

**CALENDAR ITEM
C106**

A 1
S 2

03/29/12
W 26310
J. Frey

**CONSIDER APPROVAL OF A TITLE SETTLEMENT AND PUBLIC TRUST
TERMINATION AGREEMENT BETWEEN THE CALIFORNIA STATE LANDS
COMMISSION AND SUE K. PAIK, AS TRUSTEE OF THE BYPASS TRUST (UNIFIED
CREDIT TRUST) CREATED UNDER DECLARATION OF TRUST FOR THE YOUNG
J. PAIK FAMILY TRUST DATED MARCH 26, 1991, INVOLVING CERTAIN PARCELS
OF LAND LOCATED ALONG THE RIGHT BANK OF THE SACRAMENTO RIVER IN
WEST SACRAMENTO, YOLO COUNTY**

PARTIES:

State of California, acting by and through the State Lands Commission

Sue K. Paik, as Trustee of the Bypass Trust (Unified Credit Trust) created under Declaration of Trust for the Young J. Paik Family Trust Dated March 26, 1991

BACKGROUND:

Sue K. Paik, Trustee of the Bypass Trust (Unified Credit Trust) created under Declaration of Trust for the Young J. Paik Family Trust Dated March 26, 1991 ("Paik") has record title to certain property located in West Sacramento, south of Linden Road and adjacent to the right bank of the Sacramento River and identified by Yolo County Assessor parcel numbers 046-050-30-1, 046-050-33-1, 046-100-01, and 046-100-09-1 as shown in Exhibits A and B ("Subject Property"). The Subject Property is currently undeveloped. Reclamation District 900 has constructed a levee along the right bank of the Sacramento River, which at this location is tidal and navigable. There is a bench between the levee and the River which is covered with dense flora and trees. There is also an old borrow pit on one of the parcels outside of the levee that is covered with valuable habitat and wetlands. This area is popularly known as "Bees Lake".

Paik proposes to construct a new residential-commercial development over most of the parcels and a new levee on the western edge of Bees Lake and wishes to preserve the Bees Lake area and its valuable habitat and recreational opportunities. Paik has requested that the Commission enter into a Title Settlement and Public Trust Termination Agreement ("Settlement Agreement") to confirm the extent of the State's sovereign interest in the Subject Property.

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PROPOSED TITLE SETTLEMENT:

The Parties to the proposed Settlement Agreement are the State of California, acting by and through the State Lands Commission ("Commission") and Paik. The purpose of the Settlement Agreement is to settle certain title disputes concerning the Subject Property and confirm those parcels subject to the Public Trust and owned by the Commission and those parcels which are free of any Public Trust interest. Upon approval, execution and recordation of the proposed Settlement Agreement, the Subject Property will be divided into three parcels: State Parcel, Bees Lake Parcel and Public Trust Termination Parcel. These three parcels are depicted on Exhibit C.

Specifically, the key terms of the proposed Settlement Agreement provide that:

1. Paik will quitclaim its right, title, and interest in State Parcel to the Commission, thereby confirming the State's fee ownership of the lands between the Sacramento River and the levee on the right bank of the Sacramento River.
2. Paik will also convey its interest in the Bees Lake Parcel to the Commission, which will re-convey the parcel back to Paik, reserving a Public Trust Easement.
3. In exchange for the above-described conveyances, the Commission will quitclaim to Paik its interest in the Public Trust Termination Parcel and terminate the Public Trust from those parcels.

LEGAL REQUIREMENTS:

Pursuant to Public Resources Code ("PRC") section 6307, the Commission is authorized, under certain limited circumstances, to exchange lands and terminate the State's public trust interests pursuant to a title settlement agreement. The Commission, in order to comply with Article X, Section 3 of the California Constitution and to approve the proposed Settlement Agreement, must make the following requisite findings pursuant to PRC section 6307:

- (1) The exchange is for one or more of the following purposes:
 - a. To improve navigation or waterways;
 - b. To aid in reclamation or flood control;
 - c. To enhance the physical configuration of the shoreline or trust land ownership;
 - d. To enhance public access to or along the water;
 - e. To enhance waterfront and nearshore development or redevelopment for public trust purposes;
 - f. To preserve, enhance, or create wetlands, riparian, or littoral habitat, or open space; and/or
 - g. To resolve boundary or title disputes.
- (2) The lands or interests in lands to be acquired in the exchange will provide a significant benefit to the public trust;
- (3) The exchange does not substantially interfere with public rights of navigation and fishing;
- (4) The monetary value of the lands or interests in lands received by the trust in exchange is equal to or greater than that of the lands or interests in land given by the trust in exchange;

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- (5) The lands or interests in land given in exchange have been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways and are relatively useless for public trust purposes; and,
- (6) The exchange is in the best interest of the state.

