

**CALENDAR ITEM
C61**

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02/09/16
W 26847
W. Hall

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Modesto Irrigation District

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Stanislaus River adjacent to 8124 McHenry Avenue, near the city of Modesto, Stanislaus and San Joaquin Counties.

AUTHORIZED USE:

Relocation, use, and maintenance of overhead transmission lines not previously authorized by the Commission.

LEASE TERM:

25 years, beginning February 9, 2016.

CONSIDERATION:

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.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory 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:

The California Legislature has identified, through Public Resources Code section 6221, that public use made of sovereign land by any instrumentality, district, agency or political subdivision of the state shall be permitted consistent with other laws. In the present case, the Modesto Irrigation District is a publicly owned utility district and the overhead transmission lines cross sovereign land overlying the Stanislaus River providing public electric utility service to 115,000 accounts in the

CALENDAR ITEM NO. **C61** (CONT'D)

surrounding region. As such, Commission staff believes this use of public land, by a public agency, for a public benefit is consistent with the common law public trust doctrine (Public Resources Code section 6221).

In the alternative, Commission staff believes that the use does not substantially interfere with the public's public trust needs and values because both the existing lines and relocated lines will be alongside and parallel to the McHenry Avenue Bridge only minimally affecting recreational boating and fishing.

Furthermore, the lease is over a limited term, it requires the lessee to indemnify the state for any liability incurred as a result of the lessee's activities thereon, and upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to its original condition.

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the upland adjoining the lease premises.
2. The relocation of the existing overhead transmission lines is part of the McHenry Avenue Corridor Improvement Project, which includes improvements to McHenry Avenue, the reconstruction of the McHenry Avenue Bridge, and relocation of the transmission lines alongside the bridge. The transmission lines will cross the Stanislaus River between San Joaquin and Stanislaus Counties.
3. The existing overhead transmission lines were constructed without prior Commission authorization. The relocation of the lines is in conjunction with the relocation and reconstruction of the existing McHenry Avenue Bridge that was authorized by the Commission on December 18, 2015, under Lease No. PRC 2057.9 to the counties of San Joaquin and Stanislaus. The Applicant is now applying for a General Lease – Public Agency Use.
4. 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 resources under the Commission's jurisdiction.

CALENDAR ITEM NO. **C61** (CONT'D)

5. A Mitigated Negative Declaration, State Clearinghouse No. 2013032028, was prepared by San Joaquin County and adopted on February 25, 2014, for this Project. The California State Lands Commission staff has reviewed such document. A Mitigation Monitoring Program was adopted by the County.
6. 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 California Environmental Quality Act (CEQA) review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

PERMITS AND APPROVALS REQUIRED:

Central Valley Flood Protection Board

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2013032028, and a Mitigation Monitoring Program were prepared by San Joaquin County and adopted on February 25, 2014, for this Project and that the Commission has reviewed and considered the information contained therein.

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 interfere with other public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C61** (CONT'D)

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 Modesto Irrigation District beginning February 9, 2016, for a term of 25 years, for the relocation, use and maintenance of overhead transmission lines not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be 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

W 26847

LAND DESCRIPTION

A fifty (50) foot wide strip of State owned submerged land situated in the bed of the Stanislaus River, lying adjacent to fractional Section 16, Township 2 South, Range 9 East, Mount Diablo Meridian, as shown on the Official U.S. Government Township Plat approved March 1, 1873, Counties of San Joaquin and Stanislaus, State of California and the center line of which more particularly described as follows:

COMMENCING at the southwest corner of Section 16, Township 2 South, Range 9 East, Mount Diablo Meridian, said point shown as Monument ID # 55406 on the centerline of McHenry Avenue on that Record of Survey recorded September 16, 2013 in Book 38 of Surveys, at Page 33, Records of San Joaquin County; thence along said centerline North $0^{\circ} 14' 33''$ West 1890.00 feet, more or less to the intersection of said centerline with the left bank of said river; thence easterly 165 feet at a right angle to previously described course to the POINT OF BEGINNING; thence along a line parallel with said centerline and lying 165 feet easterly at right angles therefrom North $0^{\circ} 14' 33''$ West 400.00 feet, more or less to the intersection of said line with the right bank of said river and TERMINUS of described line.

The sidelines of said strip to be lengthened or shortened so as to begin and terminate at the ordinary low water marks of the left and right banks of said river.

