

**CALENDAR ITEM
C10**

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08/09/16
PRC 5482.9
M. Schroeder

AMENDMENT OF LEASE

LESSEE:

U.S. Bureau of Reclamation
16349 Shasta Dam Boulevard
Shasta Lake, CA 96019

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, near the city of Redding, Shasta and Tehama Counties.

AUTHORIZED USE:

Continued placement and maintenance of clean gravel for the rehabilitation and restoration of King salmon and winter-run Chinook salmon spawning grounds, dredging as needed to create side channels, and creation of nearshore benches.

LEASE TERM:

20 years, beginning August 9, 2000.

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 interests.

PROPOSED AMENDMENT:

Amend the lease to:

1. Delete Exhibit A, Land Description, and Exhibit B, Site and Location Map;
2. Include the attached Exhibit A, Land Description, and the attached Exhibit B, Site and Location Map;
3. Include 11 additional sites in the Sacramento River known as Salt Creek, Turtle Bay, Kutras Lake, South Cypress Side Channel, Tobiasson Island, Shea Island and Levee, South Shea Levee, Kapusta, Anderson River Park, Lake California, and Rio Vista.

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All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On February 9, 2016, the Commission authorized an Amendment to Lease No. PRC 5482.9, a General Lease – Public Agency Use, , to the U.S. Bureau of Reclamation (BOR) for two additional sites (North Cypress Side Channel and Kapusta 1a) in the Sacramento River for the rehabilitation and restoration project including the restoration and dredging of numerous side channels along the Sacramento River near and around Redding, California.

Around the same time, BOR contacted Commission staff to request 11 additional sites, known as Salt Creek, Turtle Bay, Kutrass Lake, South Cypress Side Channel, Tobiasson Island, Shea Island and Levee, South Shea Levee, Kapusta, Anderson River Park, Lake California, and Rio Vista. As staff understands, due to the ongoing emergency drought conditions in California, rehabilitation of these 11 additional sites have been deemed to have immediate benefit to winter-run Chinook salmon, a State and Federal listed Endangered Species.

On April 5, 2016, the California Department of Fish and Wildlife (CDFW), a partner in collaboration with BOR on this habitat restoration project, sent a letter to the Commission (attached as Exhibit C) confirming that the proposed actions of BOR are related to the continuing emergency drought conditions and support restoring habitat for an endangered species harmed by the drought. CDFW's letter affirmed that the proposed activities are consistent with the Governor's Declaration of Emergency Proclamation No. 1-17-2014, Proclamation of a Continued State of Emergency, dated April 25, 2014, and Executive Order B-36-15, dated November 13, 2015 (Emergency Declarations), providing regulatory relief to rapidly approve work to benefit certain species. More specifically, the Proclamation of April 25, 2014, provisions 6, 7, 8, and 19, suspend the requirements of the California Environmental Quality Act (CEQA) for State

CALENDAR ITEM NO. C10 (CONT'D)

actions required to protect threatened or endangered species harmed by the drought emergency.

On the basis of CDFW's letter and the Emergency Declarations, staff believes that CEQA is suspended for the proposed lease amendment.

Lessee has authorization to use the upland adjoining the lease premises. Preservation of fish habitat is water-dependent and is generally consistent with the common law Public Trust Doctrine. California courts have held that preservation of habitat is an authorized use of Public Trust lands. (See, for example, *Marks v. Whitney* (1971) 6 Cal. 3d 251, 260.) The proposed activity is designed to expand and restore spawning grounds for winter-run Chinook salmon in response to the continuing drought emergency. The proposed activities are consistent with the common law Public Trust Doctrine because habitat restoration to expand the spawning potential of winter-run Chinook salmon will help to preserve this endangered species.

The proposed amendment and the underlying lease contain terms designed to minimize potential impacts to Public Trust values while the restoration work is conducted. Commission staff believes the work authorized under the proposed amendment will not substantially interfere with Public Trust needs at this time and at these locations. Based on the above analysis, staff believes issuance of this amendment is consistent with the common law Public Trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. According to CDFW, the 11 additional sites are emergency projects conducted pursuant to provisions 6, 7, 8, and 19 of the Governor's April 25, 2014, Proclamation of a Continued State of Emergency.

Pursuant to provision 19, staff shall maintain on the Commission's website a list of the approvals for which CEQA is suspended under the declared state of emergency.

