**STAFF REPORT**

# C73

A 12 08/23/18
W 27174
S 8 J. Holt

## GENERAL LEASE – PUBLIC AGENCY USE

**APPLICANT:**

U.S. Fish and Wildlife Service

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the lower Stanislaus River, below Goodwin Dam approximately one mile upstream of Highway 120 bridge near River Mile 42, adjacent to APN 006-080-064, 006-080-089, 006-080-088, near Oakdale, Stanislaus County.

*AUTHORIZED USE:*

Placement and maintenance of gravel and riparian vegetation for the rehabilitation and restoration of Chinook salmon and California Central Valley (CCV) steelhead spawning and rearing habitat, excavation and reuse of perched floodplain sediments, gravel extraction for onsite use, and grading.

*LEASE TERM:*

10 years, beginning August 23, 2018.

*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 interests.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

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

**Public Trust and State's Best Interests Analysis:**

The Applicant is requesting a General Lease – Public Agency Use, for a proposed habitat rehabilitation and restoration project in the Stanislaus

River, near Oakdale, Stanislaus County. The project's primary goal is to increase spawning success and enhance juvenile rearing of Chinook salmon and CCV steelhead in riparian lands. These lands provide a critical habitat for a wide variety of freshwater and anadromous fish species. The proposed habitat restoration project will include activities such as: placement and maintenance of gravel and riparian vegetation, excavation and reuse of perched floodplain sediments, gravel extraction for onsite use, and grading. The existing gravel bar and in-channel riffle and pool features will be reconfigured to spawning areas with appropriate sediment size and depth.

The Applicant has applied for permits with all required regulatory agencies and requested permission to use private and public lands. It has obtained authorization letters from upland owners, located adjacent to and in the project area. All access and staging areas will be treated with erosion control measures during and after project completion. After grading activities have been completed, portions of the disturbed areas will be revegetated with native riparian vegetation.

The proposed project will require at least one construction season to complete, supplemented by a post-completion monitoring process. The in-stream gravel placement activities would occur during an approximately four-month period in late summer and early fall, to ensure optimal preservation of the habitat. Gravel will be deposited in-stream during summer/early fall when flows are low (approximately 300 cubic feet per second) and active salmonid spawning is not occurring. Gravel will be deposited in-stream and manipulated by a rubber-tired front-end loader. Gravel will be distributed across the river bottom according to design parameters proceeding with the river access site and working out into the river. Due to the sensitive nature of this habitat and unforeseen site conditions, construction activities may continue through fall of 2019. The project encompasses approximately 4.9 acres of perched floodplain, spawning riffles, and side channel habitats, along a 1,000-foot segment of the Stanislaus River.

The proposed project is considered beneficial because it will enhance fisheries, which is a recognized Public Trust use. According to Joe Merz, PhD, Principal Ecologist, the proposed project is designed to restore and enhance ecosystem processes, with a primary focus on improving productive juvenile salmonid rearing habitat to increase natural production of fall and spring-run Chinook salmon and CCV steelhead in the Stanislaus River. The proposed project would directly address the U.S. Fish and Wildlife Service's Anadromous Fish Restoration Program's goal

to double natural production of anadromous fish and the National Marine Fisheries Service priority action to increase the quantity and quality of ESA-listed Chinook salmon and CCV steelhead rearing areas. The proposed project would also test hypotheses regarding a variety of habitat enhancement techniques and subsequent response of juvenile salmonids and non-native predatory species to restored floodplain and off-channel habitats.

This portion of the Stanislaus River is seasonally used by the public for rafting and non-motorized boating. Therefore, appropriate measures will be taken to ensure public health and safety. The lease requires the lessee to post signs and barriers to minimize potential hazards to the public at least 24 hours prior to construction and during the activities. The lease also has a limited term of 10 years that allows the Commission flexibility to determine if the Public Trust needs of the area have changed over time. Furthermore, the Applicant will conduct post-project monitoring through review of topographic and water quality surveys, which will take place for up to 5 years after project completion to evaluate outcomes of the project, implementation of the project, and project influences on habitat conditions.

