temporary placement of warning buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration as the information collected will result in a public benefit, with the State reserving a right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

W 26598

LAND DESCRIPTION

A strip of submerged land, being 75 feet wide, situate in the bed of the Stanislaus River, lying adjacent to Swamp and Overflowed Survey 575, patented August 24, 1870, San Joaquin County and Swamp and Overflowed Survey 205, patented October 26 1877, Stanislaus County, State of California, lying 37.5 feet on each side of the following described center line:

BEGINNING at a point on the right bank of said river having CCS 83 Zone 3 (1991.35) coordinates of Northing 2,095,005.58 feet, Easting 6,425,302.19 feet, said point bearing South 18° 36' 39" West 8003.39 feet from NGS monument Escalon (PID HS4648); thence South 21° 06' 15" West 180.00 feet to the terminus of said center line.

The sidelines of said strip are to be lengthened or shortened as to begin and terminate on the low water mark of the right and left banks of said river.

END OF DESCRIPTION

Prepared 11/15/12 by the California State Lands Commission Boundary Unit

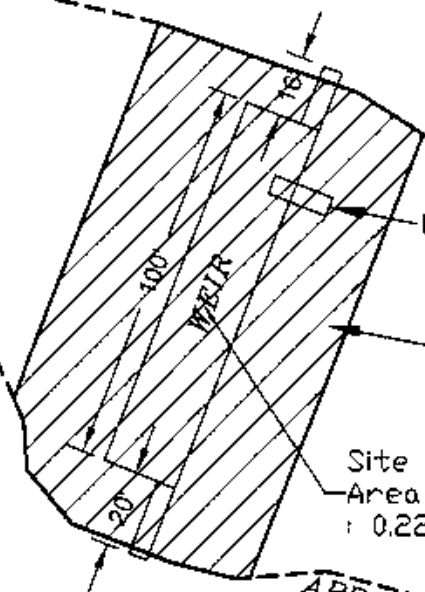




APPROX. SHORELINE

APN 247-250-12

STANISLAUS



LIVE BOX

LEASE AREA

RIVER

FLOW

Site 1 : Parcel 1
Area : 9458.77 Sq.Ft.
: 0.22 Ac.

APN 074-003-022

APPROX. SHORELINE

AREA

TS 11/15/12

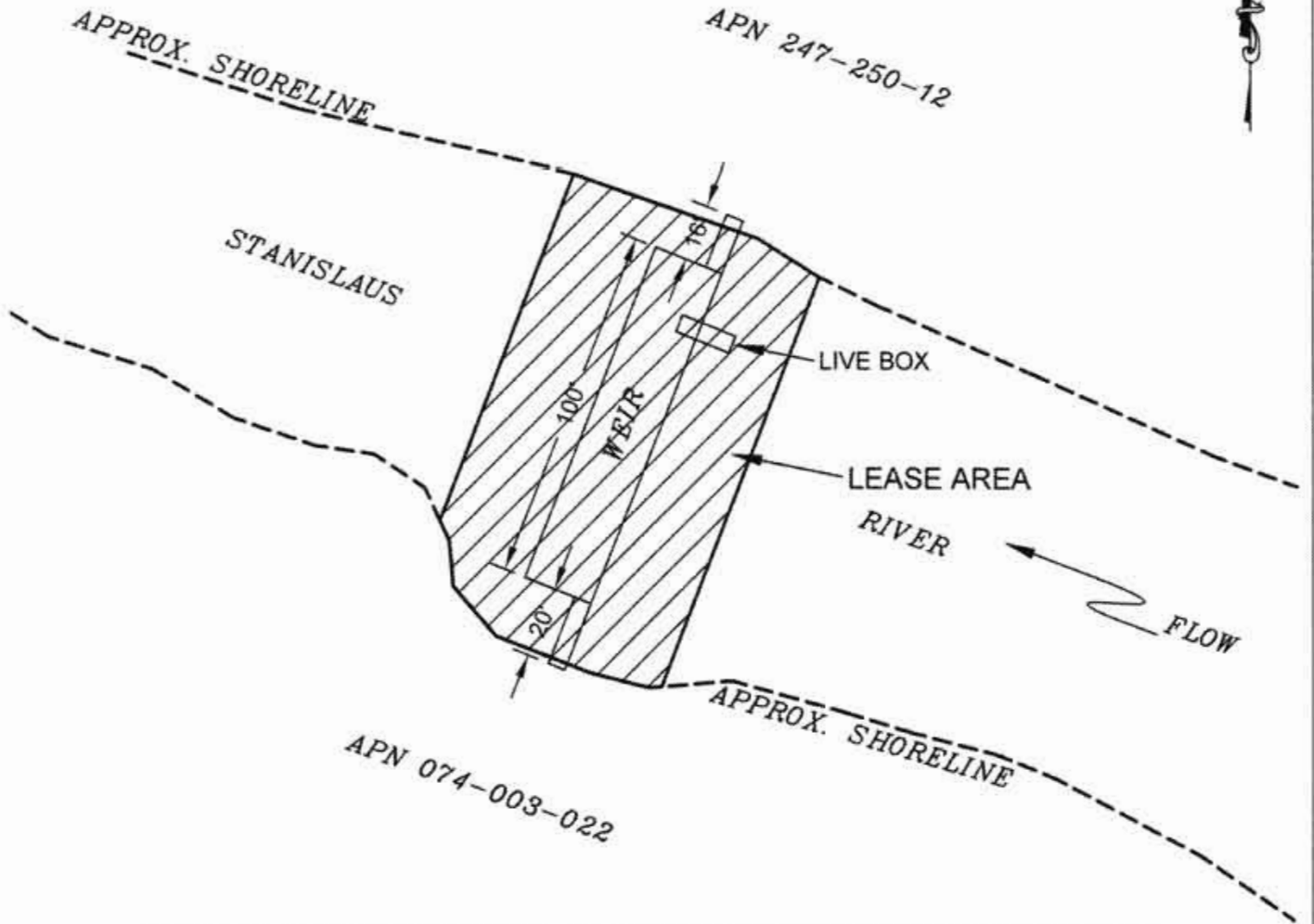
LAND DESCRIPTION PLAT
W 26598, FISHBIO
STANISLAUS COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



STANISLAUS RIVER WEIR AT RIVERMILE 3.4 NEAR RIVERBANK

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26598
 FISHBIO LLC
 APN 074-003-022, 247-250-12
 GENERAL LEASE -
 HABITAT RESTORATION
 STANISLAUS & SAN JOAQUIN
 COUNTIES



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.