2. Staff recommends that the Commission find that, pursuant to the Emergency Declarations, for purposes of this activity CEQA is suspended with regard to this proposed authorization.

CALENDAR ITEM NO. **C10** (CONT'D)

Authority: Executive Department, State of California, Declaration of Emergency Proclamation No. 1-17-2014; A Proclamation of a Continued State of Emergency, dated April 25, 2014, provisions 6, 7, 8, and 19; Executive Order B-36-15, dated 11-13-2015, provisions 1 and 6.

3. This action is consistent with Key Action 1.2.4 of the Commission's Strategic Plan to prioritize the use of sovereign lands where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties, and other conservation efforts, consistent with applicable law.

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Letter from CDFW dated April 5, 2016

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the requirements of CEQA are suspended for the proposed activity pursuant to Executive Department, State of California, Declaration of Emergency Proclamation No. 1-17-2014; A Proclamation of a Continued State of Emergency, dated April 25, 2014, provisions 6, 7, 8, and 19; and Executive Order B-36-15, dated 11-13-2015, provisions 1 and 6.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with Public Trust needs and values at these locations at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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.

CALENDAR ITEM NO. **C10** (CONT'D)

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 5482.9, a General Lease – Public Agency Use, effective August 9, 2016, to delete Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); include the attached Exhibit A, Land Description, and the attached Exhibit B, Site and Location Map (for reference purposes only); include 11 additional sites in the Sacramento River known as Salt Creek, Turtle Bay, Kutras Lake, South Cypress Side Channel, Tobiasson Island, Shea Island and Levee, South Shea Levee, Kapusta, Anderson River Park, Lake California, and Rio Vista; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 5482.9

LAND DESCRIPTION

Eleven parcels of State owned submerged lands lying in the bed of the Sacramento River, Counties of Shasta and Tehama, State of California, described as follows:

PARCEL 1 (Salt Creek)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to fractional Section 28, T32N, R5W, MDM, as shown on the official Government Township Plat approved on January 19, 1870 and adjacent on the right bank to Lot 37, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the west by a line extended southerly and northerly to Low Water of the right and left banks of the Sacramento River, said line being perpendicular to a point lying 200.00 feet easterly of the prolongation of the most northerly line of that parcel shown on "Survey of 2 Parcels in Sections 1, 2, and 3 of the P.B. Reading Grant" (sheet 1 of 2), recorded on July 9, 1952 in Book 13 of Land Surveys at Page 20, Shasta County Recorder, said northerly line described as "S 69° 21' 40" E 123.00 feet";

Bounded on the east by a line extended southerly and northerly to Low Water of the right and left banks of the Sacramento River, said line being perpendicular to a point lying 600.00 feet easterly of the prolongation of the most northerly line of that parcel shown on "Survey of 2 Parcels in Sections 1, 2, and 3 of the P.B. Reading Grant" (sheet 1 of 2), recorded on July 9, 1952 in Book 13 of Land Surveys at Page 20, Shasta County Recorder, said northerly line described as "S 69° 21' 40" E 123.00 feet";

Bounded on the south by the Low Water of the right bank of the Sacramento River;

Bounded on the north by the Low Water of the left bank of the Sacramento River.

PARCEL 2 (Turtle Bay Island)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to Section 31, T32N, R4W, MDM, as shown on the official Government Township Plat approved on January 19, 1870 and adjacent on the right bank to Lot 37, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the west by a line extended southerly and northerly to Low Water of the right and left banks of the Sacramento River and lying perpendicular to and 400.00 feet westerly from the east end of the course "South 80° 37' 00" East 1149.86 feet" of Parcel 1 as shown on Parcel Map No. 2013-00871 (sheet 6 of 12), recorded on December 17, 2013 in Book 38 of Parcel Maps at Page 100, Shasta County Recorder;

Bounded on the southwest by a line extended southeasterly and northwesterly to Low Water of the right and left banks of the Sacramento River and lying perpendicular to the northeast terminus of a course "South 36° 46' 00" West 337.65 feet" of Parcel 1 as shown on Parcel Map No. 2013-00871 (sheet 6 of 12), recorded on December 17, 2013 in Book 38 of Parcel Maps at Page 100, Shasta County Recorder;

Bounded on the west by the Low Water of the right bank of the Sacramento River;

Bounded on the northeast and southeast by the Low Water of the left bank of the Sacramento River.