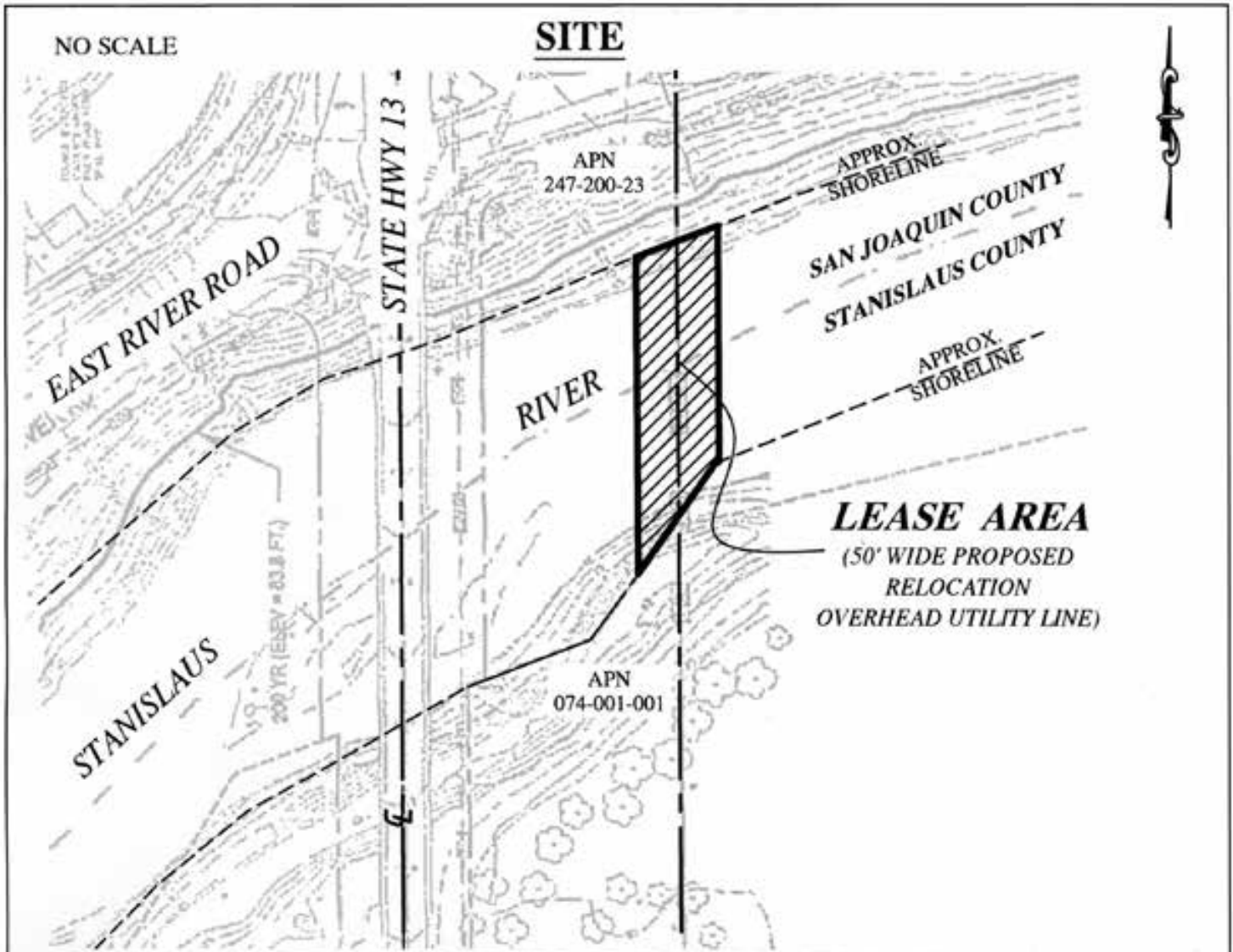
EXCEPTING THEREFROM any portion lying landward of the ordinary low water marks of the left and right banks of said river.

END OF DESCRIPTION

This description is based on Applicant provided plan, by AECOM dated December 2014, for a proposed relocation of the overhead utility line, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 03/26/15 by the California
State Lands Commission Boundary Unit





EAST OF MCHENRY AVENUE BRIDGE CROSSING, NEAR CITY OF MODESTO



MAP SOURCE: USGS QUAD

Exhibit B
 W 26847
 MODESTO IRRIGATION DISTRICT
 GENERAL LEASE - PUBLIC AGENCY USE
 SAN JOAQUIN & STANISLAUS COUNTIES



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
MCHENRY AVENUE CORRIDOR IMPROVEMENT PROJECT
(OVERHEAD UTILITY LINE RELOCATION)
(W26847, State Clearinghouse No.2013032028)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the McHenry Avenue Corridor Improvement Project (Overhead Utility Line Relocation) (Project). The CEQA lead agency for the Project is San Joaquin County.

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 discuss 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. 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 a MMP for the whole of the Project (see Exhibit C, Attachment C-1) and remains responsible for ensuring that implementation of the environmental commitments occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the environmental commitments listed in Table C-1 below.

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

Table C-1. Project Impacts and Applicable Mitigation Measures.

