

**CALENDAR ITEM
C15**

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12/10/10
WP 7324.9
M. Clark

S 12,14

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

California Department of Fish and Game

AREA, LAND TYPE, AND LOCATION:

Four parcels, totaling approximately 27.52 acres of sovereign land in the Merced River, downstream of the Crocker Huffman Dam, near the town of Snelling, Merced County.

AUTHORIZED USE:

Continued use and maintenance of three existing spawning habitat sites and the creation of one additional spawning habitat site for Chinook salmon and Central Valley steelhead as part of the Merced River Ranch Floodplain Restoration Project as shown on Exhibit A.

LEASE TERM:

20 years, beginning December 10, 2010.

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.

SPECIFIC LEASE PROVISIONS:

At all times while construction activities are taking place in the Merced River, Lessee shall install warning signs and buoys, both upstream and downstream of the construction site, to provide notice to the public that construction activities are taking place in the Merced River and to exercise caution.

OTHER PERTINENT INFORMATION:

1. Applicant owns and has the right to use the uplands adjoining the lease premises.

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2. On August 30, 1989, the Commission authorized a General Permit – Public Agency Use to the California Department of Fish and Game (DFG) for the creation of a salmon habitat site. On July 15, 1991, the permit was amended to include the creation of two additional spawning sites. That permit expired August 31, 2009. The DFG is now applying to the Commission for a new lease that will include one additional spawning habitat site. The proposed new lease area will, therefore, include a total of four parcels encompassing approximately 27.52 acres of sovereign land in the bed of the Merced River. The existing, previously authorized sites will continue to be maintained by DFG.
3. The new proposed project, known as Merced River Ranch Floodplain Restoration Project (MRRFRP), is located within critical habitat for the Central Valley steelhead and Chinook salmon. Damming, flow diversions, and gold mining have reduced the Merced River's flow and decreased coarse sediment transport, consequently reducing natural floodplains and rearing habitat for salmon and steelhead. The project proposes to increase spawning and rearing habitat through re-grading and rehabilitating approximately 6 acres of dredger tailings on the historic upland floodplain and approximately 5.5 acres of salmonid spawning habitat in the bed of the river.
4. Construction is anticipated to take place over a five-year period starting August 1, 2011 through October 30, 2016. All in-water work will be performed when the river flows are low and prior to spawning season. The Applicant does not anticipate the use of water diverters during construction. The surrounding upland floodplain will be graded to restore elevation and side channel connectivity and approximately 56,000 cubic yards of material from the dredger tailings within the floodplain will be used to create the spawning riffles. An additional 13,000 cubic yards of material will be used to fill channel holes and create the designed channel slope. All excavated material will be used within the project site. After floodplain and grading activities are completed, the disturbed areas will be re-vegetated.
5. **Existing Spawning Habitat:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

6. **Proposed Habitat:** A Mitigated Negative Declaration SCH# 2010041098 was prepared by the California Department of Fish and Game and adopted on June 24, 2010, for this project. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the DFG and is provided in Exhibit C.
7. 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 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, U.S. Fish and Wildlife Service, NOAA Fisheries, California Department of Fish and Game, California Regional Water Quality Control Board, and State Water Resources Control Board.

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

February 27, 2011

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Spawning Habitat: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Proposed New Habitat: Find that a Mitigated Negative Declaration SCH #2010041098 and a Mitigation Monitoring Program were prepared by Department of Fish and Game and adopted on June 24, 2010, for this

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Project and that the Commission reviewed and considered the information contained therein. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

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 issuance of a General Lease – Public Agency Use to the California Department of Fish and Game beginning December 10, 2010, for a term of 20 years, for the continued use and maintenance of three existing spawning riffle sites and the creation of additional spawning habitat for Chinook salmon and Central Valley steelhead as shown on Exhibit A (for reference purposes only) and as described in Exhibit B 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 if the Commission finds such action to be in the State's best interest.