

**CALENDAR ITEM
C98**

A	21	10/14/14 W26795 C2014-029 A. Abeleda
S	12	G. Kato

**CONSIDER A REQUEST FOR AUTHORITY FOR THE EXECUTIVE OFFICER TO
ENTER INTO AGREEMENT FOR PHASE 2 OF THE DENNETT DAM REMOVAL
PROJECT, LOCATED ON THE TUOLUMNE RIVER, CITY OF MODESTO,
STANISLAUS COUNTY**

PARTIES:

California State Lands Commission
100 Howe Avenue, Suite 100-S
Sacramento, CA 95825

Tuolumne River Preservation Trust
67 Linoberg Street
Sonora, CA 95370

BACKGROUND:

The remnants of the structure known as Dennett Dam are located on the Tuolumne River, between the cities of Modesto and Ceres in Stanislaus County. Dennett Dam was built in 1933 to create a 97-acre recreational swimming area. The dam washed out in 1935. Although the dam was rebuilt in 1937, the remnants in place today no longer provide the intended swim area (pursuant to Article 8 of Chapter 1 of Title IV of the Modesto Municipal Code). Rather, swimming in this part of Tuolumne River is now illegal. Since 2006, two children and one adult have drowned in the vicinity of the dam. The resulting lawsuits have cost the State more than \$500,000 in legal fees, costs, and staff expenses.

The dam remnants also pose a barrier to recreational boaters and migrating salmon. Removal of the dam has been identified as a priority in multiple anadromous fish restoration reports for the Central Valley.

While several public agencies and private entities have considered removing the dam, none have obtained the necessary funding. In 2010, the Tuolumne River Preservation Trust (Trust) received a grant from the United States Fish and

CALENDAR ITEM NO. **C98** (CONT'D)

Wildlife Service to hire a consultant to conduct a detailed study for the removal of the dam. The 129-page document detailed the existing conditions at the dam, provided a comparison of three potential removal methods, the logistics associated with the removal, environmental protection and site restoration, and a post-project monitoring and evaluation program. The work would be conducted in three phases. To date, Phase 1 (Data Gap Assessment and Field Data Collection and the preparation of the Concept Level Basis of Design Report) has been completed. Phases 2 and 3 have not commenced due to lack of funding. Phase 2 activities include environmental review (California Environmental Quality Act [CEQA] and National Environmental Policy Act [NEPA]); permitting through the various Federal, State, and local agencies; and finalizing engineering plans. These activities have an estimated cost of \$443,000 and would be done concurrently over an 18-month period.

PROJECT FUNDING:

The Commission received \$133,000 through the 2014-15 Budget allocation from the Environmental License Plate Fund for Phase 2 of the removal of Dennett Dam. The final Budget Change Proposal recommended approval of the funding contingent on other entities providing funding. The Trust will continue to identify and procure other funding sources. Having the proposed agreement with the Commission in place should greatly facilitate those efforts.

OTHER PERTINENT INFORMATION:

1. The Trust will act as the sole source provider for the Commission. The Trust will be responsible for managing and coordinating consultants and contractors for Phase 2 of the Dennett Dam Removal Project.
2. The staff recommends that the Commission find that the authorizing the agreement for Phase 2 of the Dennett Dam Removal Project does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 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 expenditure, as proposed, is consistent with its use classification.

CALENDAR ITEM NO. **C98** (CONT'D)

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code section 6106 (Delegation to execute written instruments)
- B. State Administrative Manual section 1200
- C. State Contracting Manual Vol. 1 (rev 01/14)

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that authorizing the agreement for Phase 2 of the Dennett Dam Removal Project is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