Potential Impact	Mitigation Measure (MM)²
Potential impact due to relocation of utility facilities	Util-1 (See page 235 of Attachment C-1)
Potential impact due to construction emissions.	AQ-3 (See page 240 of Attachment C-1)

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
San Joaquin County**

Appendix C Minimization and/or Mitigation Summary

	Environmental Commitments	Responsible Party	Timing
Util-1	Utilities/Emergency Services		
	An easement will be obtained from MID in order to protect the relocated overhead facilities and maintain necessary safety clearances. The County will also submit plans of the proposed construction that will potentially impact overhead facilities to MID, attention Desi Moreno, in order to coordinate further requirements for this project.	San Joaquin County Department of Public Works and construction contractor.	Prior to start of construction
	Traffic		
	A Transportation Management Plan would be prepared before starting construction work and implemented by the San Joaquin County Department of Public Works throughout the construction of the project. This plan would include such elements as public information/public awareness, the location of access to the construction site, any driveway turn restrictions, temporary traffic control devices or flaggers, travel time restrictions for construction-related traffic to avoid peak travel periods on selected roadways, and designated parking and stain areas for workers and equipment.	San Joaquin County Department of Public Works and construction contractor.	Before the start of construction
	Visual/Aesthetic Resource		
	During project construction, construction materials and debris would be stored away from highly visible areas, which would include, but not be limited to, temporary construction easements located outside of the Stanislaus River floodplain.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction activities
During project construction, nighttime construction lighting would be faced downward and away from adjacent occupied properties. In addition, lighting would be directed away from traffic lanes and areas where lighting could disturb passing drivers and/or pedestrians. Adjacent residents would be provided with a County contact number in case nighttime lighting becomes disruptive.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction activities	
Bridge design would optimize views to Stanislaus River by bridge users by incorporating semi-transparent vehicle barrier for both new bridges. Solid Caltrans concrete barriers would be avoided where possible (Types 25-80). As appropriate for required roadway design, Caltrans Metal Rail Barriers should be considered with the objective to maintain existing views to Stanislaus River by motorists and cyclists (Caltrans Metal Rail Barriers: ST-30, ST-40, ST-10).	San Joaquin County Department of Public Works and construction contractor	During project design	

Environmental Commitments	Responsible Party	Timing
Lighting poles and signs would be designed to minimize reflection to the extent feasible. All reflective surfaces would be painted with an anti-reflective coating or otherwise treated to reduce light reflection.	San Joaquin County Department of Public Works and construction contractor	During project design
Lighting types and shading methods would be incorporated into the project to ensure that lighting impacts are reduced to the greatest extent feasible. Methods may include focusing lighting away from residential properties, using hooded lighting, and reducing the height of the lighting to the extent feasible, in addition to other feasible methods.	San Joaquin County Department of Public Works and construction contractor	During project design
Cultural Resources		
<p>If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area would be diverted until a qualified archaeologist can assess the nature and significance of the find.</p> <p>If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities would cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code Section 5097.98, if the remains are thought to be Native American, the coroner would notify the Native American Heritage Commission (NAHC) who would then notify the Most Likely Descendent (MLD). At this time, the person who discovered the remains would contact Julia Myrah, Environmental MPS / Local Assistance Branch Chief, California Department of Transportation, District 10, so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.</p>	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
If cultural materials are discovered on or in the tide and submerged lands of California (within the Stanislaus River), all materials are vested in the State and under the jurisdiction of the California State Lands Commission (CSLC). In the event of discovery, CSLC Senior Staff Counsel Pam Griggs will be contacted at (916)574-1854 or Pamela.Griggs@slc.ca.gov.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
Hydrology/Floodplain		
Temporary river diversions would be limited to dry-season months (June 15th to October 15th) to avoid potential for storm event flows to overtop diversion equipment. Additionally, diversion equipment would be designed with adequate capacity to accommodate anticipated river flows during the diversion period.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction

Environmental Commitments	Responsible Party	Timing
The Central Valley Flood Protection Board “non-permissible work period” for the Stanislaus River is November 1 through April 15. In-water work will be restricted during this period.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
Water Quality/Stormwater		
Construction within the Stanislaus River would be limited to the period between June 15 and October 15.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
Material and equipment storage will not be permitted within the Stanislaus River floodway and channel after October 31 of each year. Equipment may enter into the floodway, but must be removed daily and stored outside of the area susceptible to inundation.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
The planned temporary embankment/work pads within the Stanislaus River will be constructed of clean, local cobble and gravel substrate material approved both by the U.S. Army Corps of Engineers and the National Marine Fisheries Service.	San Joaquin County Department of Public Works and construction contractor.	During project construction
Diversion methods to be used within the Stanislaus River would be designed to minimize degradation of water quality.	San Joaquin County Department of Public Works and construction contractor.	During project design
Work within the SSJID canal will be restricted to the period between October 15 and February 15, when SSJID is not delivering water to district customers. Dewatering of the canal will not be necessary, since placement of the new culvert will occur when the canal is dry.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
Best Management Practices (BMPs) will be implemented for the project in adherence to all applicable NPDES requirements and other water quality regulations to minimize impacts to water quality and beneficial water uses.	San Joaquin County Department of Public Works and construction contractor.	Throughout project construction
As part of the NPDES requirements, the contractor will be required to identify and implement BMPs that would reduce debris or other pollutants from entering the SSJID canal or the Stanislaus River.	San Joaquin County Department of Public Works and construction	Prior to start of construction, throughout

