

**CALENDAR ITEM
C39**

A 5, 23
S 8, 12

04/05/16
PRC 9058.9
C. Hudson

AMENDMENT OF LEASE

LESSEE:

California High-Speed Rail Authority
770 L Street
Sacramento, CA 95814

AREA, LAND TYPE, AND LOCATION:

Sovereign land crossing the San Joaquin River, near the unincorporated community of Herndon, Madera and Fresno Counties.

AUTHORIZED USE:

Construction, use, and maintenance of a new electric-powered high-speed, steel-wheel-on-steel-rail train system and steel truss bridge crossing.

LEASE TERM:

25 years, beginning April 26, 2013.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

PROPOSED AMENDMENT:

Amend the lease as follows:

1. Delete the construction to be completed by date of October 15, 2017.
2. Widen the lease area from 60 feet wide to 200 feet wide.
3. Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

CALENDAR ITEM NO. **C39** (CONT'D)

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

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:

The California High-Speed Rail Authority is a state agency providing a new mode of high-speed intercity travel that would link major metropolitan areas of the state; interface with airports, mass transit, and highways; and provide added capacity to meet increases in intercity travel demand in California in a manner sensitive to and protective of California's unique natural resources. The high-speed train system is designed to address some of the social, economic and environmental problems associated with transportation congestion in California. As such, Commission staff believes this use of public land, by a state agency, for a public benefit is consistent with the common law public trust doctrine.

In the alternative, Commission staff believes that the use does not substantially interfere with the public trust needs and values at this location and time because the steel truss bridge crossing is sufficiently high enough to allow for normal recreational activities on this stretch of the river.

Furthermore, the lease is for 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 the improvements and restore the lease premises to its original condition.

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

OTHER PERTINENT INFORMATION:

1. On April 26, 2013, the Commission authorized the issuance of Lease No. PRC 9058.9, a General Lease – Public Agency Use, for a 25-year term to the Lessee for the construction, use, and maintenance of a new electric-powered high-speed rail train system and steel truss bridge crossing over the San Joaquin River. The lease will expire on April 25, 2038.

CALENDAR ITEM NO. **C39** (CONT'D)

2. The Lessee has submitted an application requesting to amend its lease to widen the lease area from 60 feet wide to 200 feet wide.
3. This action is consistent with Strategy 1.4 of the Commission's Strategic Plan to incorporate strategies to address climate change, sea-level rise, water conservation, greenhouse gas emissions, and generation of litter and marine debris.
4. A Joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), State Clearinghouse No. 2009091125, was prepared for this project by the California High-Speed Rail Authority and the Federal Railroad Administration and certified on May 3, 2012. Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.
5. The Commission considered the EIR/EIS at its April 26, 2013 meeting as part of Calendar Item C72. As part of the Commission's approval of the lease, the Commission adopted a Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096), as contained in Exhibits C and D, respectively, to Calendar Item C72 at the April 26, 2013 meeting (http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/04-26-13/Items_and_Exhibits/C72.pdf).
6. Commission staff reviewed the amendment to the lease premises and the EIR/EIS, and determined that the expanded lease premises were covered as part of the analysis in the EIR/EIS. The Lessee requested that the lease premises be expanded from 60 feet wide to 200 feet wide, which is within the 1,000-foot radius considered in the EIR/EIS for habitat analysis. Commission staff reviewed the amendment to expand the lease premises and determined that the spatial expansion does not involve any "substantial changes" or "new information of substantial importance," resulting in any new or substantially more severe significant impacts, and thus no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.
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

CALENDAR ITEM NO. **C39** (CONT'D)

through the 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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR/EIS, State Clearinghouse No. 2009091125, was prepared for this Project by the California High-Speed Rail Authority and Federal Railroad Administration and certified on May 3, 2012, and that the Commission has reviewed and considered the information contained therein.

Re-adopt the Mitigation Monitoring Program, as contained on file in the Sacramento Office of the Commission as Exhibit C to Calendar Item C72, April 26, 2013.

Re-adopt the Findings made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), as contained on file in the Sacramento Office of the Commission as Exhibit D to Calendar Item C72, April 26, 2013.

