

**STAFF REPORT
C68**

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04/19/18
W 27112/PRC 9431.9
K. Connor

**RESCISSION OF APPROVAL AND ISSUANCE OF A
GENERAL LEASE – PUBLIC AGENCY USE**

APPLICANT:

City of Sanger

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Kings River, 0.5 mile north of the Goodfellow Bridge, City of Sanger, Fresno County.

AUTHORIZED USE:

Construction, use, and maintenance of a 10-foot-wide concrete non-motorized boat launching ramp and the placement of 45 cubic yards of 12-inch-diameter riprap.

LEASE TERM:

25 years, beginning April 19, 2018.

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.

SPECIFIC LEASE PROVISIONS:

1. Lessee shall place warning signage or buoys, or both, clearly visible from the shore and in the water, both upstream and downstream of the construction site, to provide notice of the boat ramp construction project and to advise the public to exercise caution.
2. Construction activities in the Kings River may occur only during the annual in-water work window between the dates of September 1 and February 28 unless the regulatory agencies agree.

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3. Lessee agrees to the implementation of the Commission's "Best Management Practices for Guest Dock Users and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate. Lessee shall post the BMPs for "Guest Dock Users and Boaters" in prominent places within the Lease Premises. The Lessee shall provide the Commission, on the first anniversary of the Lease and every 3 years thereafter, a report on compliance with BMPs.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On October 19, 2017, the Commission authorized Lease No. PRC 9431.9, a General Lease – Public Agency Use, to the City of Sanger (City) for the construction, use, and maintenance of a 10-foot-wide concrete non-motorized boat launching ramp and the placement of 45 cubic yards of 12-inch-diameter riprap ([Item C68, October 19, 2017](#)). After the Commission's approval, but, before the lease was executed, the Applicant communicated to Commission staff that the construction activities would not occur between September 1, 2017, and February 28, 2018, as required in the provisions of the approved lease terms. Staff is now recommending that the October 19, 2017, authorization be rescinded and the Commission authorize issuance of a new lease to allow construction to be completed no later than February 28, 2024.

The littoral parcel adjacent to the proposed boat ramp and associated riprap is owned by the Applicant and is included in the current Fresno County 2000 General Plan and the Kings River Regional Plan with a public facilities land use designation. The proposed boat launching ramp and riprap will be located at the City's proposed - Kings River Park Boat Launching Facility adjacent to the Kings River.

The proposed project is a collaboration between the City and the Kings River Conservancy, which will assist in the operations and maintenance of the proposed park. The design and construction of the project is funded by a grant from the California Department of Parks and Recreation, Division of Boating and Waterways. The City has provided a statement of justification for rent-free status for the proposed park, and Commission staff concurs with the statement of justification provided, as discussed below.

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Construction of the proposed facilities within the public park will enable a reliable seasonal public access point for river access within the Fresno region. Upon completion, the facilities will further enhance and support outdoor and river recreation. There will be no use fees for access to the park. Due to the facilities' location within a public park and providing access to the river, the facilities do not restrict public access to the river but, rather, enhance and facilitate public recreation and access to and along the river with more fishing, boating, wildlife viewing, and recreational opportunities.

The Kings River in this reach is used for recreational boating during the summer. Safe and controlled water releases from the Pine Flat Dam and Reservoir upstream (constructed to control flooding and provide storage for the summer release of irrigation water) typically occur between the months of April and October. Public access points along this reach of the Kings River are limited because most properties on both sides of the river are privately owned. This location is being made especially accessible as a safe access point for kayakers, canoes, rafts, and other small non-motorized craft. The overall impact of this increased opportunity is not limited to the City but provides a statewide benefit to the public by allowing all to enjoy the recreational opportunities provided by the Kings River.