Environmental Commitments	Responsible Party	Timing
	contractor.	project construction and post construction
Treatment BMPs will be implemented to remove pollutants from runoff water to avoid or minimize impacts to the receiving waters.	San Joaquin County Department of Public Works and construction contractor.	Prior to start of construction, throughout project construction, and post construction
The County would avoid or minimize potential construction-related water quality impacts through compliance with the State Water Quality Control Board (SWQCB) National Pollutant Discharge Elimination System (NPDES) General Permit for construction activities. The County would be responsible for filing a Notice of Intent with the SWQCB and the contractor would prepare a storm water pollution prevention program (SWPPP), developed by a qualified SWPPP practitioner, and implement an appropriate suite of temporary construction BMPs.	San Joaquin County Department of Public Works and construction contractor	Prior to start and throughout construction activities
The contractor would be responsible for constructing permanent post-construction storm water BMPs in accordance with County standards, which would be identified and incorporated into the SWPPP. The SWPPP requirements would accommodate the additional drainage discharges generated by the project to avoid adverse effects such as off-site erosion, sedimentation, and water quality impairments.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
The construction contractor would prepare a water diversion plan that complies with all regulatory permits and agreements for any diversion of water necessary for project implementation.	San Joaquin County Department of Public Works and construction contractor	Prior to project construction
All pumped water would be routed to either (1) a sedimentation pond located on a flat stable area above the ordinary high water mark that prevents silt-laden runoff from entering the river, or (2) a sedimentation tank/holding facility that allows only clear water to return to the river and includes disposal of settled solids at an appropriate off-site location.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
A storm water pollution protection plan (SWPPP) would be created and implemented to ensure the proper installation and maintenance of sediment control measures.	San Joaquin County Department of Public	Prior to and throughout

Environmental Commitments	Responsible Party	Timing
Implementation of the SWPPP would be phased for the suitable timing for dry-weather protective measures and rainy season protective measures.	Works and construction contractor	project construction
Hazardous Materials		
If previously unidentified contaminated soil is encountered during excavation or grading, the construction contractor will stop work and contact an environmental hazardous materials professional to conduct an on-site assessment. If the materials are determined to pose a risk to the public or construction workers, the construction contractor will prepare and submit a remediation plan to the appropriate agency and comply with all federal, state, and local laws	San Joaquin County Department of Public Works and construction contractor	Prior to start of construction
If previously unidentified asbestos containing materials are identified, at concentrations that could pose a health hazard, in structures to be demolished, those structures will be removed under acceptable engineering methods and work practices. A California Certified Asbestos Consultant will be retained prior to bridge removal, and will prepare and monitor implementation of an asbestos compliance plan.	San Joaquin County Department of Public Works and construction contractor	Prior to start of construction
All aspects of the project associated with removal, storage, transportation, and disposal of yellow traffic stripes would be in strict accordance with County, State and Federal regulations. Disposal of the stripes would be at a Class I disposal facility if they are found to be hazardous.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
A Lead Compliance Plan for worker health and safety will be prepared by a Certified Industrial Hygienist and will be implemented prior to the start of construction activities. This plan is needed to minimize worker exposure to lead and/or lead chromate while handling excess soils and/or yellow and white traffic striping.	San Joaquin County Department of Public Works and construction contractor.	Prior to start of construction activities
Air Quality		
The construction contractor would comply with Caltrans' Standard Specifications Section 7-1.01F and Section 10 of Caltrans' Standard Specifications (2006).	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
The construction contractor would prepare and submit a Dust Control Plan to the San Joaquin Valley Air Pollution Control District for their approval at least 30 days prior to any earthmoving or construction activities.	San Joaquin County Department of Public Works and construction contractor	At least 30 days prior to the start of any earthmoving or construction

Environmental Commitments	Responsible Party	Timing
		activities.
AQ-3 The project would comply with San Joaquin Valley Air Pollution Control District Rule 9510, Indirect Source Review, which requires implementation of control measures and/or purchasing of emissions offsets to mitigate construction-related NOx and PM10 emissions from roadway projects in excess of 2.0 tons. Off-Site Emission Reduction Fees would be calculated, as dictated by Rule 9510, to reduce construction-related NOX emissions by 20 percent and PM10 emissions by 45 percent, compared to the statewide fleet average.	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout project construction
Noise		
The construction contractor would substitute noise/vibration-generating equipment with equipment or procedures that would generate lower levels of noise/vibration. For instance, in comparison to impact piles, drilled piles or the use of a vibratory pile driver are preferred alternatives where geological conditions would permit their use.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
Limit noise-generating construction activities, excluding those that would result in a safety concern to workers or the public, to the least noise-sensitive daytime hours. Construction activities would be prohibited on Sundays and federal/state-recognized holidays.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
All construction equipment would have sound-control devices that are no less effective than those provided on the original equipment. No equipment would have an unmuffled exhaust.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
As directed by Caltrans or San Joaquin County, the contractor would implement appropriate additional noise mitigation measures, including changing the location of stationary construction equipment, turning off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, and installing acoustic barriers around stationary construction noise sources.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
Biological Resource		
The project proposes to mitigate for the permanent loss of 0.45 acre of Valley Foothill Riparian Forest habitat at a 2:1 ratio at a conservation bank approved by the CDFG and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA/NMFS). If a conservation bank is unavailable to satisfy the credit needs for the proposed	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout project construction and post