PARCEL 3 (Kutras Lake)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to Section 31, T32N, R4W and Section 6, T31N, R4W, MDM, as shown on the official Government Township Plat approved on January 19, 1870 and adjacent on the right bank to Lot 37, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

That parcel described as "PARCEL 2" in "EXHIBIT "B" of that ORDER FOR ALLOWANCE OF ATTORNEY FEES AND FOR FINAL DISTRIBUTION recorded on October 25, 2005 in Document No. 2005-0063499, Official Records of said county.

EXCEPTING THEREFROM any portion lying northerly of the easterly extension of the southerly right of way line of South Street and its easterly prolongation as described in "PARCEL 2" of said "EXHIBIT B";

ALSO EXCEPTING THEREFROM any portion lying landward of Low Water of the right bank of the Sacramento River.

PARCEL 4 (Cypress Bridge South)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to fractional Section 1, T31N, R5W and Section 6, T31N, R4W, MDM, as shown on the official Government Township Plats

approved on January 19, 1870 and adjacent on the right bank to Lot 37, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the north by the center line of the East Cypress Avenue and its westerly prolongation, as shown on the Parcel Map No. 253-73 for Bob Barcaglia in the W ½ of Section 6, T31N, R4W, and E ½ of Section 1, T31N, R5W, MDM, in the Unincorporated Territory of the County of Shasta, filed in Book 2 of Parcel Maps at Page 137, Records of Shasta County;

Bounded on the south by the westerly prolongation of the south line of said Section 1, T31N, R5W, MDM as shown on the official Government Township Plat approved on January 19, 1870, Shasta County;

Bounded on the west by the Low Water of the right bank of the Sacramento River;

Bounded on the east by the Low Water of the left bank of the Sacramento River.

PARCEL 5 (Tobiasson Island)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent to SE 1/4 of Section 18 and NE 1/4 of Section 19, T31N, R4W, MDM, as shown on the official Government Township Plat approved on March 27, 1885, Shasta County, State of California, described as follows:

Bounded on the north by the westerly prolongation of the southerly line of the parcel as shown on the map "Survey in Sec. 17 & 18 T.31N. R.4W. M.D.M." recorded on November 29, 1948 in Book 10 of Land Surveys at Page 39, Shasta County Records;

Bounded on the south by the westerly prolongation of the southerly line of the NE 1/4 of NE 1/4 of Section 19, T31N, R4W, MDM, as shown on the official Government Township Plat approved on March 27, 1885, Shasta County;

EXCEPTING THEREFROM any portion lying landward of Low Water of the Sacramento River.

PARCEL 6 (Shea Island and Levee)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to Section 30, T31N, R4W, MDM, as shown on the official Government Township Plat approved on March 27, 1885 and adjacent on the right bank to Lot 38, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the south by the westerly prolongation of the protracted south line of said Section 30 as shown on said Township Plat;

Bounded on the northeast by the southeasterly prolongation of the southwesterly line of the Parcel 1 as described in Grant Deed recorded on February 20, 2014 in Document 2014-0004447, Official Records of Shasta County;

EXCEPTING THEREFROM any portion lying landward of Low Water of the Sacramento River.

PARCEL 7 (South Shea Levee)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to Section 31, T31N, R4W, MDM, as shown on the official Government Township Plat approved on March 27, 1885 and adjacent on the right bank to Lot 38, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the northwest by a line extended southwesterly and northeasterly to Low Water of the right and left banks of the Sacramento River and lying perpendicular to the northwest end of that course described as "South 48° 14' East, a distant of 255.86 feet" as described in Parcel 10 of Quitclaim Deed recorded on July 3, 2013 in Document 2013-0024492, Official Records of Shasta County;

Bounded on the southeast by a line extended southwesterly and northeasterly to Low Water of the right and left banks of the Sacramento River and lying perpendicular to the southeast end of that course described as "South 50° 43' East, a distance of 172.30 feet" as described in Parcel 10 of Quitclaim Deed recorded on July 3, 2013 in Document 2013-0024492, Official Records of Shasta County;

Bounded on the southwest by the Low Water of the right bank of the Sacramento River;

Bounded on the northeast by the Low Water of the left bank of the Sacramento River.