The Applicant proposes to construct a new 110-foot-long by 10-foot-wide flexible concrete mat non-motorized boat ramp and place 45 cubic yards of 12-inch-diameter riprap over 970 square feet. Approximately 890 cubic yards of material will be excavated from the river bank for construction of the ramp and moved out of the floodplain to be used for construction of the parking lot. This non-motorized boat launching ramp will be a permanent facility. This project will be constructed using typical equipment including the use of a backhoe, front-end loader, dump truck, and other machinery as needed to grade the ramp and parking area. Construction will occur over an approximately 3-month period, starting in early November and ending in late January, when flows in the Kings River are lowest.

Work to be performed outside the Commission's leasing jurisdiction includes construction of a 0.57-acre parking lot, construction of a vault bathroom, the placement of 20 cubic yards of wet-poured concrete over a 1,060-square-foot area for the approach walkway, and upgrades to the existing access road.

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The project is expected to benefit the public by providing improved river access and increased recreational opportunities. Recreational boating is a water-dependent activity and is generally consistent with the common law Public Trust Doctrine. The lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from the lease premises. The proposed lease would require the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

Climate Change:

The project area is not tidally influenced and, therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, project-related facilities (e.g., parking lot, vault restroom facility, informational kiosk) may experience flooding and more frequent storm events, which may require more frequent maintenance or replacement of these facilities to ensure continued function during and after storm seasons. Regular maintenance of the boat launching ramp and riprap, as required by the lease, will reduce the likelihood of severe structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and

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resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

2. Rescission of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. A Mitigated Negative Declaration, State Clearinghouse No. 2016061045, was prepared by the County of Fresno and adopted on June 21, 2016, for this project. Commission staff has reviewed such document.
4. A Mitigation Monitoring Program was adopted by the County of Fresno.
5. 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 staff's consultation with the persons nominating such lands and through CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

California Department of Fish and Wildlife
California Department of Parks and Recreation, Div. of Boating and Waterways
San Joaquin Valley Air Pollution Control District

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2016061045, and a Mitigation Monitoring Program were prepared by County of Fresno and adopted on August 8, 2016, for this project and that the Commission has reviewed and considered the information contained therein.

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Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; 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.

AUTHORIZATION:

1. Rescind the previous authorization for W27112/PRC 9431.9, a General Lease – Public Agency Use, on October 19, 2017, to the City of Sanger.
2. Authorize issuance of a General Lease – Public Agency Use, to the City of Sanger beginning April 19, 2017, for a term of 25 years, for the construction, use, and maintenance of a concrete non-motorized boat launching ramp; and the placement of 45 cubic yards of 12-inch-diameter riprap, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

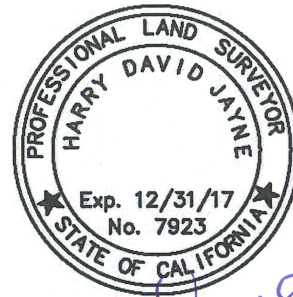
EXHIBIT A

W27112

LAND DESCRIPTION

All that submerged land in the bed of the Kings River lying immediately beneath the boat launching ramp and bank protection riprap for the City of Sanger Kings River Park Boat Launching Facility, being a portion of the land described in the Grant Deed recorded March 10, 1924 in Volume 434, Page 278 as Document No. 7980, Fresno County Records, lying in the Northeast quarter of Section 36, Township 14 South, Range 22 East, Mount Diablo Base and Meridian, In the County of Fresno, State of California.

Excepting therefrom any portion lying landward of the ordinary low water mark of the right bank of the Kings River.