Environmental Commitments	Responsible Party	Timing
<p>project, an in-lieu fee program with both the NOAA/NMFS and the CDFG is proposed. If options 1 and 2 above are not deemed acceptable to the resource the County would undertake restoration on site within the Stanislaus River watershed no more than 5 miles from the project study area. Within the mitigation area, riparian habitat greater in size to the area impacted by implementation of the proposed project (minimum 2:1 ratio) would be reestablished and protected in perpetuity through a conservation easement. Plantings would have a minimal survival rate of 80% at the end of the five-year monitoring and maintenance period. If this rate is not met, the plan would require replanting and continued monitoring until a five-year success period is met.</p>		construction.
<p>For areas of Valley Foothill Riparian Forest habitat that require temporary disturbance, the County would prepare and implement an on-site riparian restoration plan for disturbed riparian habitat. The plan will comply with the re-vegetation requirements established in the environmental permits. The plan will include on-site and/or off-site location(s) for replacement shrubs and trees, protection measures for replacement shrubs and trees that ensure 80 percent of the replacement plantings are alive five years following re-vegetation, and monitoring measures by a qualified biologist.</p>	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout project construction and post construction
<p>Impacts to woodland habitat and mitigation requirements would be addressed in a Habitat Mitigation Plan as described. The County would restore oak woodland at appropriate mitigation area no more than 10 miles from the project study area. Within the mitigation area, oak woodland greater in size to the area impacted by implementation of the proposed project (minimum 3:1 ratio = three acorns/trees planted for every one removed) would be reestablished and protected in perpetuity through a conservation easement. Plantings would have a minimal survival rate of 80% at for five consecutive years. The County may also pay in-lieu fees at an approved mitigation bank instead of undertaking a restoration project. Mitigation bank credits will be purchased prior to the start of construction activities.</p> <p>Table 2.21 below outlines the proposed mitigation. At a minimum, nine acorns/trees consisting of native oak species would be planted as mitigation for the potential impact to three native oaks (tree tags 688, 689, 691) protected under the San Joaquin County oak protection ordinance (Chapter 9 1505; Ordinance 36753).</p>	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout project construction and post construction.
<p>For oaks that would be preserved on-site, construction activities may not compact soil or change grades or drainage near oaks. A fence must be installed during construction. Irrigation and paving near the dripline (area directly located under the outer circumference of the tree branches) would be minimized. Heritage trees may only be</p>	San Joaquin County Department of Public Works and construction	During construction and post

Environmental Commitments	Responsible Party	Timing
removed in the public interest and must be replaced 5:1 (5 acorns/trees planted for every one removed).	contractor	construction
For areas of oak woodland that require temporary effects, implementation of an on-site restoration plan to mitigate temporary impacts would take place in accordance with the re-vegetation requirements established in the requirements of the environmental permits. Mitigation ratios, re-vegetation techniques, and success criteria areas must be included in these requirements. A restoration plan would be developed and provided to the appropriate resource agencies prior to implementation of the proposed project..	San Joaquin County Department of Public Works and construction contractor	Prior to start and throughout construction and post construction
During project development, the size of the work area limits has been reduced to the smallest amount feasible within sensitive habitat areas.	San Joaquin County Department of Public Works and construction contractor	Prior to project construction.
Impacts to the water quality of the river would be minimized by implementing best management practices and an erosion and sediment control plan that minimize impacts to water quality in the river.	San Joaquin County Department of Public Works and construction contractor	Prior to project construction and throughout project construction.
To reduce potential impacts to vegetation and aquatic habitat associated with accidental spills of pollutants (i.e., fuel, oil, grease, etc.), the construction contractor would implement appropriate hazardous materials management practices to reduce the possibility of chemical spills or releases of contaminants, including any non-storm water discharge.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction.
Construction activities within the Stanislaus River would be limited to the period between June 15 and October 15. To minimize risk of direct take, placement of the temporary in-river fill would be conducted outside of the peak migration period (November through May).	San Joaquin County Department of Public Works and construction contractor	Throughout project construction.
Before any construction activities begin on the project, a qualified biologist would develop, implement, and conduct a Worker Environmental Awareness Program (WEAP) for all construction personnel. At a minimum, the training will brief them on the need to avoid impacts on biological resources and the penalties for not complying with biological mitigation requirements and should include a description of all special-status species that have the potential to occur within the action area, their habitat requirements, the avoidance and minimization measures that are to be implemented and maintained for the conservation of the species, and the limits of	San Joaquin County Department of Public Works and construction contractor	Prior to project construction.