PARCEL 8 (Kapusta Island)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to Section 32 and 33, T31N, R4W, MDM, as shown on the official Government Township Plat approved on March 27, 1885 and adjacent on the right bank to Lot 38, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the west by the northerly prolongation of the west line of Lot 7 as shown on Unit No. 1 River Ranch Subdivision in Section 34 P.B. Reading Grant of the Rancho San Buenaventura, filed in Book 8 of Maps, Page 34, Records of Shasta County;

Bounded on the southeast by the northeasterly prolongation of the southeasterly line of the Parcel "A" as shown on the Parcel Map No. 973-77 recorded in Book 12 of Parcel Maps at Page 140, Records of Shasta County;

Bounded on the south and southwest by the Low Water of the right bank of the Sacramento River;

Bounded on the northwest, north and northeast by the Low Water of the left bank of the Sacramento River.

PARCEL 9 (Anderson River Park)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent on the left bank to fractional Section 12, T30N, R4W and Section 7, T30N, R3W, MDM, as shown on the official Government Township Plats approved on January 19, 1870 and adjacent on the right bank to Lot 37, as shown on the Map of the Rancho Buenaventura, approved July 18, 1856, Shasta County, State of California, described as follows:

Bounded on the east by the northerly prolongation of the east line of Lot 2 as shown on Tract No. 1161 Wildwood Shores Subdivision, filed in Book 13 of Maps, Page 18, Records of Shasta County;

Bounded on the northwest by the line extended northeasterly and southwesterly to Low Water of the right and left banks of the Sacramento River, lying perpendicular to the southeast end of that course described as "S 55° 00' E 330.00 feet" as shown on "Survey of Parcel of Land in Sections 46 & 47, P.B. Reading Grant" recorded on August 6, 1957 in Book 20 of Land Surveys at Page 5, Records of Shasta County;

EXCEPTING THEREFROM any portion lying landward of Low Water of the Sacramento River.

PARCEL 10 (Lake California)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent to fractional Section 28, T29N, R3W, MDM, as shown on the official Government Township Plat approved on January 19, 1870, Tehama County, State of California, described as follows:

Bounded on the east by the southerly prolongation of the east line of the of said Section 28 as shown on the official Government Township Plat approved on January 19, 1870, Tehama County;

Bounded on the south by the easterly prolongation of the south line of the of said Section 28 as shown on the official Government Township Plat approved on January 19, 1870, Tehama County;

Bounded on the northwest and west by the BLA 107, as recorded June 4, 1969 in Book 529 at Page 264 Official Records of Tehama County;

Bounded on the east, southeast and south by the Low Water of the left bank of the Sacramento River.

PARCEL 11 (Rio Vista)

A parcel of State owned submerged lands lying in the bed of the Sacramento River, adjacent to Sections 8 and 9, T27N, R3W, MDM, as shown on the official Government Township Plat approved on December 18, 1868, Tehama County, State of California, described as follows:

Bounded on the north by the easterly prolongation of the northerly line of the of SW1/4 of Section 9, T27N, R3W, MDM, as shown on the official Government Township Plat approved on December 18, 1868, Tehama County;

Bounded on the south by the easterly prolongation of the south line of the of Section 8, T27N, R3W, MDM, as shown on the official Government Township Plat approved on December 18, 1868, Tehama County;

Bounded on the northwest by the Low Water of the right bank of the Sacramento River;

Bounded on the southeast by the Low Water of the left bank of the Sacramento River.