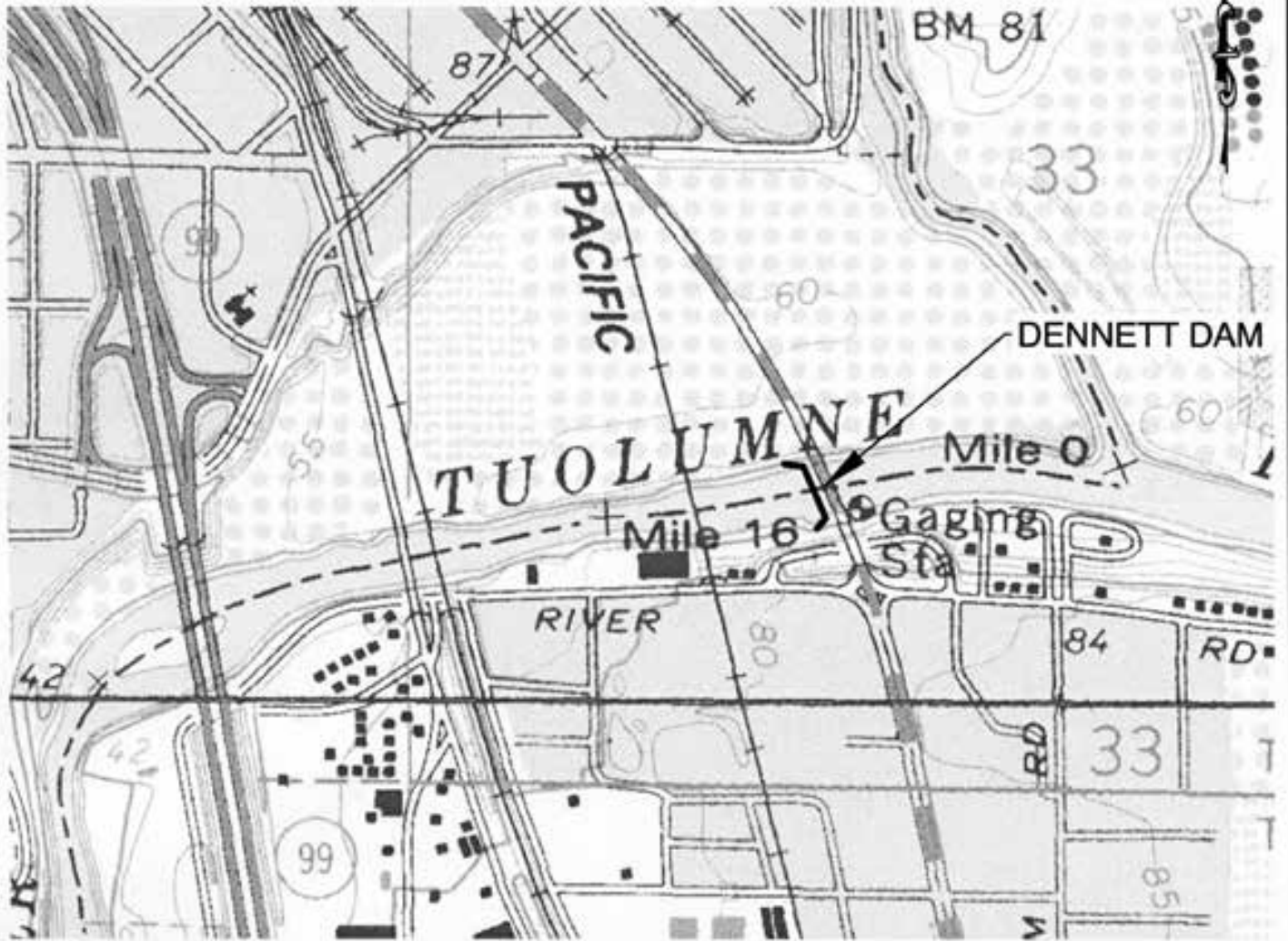
Find that this activity is consistent with the use classification designed by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

1. Authorize the Executive Officer or her designee to execute an agreement, in accordance with State policies and procedures, with the Tuolumne River Preservation Trust for Phase 2 of the Dennett Dam Removal Project.
2. Authorize and direct the Executive Officer or her designee to take whatever action necessary and appropriate to implement the provisions of the Agreement with the Tuolumne River Preservation Trust.

NO SCALE

SITE



DENNETT DAM, TUOLUMNE RIVER BETWEEN MODESTO & CERES

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

TUOLUMNE RIVER
PRESERVATION TRUST
DAM REMOVAL PROJECT
STANISLAUS COUNTY



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.