Environmental Commitments	Responsible Party	Timing
construction/disturbance for the project. An environmental awareness handout describing and illustrating sensitive resources that will be avoided during project construction as well as all relevant permit conditions, will be provided to each person.		
A fish salvage program will be developed and implemented, which will reduce direct take of fish during the construction and placement of the water bladders, pier placement, and dewatering (temporary fill). Placement of the temporary fill will be done so that fish would be able to pass through the project site at all times. The program shall require a NOAA/NMFS-approved biologist to be on site during in-stream construction to oversee field operations and salvage activities and to determine suitable time(s) and location(s) of release for rescued fish. Rescued fish shall be immediately transferred to an oxygenated holding tank and transported to an appropriate downstream release site for juveniles and an upstream site for adults. The water inside the holding tank shall be the same temperature as the river to reduce shock as the fish are released. The fish shall be released in a manner that will not harm the fish.	San Joaquin County Department of Public Works and construction contractor	Prior to start and throughout project construction.
The construction of the proposed bridge using cast-in-place concrete would require the installation of falsework to support the concrete forms within the active waterway of the Stanislaus River. Installation of falsework piling and access shoring within the active waterway area would be permitted only if a vibratory pile hammer is used. Furthermore, any in-water work would be confined within the work windows proposed in the January 2011 Biological Assessment and the Natural Environment Study.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction.
All refueling, maintenance, and staging of equipment and vehicles would occur at least 60 feet from riparian habitat or water bodies and not in a location from where a spill would drain directly toward aquatic habitat. Any spills of hazardous materials in riverine habitat will be immediately cleaned up and disposed of properly.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction.
All temporary disturbed areas would be restored to pre-construction conditions upon completion of construction using appropriate seed mixes or plantings.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction and post construction.
Additional impacts from habitat disturbance would be avoided by installing protective silt fencing between the aquatic habitats and the construction area limits to prevent accidental disturbance during construction and to protect water quality within the aquatic habitats during construction.	San Joaquin County Department of Public Works and construction contractor	Prior to start of and during project construction.

Environmental Commitments	Responsible Party	Timing
Standard BMPs would be implemented prior to, during and after construction to protect water quality in sensitive habitat areas during construction.	San Joaquin County Department of Public Works and construction contractor	Throughout project construction
If construction or vegetation removal is proposed during the breeding/nesting season for local bird species (typically February 15 through August 31), a pre-construction focused survey for active nests migratory birds within and in the vicinity of (no less than 250 feet outside project boundaries, where possible) the project site would be conducted by a qualified biologist. Two surveys would be conducted, at least one week apart, with the second survey occurring no more than two days prior to tree removal. If no active nests are found, vegetation removal or construction activities may proceed.	San Joaquin County Department of Public Works and construction contractor	Prior to start of, and during project construction.
If an active nest is located during pre-construction surveys, USFWS and/or CDFG will be notified regarding the status of the nest. Construction activities would be restricted as necessary to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 250 feet around an active migratory bird nest) or alteration of the construction schedule.	San Joaquin County Department of Public Works and construction contractor	Prior to and during project construction.
If construction is to begin during the nesting season for swallows and other migratory birds (between February 1 and September 15), a pre-construction survey would be conducted to determine if birds are nesting on the bridge undercrossings. Completed nests discovered between February 1 and September 15 cannot be disturbed without a permit from USFWS or CDFG, as applicable.	San Joaquin County Department of Public Works and construction contractor	Prior to start of and during project construction.

Environmental Commitments	Responsible Party	Timing
<p>Prior to initiation of construction activity, a bat survey would be performed between March 1 to July 31 in the year prior to the removal of any trees or structures. If bat roosts are identified on site, the County would require that the bats be safely flushed from the sites where roosting habitat is planned to be removed prior to roosting season (typically May to August) of each construction phase prior to the onset of construction activities. If maternity roosts are identified during the maternity roosting season (typically May to August), they must remain undisturbed until a qualified biologist has determined the young bats are no longer roosting. If roosting is found to occur on-site, replacement roost habitat (e.g., bat boxes) would be provided on-site for roosting sites removed. If no bat roosts are detected, then no further action is required if the trees and buildings are removed prior to the next breeding season. If removal is delayed, then an additional pre-demolition survey would be conducted 30 days prior to removal to ensure that a new colony has not established itself. If a female or maternity colony of bats are found within the project study area, a qualified biologist will determine the appropriate time and physical buffer zones to be established so the project can be constructed without the elimination or disturbance of the roosting colony. If an active nursery roost is known to occur on site and the project cannot be conducted outside of the maternity roosting season, bats will be excluded from the site after July 31 and before March 1 to prevent the formation of maternity colonies. Non-breeding bats shall be safely evicted, under the direction of a bat specialist.</p>	<p>San Joaquin County Department of Public Works and construction contractor</p>	<p>Prior to start of and during project construction.</p>
<p>Prior to the start of construction activities, a VELB survey will be conducted, per USFWS (1999) Conservation Guidelines, to verify the stem count has not changed since the issuance of the USFWS BO on June 7, 2011. If the stem count has increased, then Section 7 consultation will be re-initiated with USFWS.</p>	<p>San Joaquin County Department of Public Works</p>	<p>Prior to the start of construction.</p>
<p>Avoidance, minimization, and mitigation measures would be implemented according to the USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle (1999). Mitigation compensation would be accomplished in accordance with the USFWS Conservation Guidelines (1999); the County would be responsible for the planting of 266 elderberry seedlings and 270 associated native plants. Planting would be achieved at an USFWS-approved conservation bank or within the project right-of-way, if feasible. Currently, VELB mitigation credits are available at the River Ranch Conservation Bank. The service area of this conservation bank includes the project study area.</p>	<p>San Joaquin County Department of Public Works and construction contractor</p>	<p>Prior to start of and during project construction.</p>
<p>In-water construction would be limited to the period between June 15 and October 15. In addition, any loss of Central Valley steelhead habitat (aquatic) as a result of the proposed project would be compensated at a minimum 6:1 ratio through purchase of</p>	<p>San Joaquin County Department of Public Works and construction</p>	<p>Throughout project construction.</p>