HP Jayne
7/07/2017

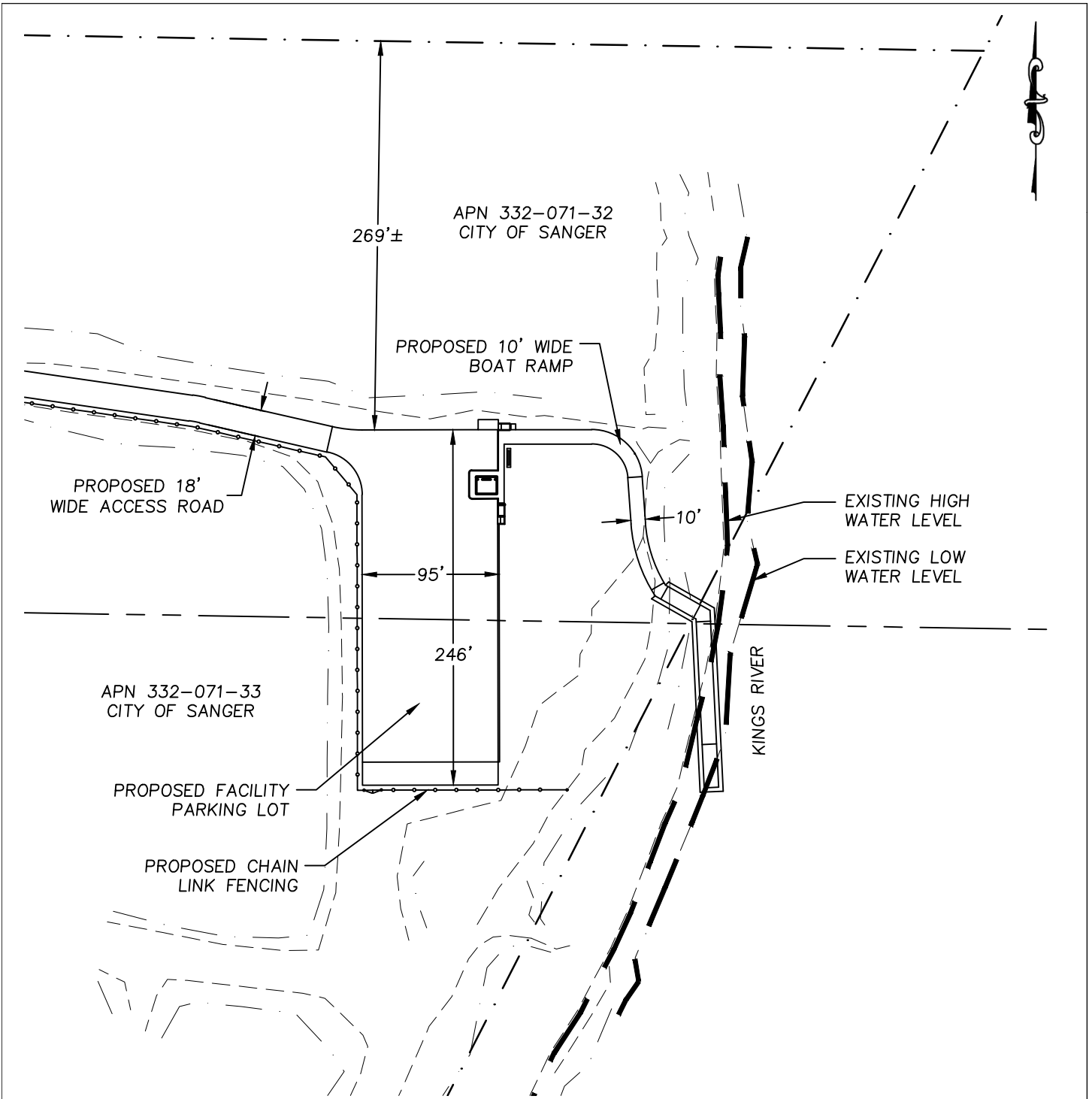


EXHIBIT A

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