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with the public's 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.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

CALENDAR ITEM NO. **C39** (CONT'D)

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9058.9, a General Lease-Public Agency Use, effective April 5, 2016, to delete the 'construction to be completed by' date of October 15, 2017, widen the lease area from 60 feet wide to 200 feet wide, and replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9058.9

LAND DESCRIPTION

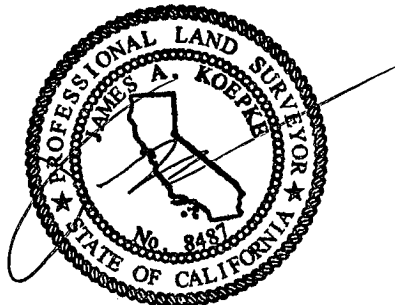
A parcel of submerged land situate in the bed of the San Joaquin River, lying adjacent to Section 31, Township 12 South, Range 19 East, MDM, as shown on the Official Township Plat approved June 26, 1874, Counties of Madera and Fresno, State of California and more particularly described as follows:

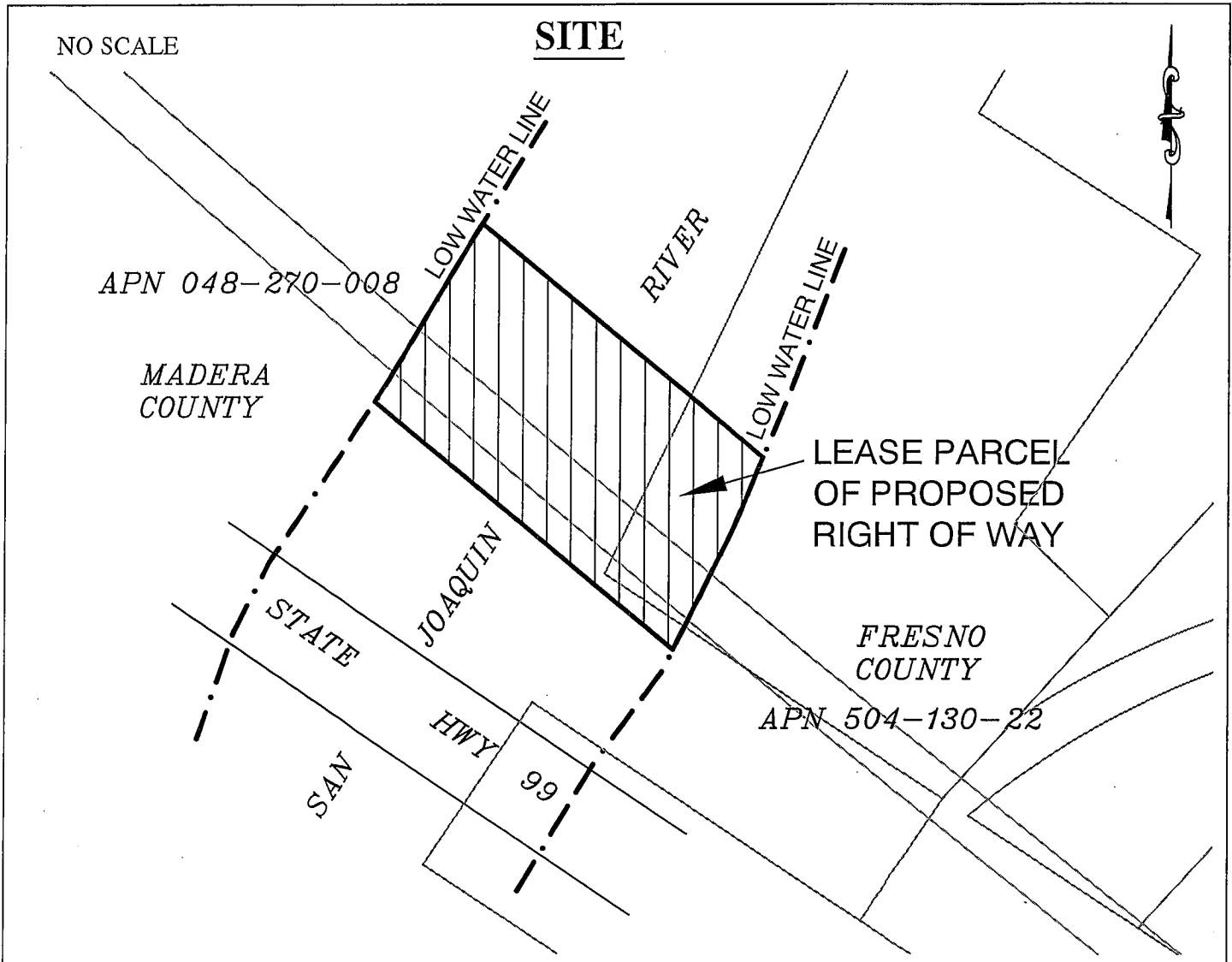
BEGINNING at a point on the low water line of the right bank of San Joaquin River, as shown on California State Lands Commission (CSLC) Administrative Map titled "San Joaquin River, Friant Dam to Gravelly Road, Fresno and Madera Counties, Sheet 17 of 27" on the file with the CSLC, which bears South $51^{\circ} 44' 27''$ East 4520.65 feet from the point "12193003 Ave 7 SLC" (PID DG9697) having CCS 83 Zone 4 coordinates of Northing 2194533.01 feet, Easting 6285098.92 feet (Northing 2194533.08 feet, Easting 6285098.88 feet, Epoch 2010.00 per NGS Data Sheet); thence along said low water line North $33^{\circ} 14' 56''$ East 26.68 feet; thence North $30^{\circ} 33' 25''$ East 162.41 feet; thence North $31^{\circ} 38' 17''$ East 23.31 feet; thence leaving said low water line South $50^{\circ} 24' 21''$ East 374.91 feet to a point on the low water line of the left bank of said river; thence along a said low water line South $22^{\circ} 49' 07''$ West 78.43 feet; thence South $26^{\circ} 33' 50''$ West 138.47 feet; thence leaving said low water line North $50^{\circ} 24' 21''$ West 397.08 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