Environmental Commitments	Responsible Party	Timing
credits at a nearby conservation bank for Central Valley steelhead approved by the National Oceanic and Atmospheric Administration/ National Marine Fisheries Service (NOAA/NMFS). Habitat would be mitigated at a minimum 2:1 ratio, either through establishment of a conservation easement or payment of in-lieu fees at an approved conservation bank. Riverine and riparian habitat would be restored to pre-project conditions after project construction is complete.	contractor	
Permanent impacts to essential fish habitat would be mitigated through conservation measures outlined for the Central Valley steelhead. Riverine habitat (temporary impacts) would be restored to pre-project conditions after project construction is complete.	San Joaquin County Department of Public Works and construction contractor	Prior to start of construction, throughout project construction, and post construction
<p>If construction or tree removal is proposed during the breeding/nesting season for Swainson's hawk (typically March 1 through September 15), a focused survey for active nests of raptors and migratory birds within and in the vicinity of (no less than 0.5 mile outside project boundaries, where possible) the project site would be conducted by a qualified biologist. At a minimum, surveys will be completed for, at least, the two survey periods immediately prior to the start of construction activities. For each survey period, three surveys will be completed. No surveys will be conducted in Period IV. If no active nests are found, tree removal or construction activities may proceed.</p> <p>If an active nest is located during pre-construction surveys, the USFWS and/or the CDFG (as appropriate) would be notified regarding the status of the nest. Furthermore, construction activities would be restricted as necessary to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100 feet around an active raptor nest) or alteration of the construction schedule.</p> <p>No action is necessary if no active nests are found or if construction would occur during the non-breeding season (generally September 1 through February 28).</p>	San Joaquin County Department of Public Works and construction contractor	Prior to start of and during project construction.
To prevent impacts to MBTA-protected birds and their nests, removal of trees would be limited to only those necessary to construct the proposed project.	San Joaquin County Department of Public Works and construction contractor	Prior to start of and during project construction

Environmental Commitments	Responsible Party	Timing
<p>The following measures will be taken to minimize the amount and duration of pile driving and its potential impacts on listed salmonids, and to monitor the range and magnitude of compression shock waves generated by pile driving operations:</p> <ol style="list-style-type: none"> 1. All in-water pile driving work will occur from June 15 to October 15 each construction year. 2. Real-time monitoring will be conducted to ensure underwater sound levels analyzed in the BO do not exceed the established distances described for pile driving construction. Monitoring will follow NMFS standard practices as spelled out in the BO Clarification Letter of December 7, 2012. 3. The County will monitor underwater sound during all impact hammer pile driving activities. If underwater sound exceeds the established thresholds at the distances provided in the NMFS BO, then NMFS must be contacted within 24 hours before continuing pile driving activities. 4. The County will submit to NMFS a hydroacoustic monitoring report plan for approval at least 60 days prior to the start of construction activities. In addition, the County will submit to NMFS a daily hydroacoustic monitoring report (by close of business of the day following the pile driving) that provides real-time data regarding the distance (actual or estimated using propagation models) to the thresholds stated in the NMFS BO to determine adverse effects to listed species. 5. Pile driving will occur only during restricted weekday working hours from 8 am to 5 pm. 6. The County will submit to NMFS a final hydroacoustic monitoring summary due 30 days following pile driving events for each temporary structure required for bridge construction. The reports must provide a review of the daily monitoring data and process as well as any problems that were encountered. 	<p>San Joaquin County Department of Public Works and construction contractor</p>	<p>Prior to start and throughout project construction and post construction</p>
<p>The contractor will prepare and implement a demolition containment plan to keep</p>	<p>San Joaquin County</p>	<p>Prior to start of</p>