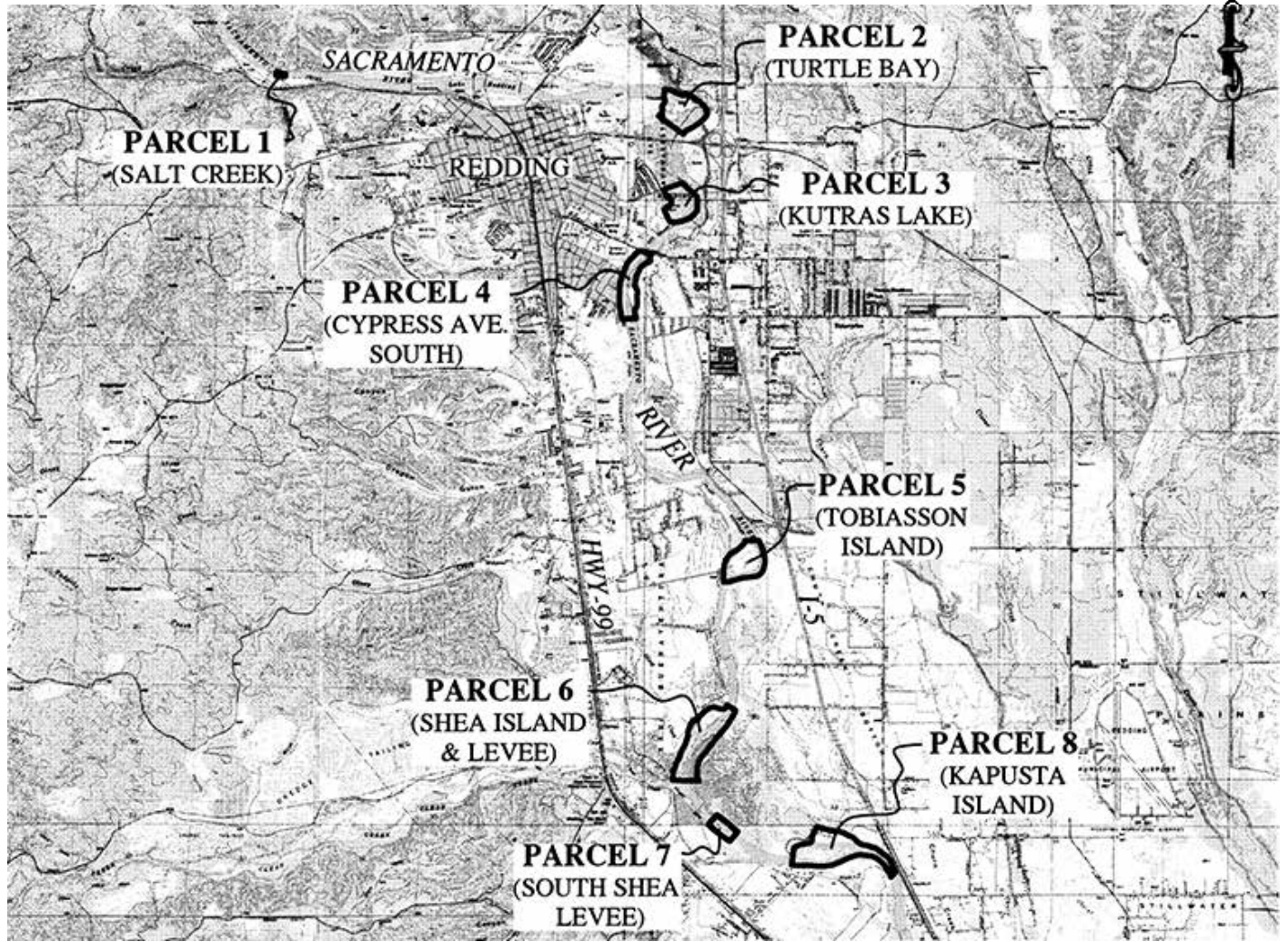
END OF DESCRIPTION

Prepared 07/11/2016 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



SACRAMENTO RIVER, NEAR REDDING

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-1
 PRC 5482.9
 BUREAU OF RECLAMATION
 GENERAL LEASE -
 PUBLIC AGENCY USE
 SHASTA & TEHAMA
 COUNTIES