STAFF ANALYSIS AND RECOMMENDATION:

Commission staff has conducted a study and investigation of the boundary and title evidence of the subject parcels, thoroughly examining historical maps, aerial photos, hydrological data, and other evidence concerning the area in an effort to determine the location and extent of sovereign property interests.

The evidence shows that the Sacramento River was historically located adjacent to and within the Subject Property. The Subject Property was patented as Swamp and Overflowed lands. There is evidence showing the existence of a prior levee landward of the location of the current levee; that the bed of the Sacramento River was historically located westerly of its current placement; and that the historic ordinary high water mark was located along the western edge of the present levee. The movement of the Sacramento River from its historical location was due to artificial influences, including but not limited to floods, accretion and the construction of levees and wing dams. However, the State's title was not affected by the occurrence of these artificial events. Paik contends that she is the successor in interest to the original patentees of the Subject Property and she holds title to the Subject Property free of any State interest. There is a bona fide dispute between the Commission and Paik as to the existence, extent, nature and location of their respective rights, title and interests in the Subject Property.

Staff recommends that the Commission approve the proposed Settlement Agreement for several reasons. The Settlement Agreement is for the purpose of preserving, enhancing, or creating wetlands, riparian habitat, and open space and for resolving a boundary and title dispute. Clear title to the State Parcel and the Public Trust Easement to be acquired in the Bees Lake Parcel are significant benefits to the Public Trust by permanently protecting the parcels from commercial and/or residential development and providing an interest in the Bees Lake Parcel that may be used to create new public recreational opportunities and protect riparian habitat and open space.

The Settlement Agreement does not substantially interfere with public rights of navigation and fishing because it will not affect lands within the current bed of the Sacramento River and because the State will receive clear title to the State Parcel which is immediately adjacent to the Sacramento River thus protecting navigation and fisheries from encroachment by interests inconsistent with the Public Trust.

The Public Trust Termination Parcel has been cut off from water access and is no longer in fact tidelands or submerged lands or a navigable waterway by virtue of having been filled or reclaimed and leveed, and is relatively useless for Public Trust purposes.

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In the interest of settlement, the Parties conducted independent studies and evaluations of their respective factual and legal positions relating to the disputed title claims. Appraisals and property interest evaluation studies reviewed or completed by Commission staff have shown that the monetary value of the State Parcel and the Public Trust Easement in the Bees Lake Parcel to be exchanged into the Public Trust under this Settlement Agreement are equal to or greater than the monetary value of the State's interests to be terminated in the Public Trust Termination Parcel.

Since litigation of this matter would likely be extremely protracted and costly with uncertain results, the Parties to the Settlement Agreement consider it expedient, necessary, and in the best interests of the State and Paik to resolve this dispute through the proposed Settlement Agreement thereby avoiding the substantial costs and uncertainties of litigation.

As described in the preceding paragraphs, the facts support each of the necessary findings the Commission must make, including that this Agreement is in the best interests of the State. Commission staff and the Attorney General's Office have reviewed the proposed Settlement Agreement and believe all necessary legal elements have been met. Staff therefore recommends the Commission approve the Settlement Agreement, in substantially the form on file at the Commission's Sacramento Office, and authorize its execution and the execution and recordation of all documents necessary to implement it.

OTHER PERTINENT INFORMATION:

1. The State, acting by and through the Commission, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to section 6307 of such code, to enter into title settlement and exchange agreements.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), staff has determined that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves settlement of title and boundary problems.

Authority: Public Resources Code Section 21080.11 and California Code of Regulations, Title 14, section 15282, subdivision (F).

3. 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.

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EXHIBITS:

- A. Land Description of the Subject Property
- B. Plat of Subject Property
- C. Plat of Final Settlement
- D. Land Description of the State Parcel
- E. Land Description of the Bees Lake Parcel
- F. Land Description of Public Trust Termination Parcel

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to , California Code of Regulations, Title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080.11, and California Code of Regulations, Title 14, section 15282 subdivision (F) settlement of title and boundary problems and to exchanges in connection with those settlements.

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 sections 6370 et seq.