Environmental Commitments	Responsible Party	Timing
debris from entering the main channel of the river.	Department of Public Works and construction contractor	construction activities
<p>The following measures will be implemented, by qualified biologists, to reduce the potential for direct take of CV steelhead:</p> <ol style="list-style-type: none"> 1. An approximately 20-foot wide section of the river, representing the low flow channel, will be left open during all in-water activities to facilitate upstream/downstream dispersal of fish populations within the Stanislaus River. 2. Block nets will be installed around the limits of the in-water work areas, prior to the initiation of construction activities in all years. Netting mesh size will be chosen to provide exclusionary benefits to young-of-the-year CV steelhead. 3. Seine nets and/or electrofishers will then be utilized to relocate as many fish as possible within the containment area. 4. Collected fish will be relocated to a suitable location within the Stanislaus River either upstream or downstream of the project site. 5. Block nets will remain in place until such time as a turbidity/silt curtain (if required) is installed, or cofferdam construction has been completed. 6. A qualified biologist, designated by San Joaquin County, will be present to monitor on-site compliance with all minimization measures. 	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout construction of project
No insecticides, herbicides, fertilizers, or other chemicals will be applied during construction.	San Joaquin County Department of Public Works and construction contractor	During construction activities
Dust control measures will be implemented to minimize impacts to VELB; however, to avoid attracting Argentine ants, water will not be sprayed within the driplines of elderberry shrubs at any time.	San Joaquin County Department of Public Works and construction	Prior to and during construction

Environmental Commitments	Responsible Party	Timing
	contractor	activities
<p>Prior to the start of construction activities, the County will ensure a temporary plastic mesh-type construction fence, a minimum of four feet tall, is installed at least 20 feet from the driplines of elderberry shrubs adjacent to the area that will be retained. The exact location of the fencing will be determined by a qualified biologist, with the goal of protecting habitat for VELB. The fencing will be strung tightly on posts set at a maximum interval of 10 feet. The fencing will be installed in a way that prevents equipment from enlarging the work area beyond the delineated area. The fencing will be checked and maintained weekly until all construction is completed. This buffer zone will be marked by signs stating, "This is habitat of the valley elderberry longhorn beetle, a threatened species, and it must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." Signs will be placed at intervals of 50 feet and must be readable at a distance of 20 feet. No construction activity, including grading, will be allowed until this condition is satisfied. No grading, clearing, storing of equipment or machinery, or other disturbance or activity may occur until a representative of the County has inspected and approved all temporary construction fencing. The fencing and a note reflecting this condition will be shown on the construction plans.</p>	San Joaquin County Department of Public Works and construction contractor	Prior to and throughout construction activities
<p>Prior to the start of construction activities and the arrival of migratory birds to the project area (generally between September 16 and January 31), all swallow nests should be removed from the sides and underside of the bridge structures. High-powered water and/or a long pole can be used to remove all the nests off the bridge. Once the nests have been removed, exclusionary methods should be installed under the bridge structures. The exclusion should include placing netting on the bridge undercrossings that provides a physical barrier between the birds and the areas of the bridge where they would likely construct new nests. Exclusionary devices will be installed for at least ten calendar days prior to bridge demolition.</p>	San Joaquin County Department of Public Works and construction contractor	Prior to start of construction activities
<p>Vegetation that can be preserved will be identified and flagged or fenced to avoid disturbance.</p>	San Joaquin County Department of Public Works and construction contractor	Prior to start of construction
<p>A Pre-construction survey will be conducted, by a qualified biologist, for Western Pond Turtle three days prior to the start of construction activities adjacent to the Stanislaus River, and every subsequent day while activities occur adjacent to the Stanislaus River.</p>	San Joaquin County Department of Public Works and construction	Prior to and throughout project

Environmental Commitments	Responsible Party	Timing
<p>The survey will encompass a 100-foot radius of the area to be affected. If juvenile or adult turtles are found within the survey area, the individuals will be moved at least 500 feet downstream of the survey area, in suitable habitat. If a turtle nest is found within the survey area, construction activities will not take place within 100 feet of the nest until the turtles have hatched, or the eggs have been moved to an appropriate location.</p>	<p>contractor</p>	<p>construction</p>
<p>Invasive Species</p>		
<p>Prior to the initiation of construction activities, a Worker Environmental Awareness Program will be developed and implemented. Before any work occurs in the project area, including grading, a qualified biologist will conduct mandatory contractor/worker awareness training for construction personnel. The training will be provided to all construction personnel to brief them on the need to avoid the spread of invasive species, actions to be taken to prevent the release and spread of aquatic and/or terrestrial invasive species, procedures for the safe removal and disposal of any invasive species observed, the avoidance and minimization measures that are to be implemented and maintained, and the limits of construction/disturbance for the project. If new construction personnel are added to the project, the contractor's superintendent will ensure they receive the mandatory training before starting work.</p>	<p>San Joaquin County Department of Public Works and construction contractor</p>	<p>Prior to start of and throughout project construction</p>