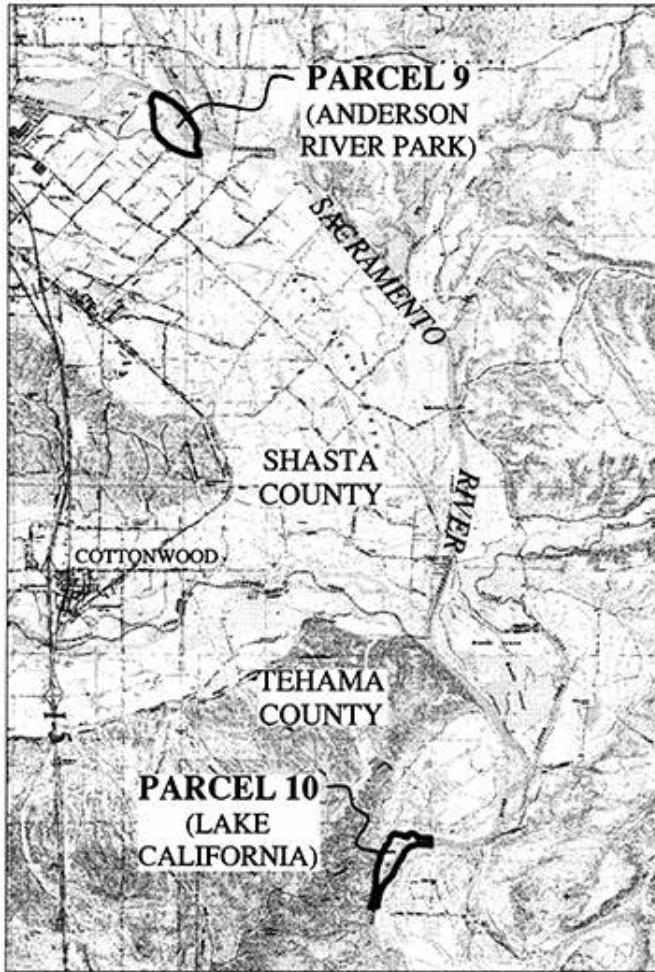


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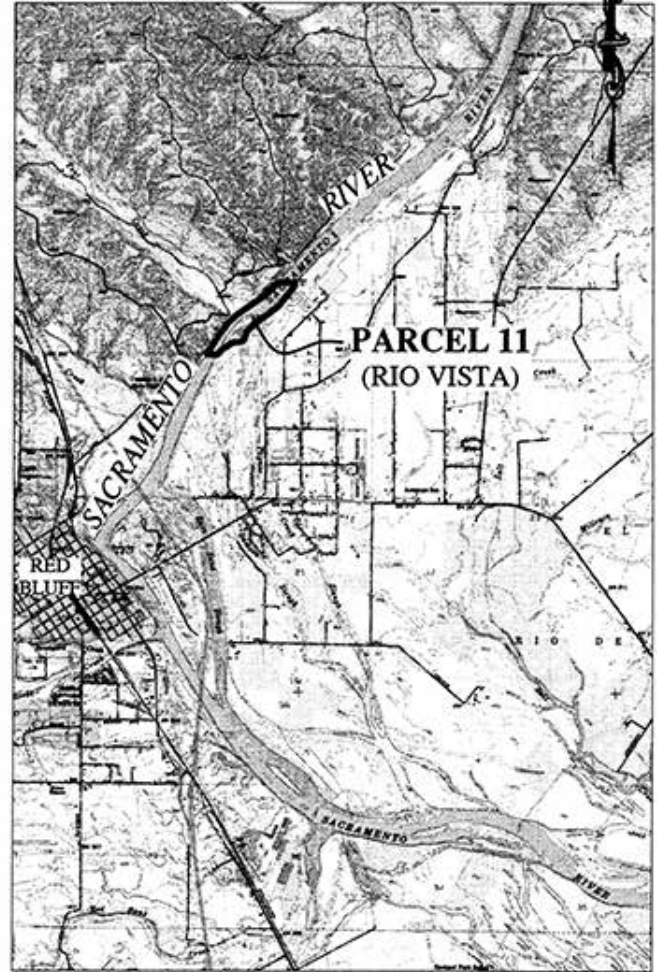
This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

NO SCALE

SITE



SACRAMENTO RIVER,
NEAR COTTONWOOD



SACRAMENTO RIVER,
NEAR RED BLUFF

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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Exhibit B-2

PRC 5482.9
BUREAU OF RECLAMATION
GENERAL LEASE -
PUBLIC AGENCY USE
SHASTA & TEHAMA
COUNTIES



TS 07/11/16

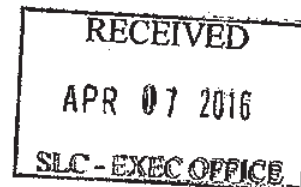


State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Deputy Director
 1416 Ninth Street, Suite 1208
 Sacramento, CA 95814
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



April 5, 2016



Ms. Jennifer Lucchesi
 Executive Officer
 California State Lands Commission
 100 Howe Avenue, Suite 100 South
 Sacramento, CA 95825-8202

Dear Ms. Lucchesi:

Re: Bureau of Reclamation Upper Sacramento River Anadromous Fish Habitat Restoration Program

The California Department of Fish and Wildlife (Department) has been working over the past several years on several habitat restoration projects in collaboration with the U.S. Bureau of Reclamation. These projects are located in the Sacramento River within Shasta and Tehama County and are collectively under the umbrella of the Central Valley Project Improvement Act Anadromous Fish Restoration Program.