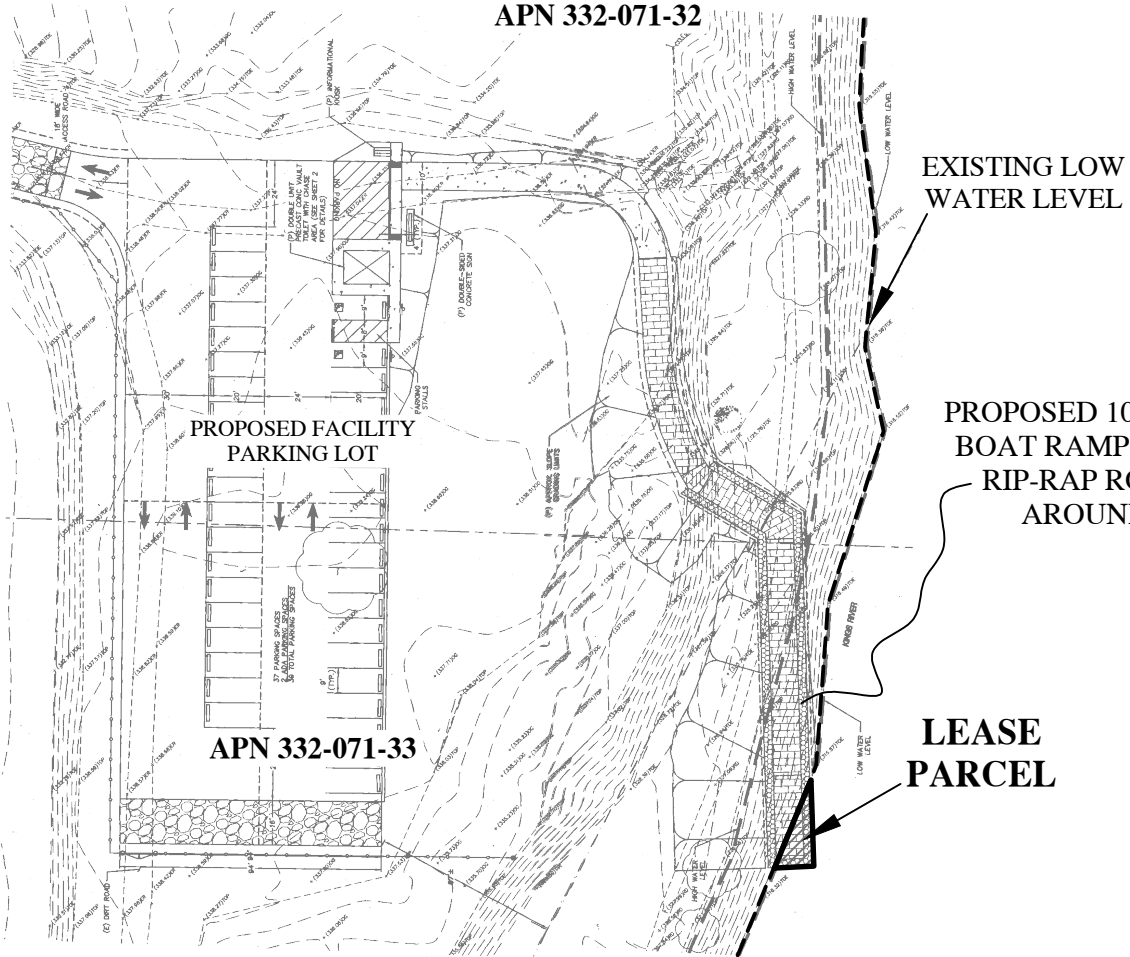
LAND DESCRIPTION PLAT
W27112, CITY OF SANGER
FRESNO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