AUTHORIZATION:

1. Find that the proposed Title Settlement and Public Trust Termination Agreement is in the best interests of the Parties and the public to resolve this dispute between the State and Paik over title to the properties described in Exhibits D, E, and F and to avoid the anticipated costs, time requirements, and uncertainties of litigation.
2. Find that, with respect to the Title Settlement and Public Trust Termination Agreement:
 - a. The Settlement Agreement is for the purpose of preserving, enhancing, or creating wetlands, riparian habitat, and open space and resolving a boundary and title dispute.
 - b. The State Parcel and the Public Trust Easement to be acquired in the Bees Lake Parcel are of significant benefit to the Public Trust by permanently protecting the parcels from commercial and/or residential development and provide an interest in the Bees Lake Parcel that may be used to create new public recreational opportunities and protect riparian habitat and open space.
 - c. The Settlement Agreement does not substantially interfere with public rights of navigation and fishing.

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- d. The monetary value of the lands or interests in the State Parcel and Bees Lake Parcel received by the State are equal to or greater than that of the State's interests in the Public Trust Termination Parcel.
 - e. The Public Trust Termination Parcel is cut off from water access and is no longer in fact tidelands or submerged lands or a navigable waterway by virtue of having been filled or reclaimed, and is relatively useless for Public Trust purposes.
 - f. The Settlement Agreement is in the best interests of the State of California.
 - g. The Settlement Agreement shall provide for the termination of any and all fee and public trust claims in the Public Trust Termination Parcel in exchange for impressing the Public Trust Easement on the Bees Lake Parcel and receiving clear title to the State Parcel.
 - h. The termination of the Public Trust in the Public Trust Termination Parcel shall be effective upon the execution of the Settlement Agreement and its recordation in the Official Records for Yolo County.
3. Approve and authorize the execution, acknowledgment, and recordation of the Title Settlement and Public Trust Termination Agreement and associated deeds and acceptances on behalf of the Commission, in substantially the form of the copy of such agreement on file with the Commission.
 4. Authorize and direct the staff of the Commission and the California Attorney General to take all necessary or appropriate actions on behalf of the California State Lands Commission, including the execution, acknowledgment, acceptance, and recordation of all documents as may be necessary or convenient to carry out the Title Settlement and Public Trust Termination Agreement; and to appear on behalf of the Commission in any legal proceedings relating to the subject matter of the Settlement Agreement.

**EXHIBIT A
LAND DESCRIPTION**

W 26310/AD _____

SUBJECT PROPERTY

All that land situate in the City of West Sacramento, County of Yolo, State of California, being Parcel One, Parcel One-A, and Parcel Two of that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002616-00, Official Records of Yolo County; together with that certain parcel of land as described in that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002618-00, Official Records of Yolo County.