Due to the ongoing drought, a subset of these projects have been deemed to have immediate benefit to Sacramento River winter run Chinook salmon, a State- and Federal- listed Endangered Species. The projects in question are outlined in the attached document. It is our understanding that the State Lands Commission has jurisdictional authority over these projects and has requested a more thorough California Environmental Quality Act (CEQA) review than the project proponents have provided to your agency.

The Department has reviewed these projects and has determined that they are drought related and would provide immediate benefit to the winter run Chinook salmon upon completion. Over the last several years, the winter run Chinook salmon have been severely impacted (over 95 percent estimated loss of juvenile production in 2014 and 2015) by the ongoing drought due to high water temperatures in the Sacramento River. We have been working with our Federal partners to carry out actions that will assist this species and provide immediate relief due to exceptional drought conditions. The Governors Declaration of Emergency, Proclamation of Continued Emergency and Executive Orders direct the Department and other State departments to take emergency actions to benefit this critically endangered fish.

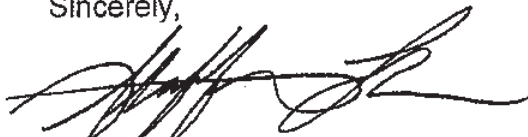
Ms. Jennifer Lucchesi
Executive Officer
California State Lands Commission
April 5, 2016
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Specifically the Department is treating implementation of these projects under the Governor's Declaration of Emergency Proclamation No. 1-17-2014: #14; Executive Proclamation of Continued State of Emergency – April 25, 2014, #'s 6, 7, 8, and 19 (CEQA Exemption); Executive Order B-36-15: #'s 1 & 6 (Continuation and expansion of CEQA exemptions for drought response projects). These directives provide us the regulatory flexibility to rapidly approve the work to benefit the species.

We believe that the time window to begin implementation of these projects is urgent to provide benefit to winter-run Chinook salmon. Over the next several months the construction window can take advantage of the absence of spawning activity and juveniles rearing in areas of construction in the Sacramento River. This facilitates heavy equipment work within the active channel without additional protective measures. Additionally, the Glenn-Colusa Irrigation District has offered equipment and personnel to implement projects at no cost to State or Federal agencies. This aligns well with Federal, State, and local agencies developing partnerships to assist endangered species. Delay in implementing these projects may eliminate the ability to take advantage of current conditions and Glenn Colusa Irrigation District's ability to provide equipment and labor due to other obligations.

We appreciate you and your staff's willingness to look into alternatives that may allow these projects to proceed in the near future to benefit winter-run Chinook salmon. Should you or your staff have any questions please contact me at (916) 327-8840 or via email at Stafford.Lehr@Wildlife.ca.gov.

Sincerely,



Stafford Lehr
Acting Deputy Director

Attachment

cc: Craig Muehlberg
Acting Area Manager
Bay Delta Office
U.S. Bureau of Reclamation
801 I Street, Suite 140
Sacramento, CA 95814-2536

John Hannon, Fisheries Biologist
U.S. Bureau of Reclamation
Bay Delta Office, Science Division
801 I Street, Suite 140
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Ms. Jennifer Lucchesi
Executive Officer
California State Lands Commission
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cc: California Department of Fish and Wildlife

Kevin Hunting
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Jason Roberts, Fisheries Supervisor
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RECLAMATION

Managing Water in the West

Sacramento River Anadromous Fish Habitat Restoration project sites needing permission from California State Lands Commission as of March 2016. Sites are listed by name and river mile.

1. Salt Creek – 300.7
2. Turtle Bay - 297
3. Kutras Lake - 296
4. Cypress Avenue (South) - 295
5. Tobiasson Island - 291.6
6. Shea Island and Levee - 289.6
 - 6.(a) South Shea Levee - 289
7. Kapusta - 288
8. Anderson River Park - 282
9. Reading Island - 275
10. Rancho Briesgau - 274
11. Lake California - 269
12. Rio Vista – 247.5
13. Sand Slough - 245