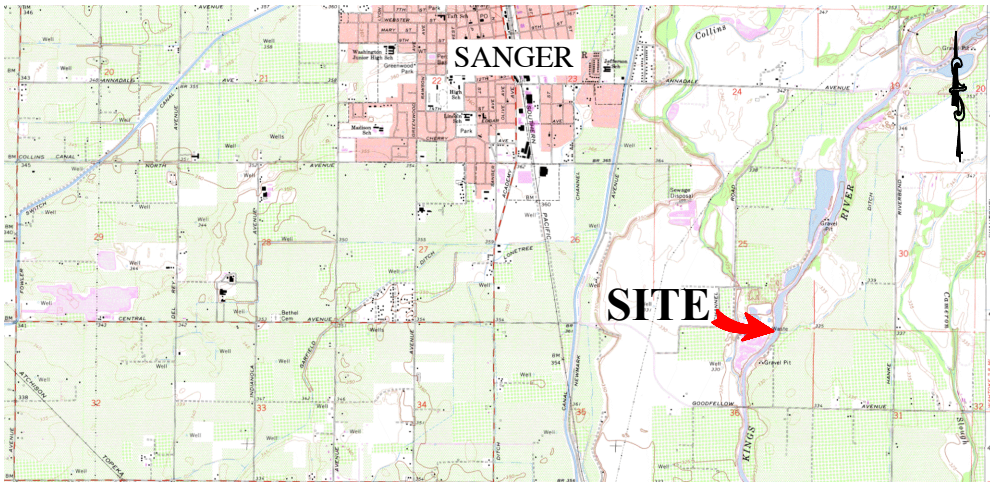


KINGS RIVER

KINGS RIVER, 1/2 MILE NORTH OF THE GOODFELLOW BRIDGE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 27112
 CITY OF SANGER
 APN 332-071-32, 33 &
 332-210-T, 03
 GENERAL LEASE -
 PUBLIC AGENCY USE
 FRESNO 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.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
INITIAL STUDY APPLICATION NO. 7062 AND
UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3521
(CITY OF SANGER)
(W 27112, State Clearinghouse No. 2016061045)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Initial Study Application No. 7062 and Unclassified Conditional Use Permit Application No. 3521 (Project). The CEQA lead agency for the Project is the County of Fresno.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted an MND, State Clearinghouse No. 2016061045, has adopted a MMP and conditions of approval for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply to the mitigation measure listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMP prepared by the CEQA lead agency and listed in Table C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
Cultural Resources	MM No. 1	See below (MM No. 1)

MM No. 1. In the event that cultural resources are unearthed during ground-disturbing activity, 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 ground-disturbing activity, 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 determined to be Native American, the Coroner must notify the Native American Commission within 24 hours.

Commission staff shall be notified of any important cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources and paleontological specimens from such lands must be approved by the Commission.

² See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

ATTACHMENT C-1

**Mitigation Monitoring Program Adopted by the
County of Fresno**

Mitigation Monitoring and Reporting Program
Initial Study Application No. 7062 and Unclassified Conditional Use Permit Application No. 3521
(Including Conditions of Approval and Project Notes)

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activity, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activity, 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 determined to be Native American, the Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/Public Works and Planning	Ongoing during construction
Conditions of Approval					
1.	Development of the property shall be in accordance with the Site Plan, Elevations, Operational Statement, and other application materials approved by the Commission.				
2.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage, lighting and right-of-way dedication.				
3.	At the time of submittal for Site Plan Review, the Applicant shall submit to the Zoning Section of the Department of Public Works and Planning a Determination of Merger for APNs 332-071-32, 33 and 332-210-03.				
4.	The Applicant/operator shall follow the recommended start-up procedures for the vault toilet as documented by the manufacturer. A high-water-level alarm shall be installed as part of the installation of the vault toilet. The level shall be checked monthly through the months of May through September and bi-monthly for the balance of the year.				
5.	Liquid hand sanitizer dispensers shall be installed on the interior wall of each toilet stall. The liquid sanitizer shall be checked monthly through the months of May through September and bi-monthly for the balance of the year.				
6.	The hours of operation shall be limited from 7:00am to sunset during the months of September through April.				

EXHIBIT B

*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

Notes

The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.

1.	A separate mapping procedure may be required depending on the status of the parcels.
2.	An Elevation Certification, pre- and post-construction, is required for each structure when building within a flood zone. All structures and/or equipment installed within the flood zone must be elevated per the County Ordinance or flood-proofed (certification and calculations would be required).
3.	The floodway must be kept free of encroachment so that the one-percent annual chance flood can be carried out without substantial increases in flood heights, per FEMA FIRM legend. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance.
4.	Any work in or near the river requires written permission from the channel owner.
5.	Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.
6.	Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.
7.	30-foot by 30-foot corner cutoffs are required to be improved for sight distance at the proposed driveway onto Channel Road.
8.	The proposal will be required to comply with California Code of Regulations Title 24 – Fire Code.
9.	If approved, plans, permits and inspections are required, including, but not limited to, accessible elements and site development based upon the codes in effect at the time of plan check submittal.

DB:ksn

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