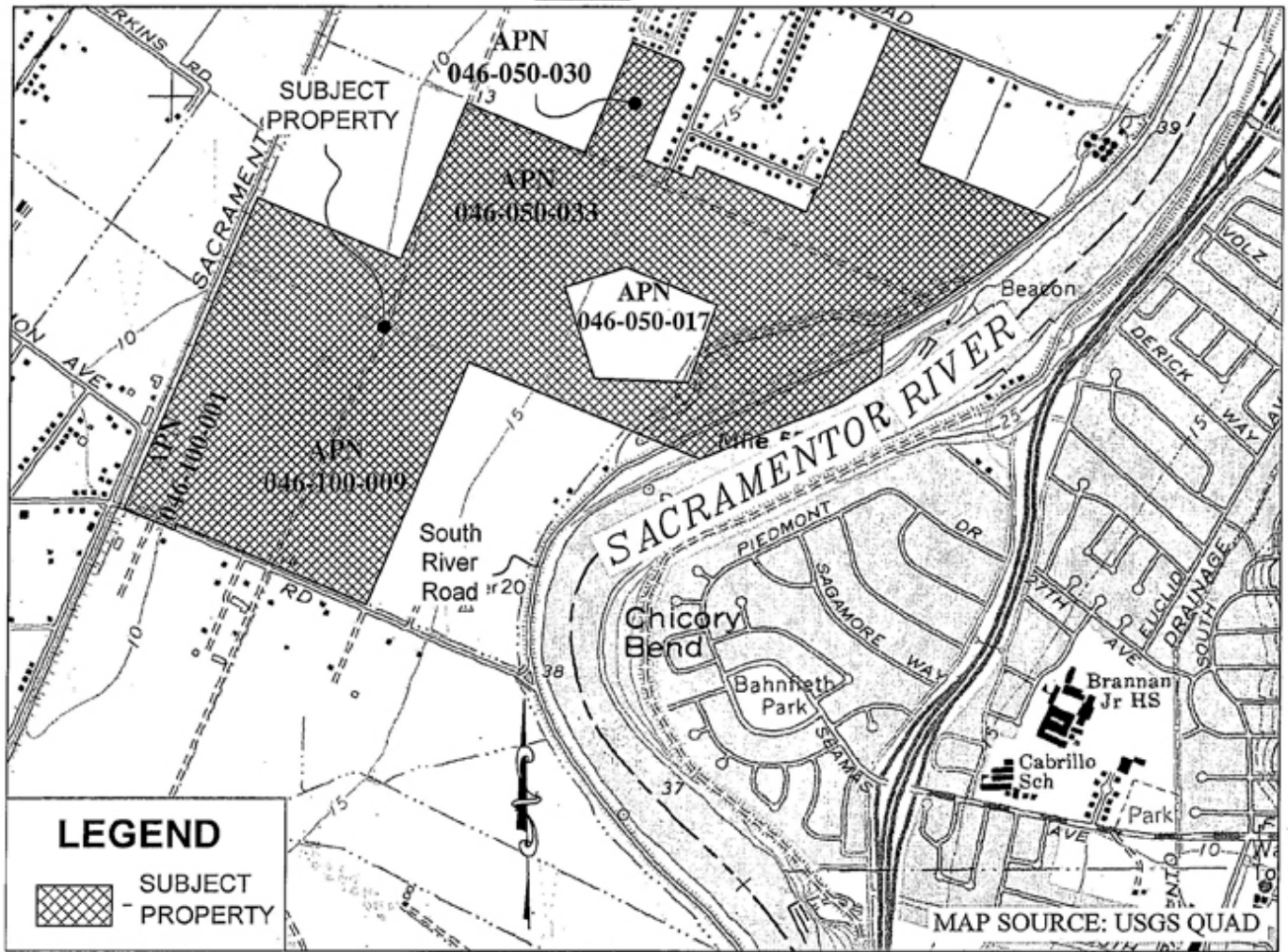
END OF DESCRIPTION

Prepared 02/22/2012 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



PLAT OF SUBJECT PROPERTY
SOUTH RIVER ROAD, WEST SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

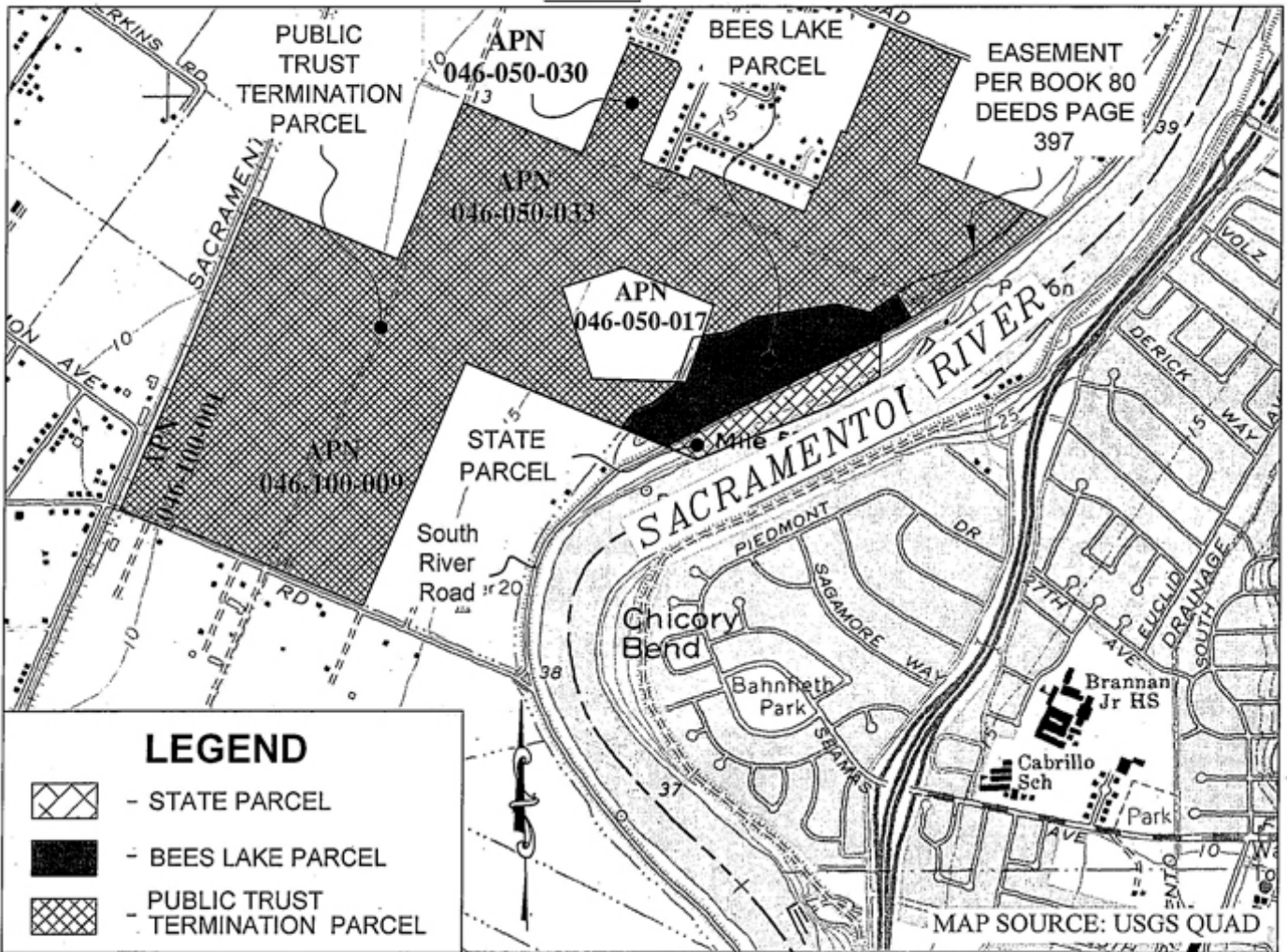
W 26310
TITLE SETTLEMENT
PAIK PROPERTIES
YOLO COUNTY



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.

NO SCALE

SITE



PLAT OF FINAL CONFIGURATION OF INTERESTS SOUTH RIVER ROAD, WEST SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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

W 26310
TITLE SETTLEMENT
PAIK PROPERTIES
YOLO COUNTY



**EXHIBIT D
LAND DESCRIPTION**

W 26310/AD _____

STATE PARCEL

A parcel of land situate in the City of West Sacramento, County of Yolo, State of California, being portions of Parcel One and Parcel One-A of that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002616-00, Official Records of Yolo County, and being more particularly described as follows:

BEGINNING at the easterly terminus of that certain course "N 67°13'28" W 2105.59'" as shown on that certain map filed December 28, 1978 in Book 4 of Parcel Maps at Page 65, Yolo County Records; thence from said point of beginning North 67°13'17" West 275.46 feet along the southerly line of Parcel B of said map; thence leaving said line, North 62°11'11" East 682.56 feet; thence North 63°25'14" East 1327.58 feet to a point on the easterly line of said Parcel B; thence along the easterly and southeasterly lines of said Parcel B, South 01°08'57" West 320.42 feet; thence South 57°59'35" West 450.79 feet; thence South 68°10'32" West 1236.97 feet to the point of beginning.

The BASIS OF BEARINGS of this description is the monument line between City of West Sacramento Geodetic Control Stations C21-01 and B22-01 as shown on that certain map filed as Book 13 of Maps & Surveys Page 61, Yolo County Records, the bearing of which is North 71°33'48" East.

END OF DESCRIPTION

Prepared 02/22/2012 by the California State Lands Commission Boundary Unit.



**EXHIBIT E
LAND DESCRIPTION**

W 26310/AD _____

BEES LAKE PARCEL

A parcel of land situate in the City of West Sacramento, County of Yolo, State of California, being portions of Parcel One and Parcel One-A of that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002616-00, Official Records of Yolo County, and being more particularly described as follows:

COMMENCING at the easterly terminus of that certain course "N 67°13'28" W 2105.59'" as shown on that certain map filed December 28, 1978 in Book 4 of Parcel Maps at Page 65, Yolo County Records; thence from said point of commencement along the southerly line of Parcel B of said map, North 67°13'17" West 275.46 feet to the POINT OF BEGINNING; thence continuing along said line North 67°13'17" West 405.88 feet to a point on the northwesterly line of the Reclamation District No. 900 right of way and easement as described in that certain deed dated October 3, 1912 and recorded in Book 80 of Deeds at Page 397, Official Records of Yolo County; thence along said northwesterly line North 36°27'39" East 182.84 feet; thence North 67°05'39" East 175.30 feet; thence North 48°57'39" East 250.00 feet; thence North 18°57'39" East 7.14 feet to a point on the southerly line of that certain parcel as described in that certain deed recorded December 20, 1957 in Volume 529 Page 551, Official Records of Yolo County; thence leaving said Reclamation District No. 900 right of way and easement line and along the southerly and easterly lines of said parcel, South 87°56'49" East 73.85 feet; thence North 19°26'36" East 412.49 feet to a point on said Reclamation District No. 900 right of way and easement line; thence leaving said easterly line and along the northwesterly line of said Reclamation District No. 900 right of way and easement line, North 79°57'39" East 215.23 feet; thence North 61°42'39" East 250.00 feet; thence North 80°42'39" East 690.00 feet; thence South 76°55'51" East 300.30 feet; thence North 55°42'39" East 268.24 feet; thence leaving said Reclamation District No. 900 right of way and easement line, South 32°26'49" East 239.13 feet to a point on the southeasterly lines of said Parcel B; thence along the southeasterly and easterly line of said Parcel B, South 59°40'42" West 46.85 feet; thence South 61°28'46" West 101.25 feet; thence South 62°57'43" West 148.73 feet; thence South 01°08'57" West 26.34 feet; thence leaving said line of Parcel B, South 63°25'14" West 1327.58 feet; thence South 62°11'11" West 682.56 feet to the point of beginning.

The BASIS OF BEARINGS of this description is the monument line between City of West Sacramento Geodetic Control Stations C21-01 and B22-01 as shown on that

certain map filed as Book 13 of Maps & Surveys Page 61, Yolo County Records, the bearing of which is North 71°33'48" East.

END OF DESCRIPTION

Prepared 02/22/2012 by the California State Lands Commission Boundary Unit.



**EXHIBIT F
LAND DESCRIPTION**

W 26310/AD _____

PUBLIC TRUST TERMINATION PARCEL

All that land situate in the City of West Sacramento, County of Yolo, State of California, being Parcel One, Parcel One-A, and Parcel Two of that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002616-00, Official Records of Yolo County; together with that certain parcel of land as described in that certain Grant Deed recorded January 26, 2012 as Instrument No. 2012-0002618-00, Official Records of Yolo County.

EXCEPTING THEREFROM that portion of land described as follows:

BEGINNING at the easterly terminus of that certain course "N 67°13'28" W 2105.59" as shown on that certain map filed December 28, 1978 in Book 4 of Parcel Maps at Page 65, Yolo County Records; thence from said point of beginning along the southerly line of Parcel B of said map, North 67°13'17" West 681.34 feet to a point on the northwesterly line of the Reclamation District No. 900 right of way and easement as described in that certain deed dated October 3, 1912 and recorded in Book 80 of Deeds at Page 397, Official Records of Yolo County; thence along said northwesterly line North 36°27'39" East 182.84 feet; thence North 67°05'39" East 175.30 feet; thence North 48°57'39" East 250.00 feet; thence North 18°57'39" East 7.14 feet to a point on the southerly line of that certain parcel as described in that certain deed recorded December 20, 1957 in Volume 529 Page 551, Official records Yolo County; thence leaving said Reclamation District No. 900 right of way and easement line and along the southerly and easterly lines of said parcel, South 87°56'49" East 73.85 feet; thence North 19°26'36" East 412.49 feet to a point on said Reclamation District No. 900 right of way and easement line; thence leaving said easterly line and along the northwesterly line of said Reclamation District No. 900 right of way and easement line, North 79°57'39" East 215.23 feet; thence North 61°42'39" East 250.00 feet; thence North 80°42'39" East 690.00 feet; thence South 76°55'51" East 300.30 feet; thence North 55°42'39" East 268.24 feet; thence leaving said Reclamation District No. 900 right of way and easement line, South 32°26'49" East 239.13 feet to a point on the southeasterly line of said Parcel B; thence along the southeasterly and easterly lines of said Parcel B, South 59°40'42" West 46.85 feet; thence South 61°28'46" West 101.25 feet; thence South 62°57'43" West 148.73 feet; thence South 01°08'57" West 346.76 feet; thence South 57°59'35" West 450.79 feet; thence South 68°10'32" West 1236.97 feet to the point of beginning.

The BASIS OF BEARINGS of this description is the monument line between City of West Sacramento Geodetic Control Stations C21-01 and B22-01 as shown on that certain map filed as Book 13 of Maps & Surveys Page 61, Yolo County Records, the bearing of which is North 71°33'48" East.

END OF DESCRIPTION

Prepared 02/22/2012 by the California State Lands Commission Boundary Unit.