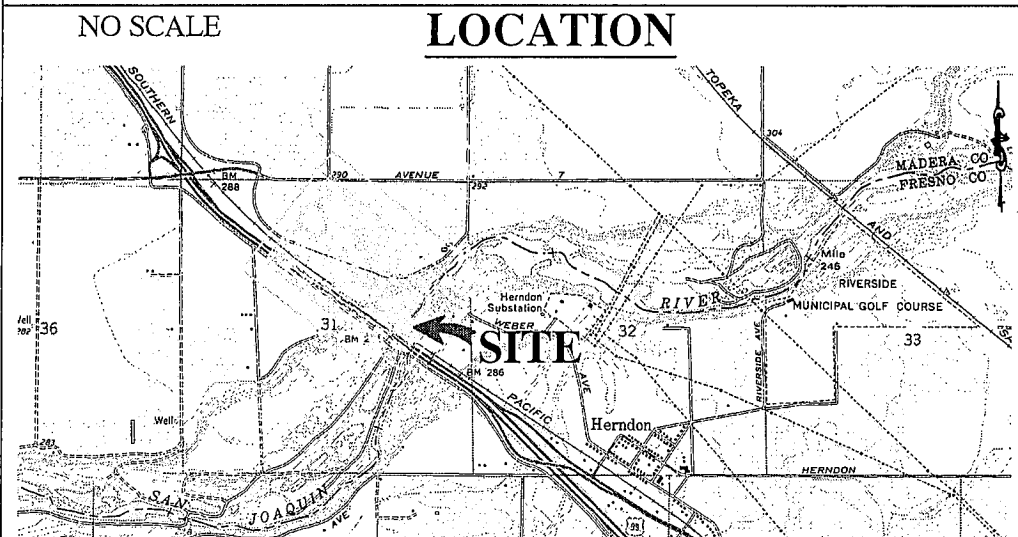
This description is based on Applicant provided Right of Way Appraisal Map RW-M4499, by AECOM Technical Services Inc., entitled "CALIFORNIA HIGH-SPEED TRAIN PROJECT MERCED TO FRESNO", updated January 15, 2016. This description is to be updated once final as-built plans are submitted.

Prepared 03/01/16 by the California State Lands Commission Boundary Unit





SAN JOAQUIN RIVER AT STATE ROUTE 99, NORTH OF HERNDON



MAP SOURCE: USGS QUAD

Exhibit B
 PRC 9058.9
 CALIFORNIA HIGH SPEED
 RAIL AUTHORITY
 APNs 048-270-008 & 504-130-22
 GENERAL LEASE -
 PUBLIC AGENCY USE
 MADERA & FRESNO COUNTIES



TS 03/01/16

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.