**Climate Change:**

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

The proposed project to improve suitable habitat for salmonid spawning areas will greatly improve conditions for the spawning units of native fish. However, the effects of climate change could impact access to restored habitat within the lease premises during the term of the lease. Due to these potential changes, the proposed habitat enhancements and restoration efforts on the Stanislaus River, the lease will require regular maintenance of the area to ensure seasonal and climate change impacts will not degrade the project area.

**Conclusion:**

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

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction and Key Action 1.2.4 to prioritize the use of sovereign lands where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat managemnet plans, mitigation agreements with public agencies, private parties and other conservation efforts, consistent with applicable law.

2. On March 8, 2018, the Central Valley Regional Water Quality Control Board (CVRWQB), acting as the lead agency under the provisions of the California Environmental Quality Act (CEQA), determined that the project, as described above, was categorically exempt from CEQA pursuant to California Code of Regulations, title 14, section 15333, under Class 33, Small Habitat Restoration Projects. A Notice of Exemption was filed to the State Clearinghouse on March 12, 2018 (SCH No. 2018038265). Staff concurs with CVRWQCB's determination.

   Staff recommends that the Commission also find that this activity is exempt under Class 33, Small Habitat Restoration Projects; California Code of Regulations, title 14, section 15333.

   Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

**APPROVALS OBTAINED:**

California Department of Fish and Wildlife
California State Historical Preservation Office
Central Valley Regional Water Quality Control Board
Federal Clean Water Act Permit
National Marine Fisheries Service
Stanislaus County Grading Permit

**APPROVALS REQUIRED:**

Central Valley Flood Protection Board
U.S. Army Corps of Engineers

**EXHIBITS:**

A. Land Description
B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Concur with CVRWQCB's determination that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, under Class 33, Small Habitat Restoration Projects; California Code of Regulations, title 14, section 15333.

Find that the activity is also exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 33, Small Habitat Restoration Projects; California Code of Regulations, title 14, section 15333.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning August 23, 2018, for a term of 10 years, for placement and maintenance of gravel and riparian vegetation for the rehabilitation and restoration of Chinook salmon and California Central Valley (CCV) steelhead spawning and rearing habitat, excavation and reuse of perched floodplain sediments, gravel extraction for onsite use, and grading; as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right, at any time, to set a monetary rent if the Commission finds such action to be in the State's best interests.

**EXHIBIT A**

**W 27174**

**LAND DESCRIPTION**

A parcel of submerged land situated in the bed of the Stanislaus River, lying adjacent to the North half of fractional Section 11, Township 2 South, Range 10 East, M.D M., as shown on Official Government Township Plat approved December 30, 1854, County of Stanislaus, State of California, more particularly described as follows:

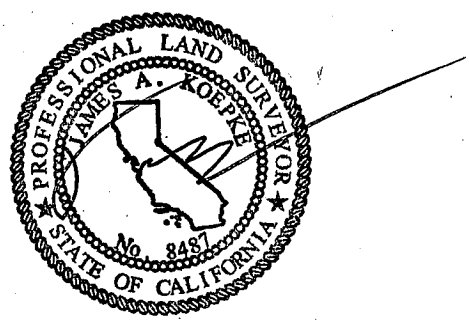
BOUNDED on the west by the southerly prolongation of the westerly line of that Parcel 2 as shown on "Parcel Map 35 PM 71", filed on September 28, 1984 in Book 35 of Parcel Maps at Page 71, Stanislaus County Records, said westerly line described as N 01° 01' 34" W, 1424.42 feet; BOUNDED on the northwest by the Low Water Mark of the right (northerly) bank of the Stanislaus River; BOUNDED on the northeast by the southeasterly prolongation of a line lying parallel with and 175 feet southwesterly from the southwesterly line of Lot 13 as shown on "Record of Survey Map 14 S 145", filed on June 14, 1979 in Book 14 of Surveys at Page 145, of Stanislaus County Records, said westerly line described as N 37° 39' 59" W, 100.00 feet; BOUNDED on the southeast by the Low Water Mark of the left (southerly) bank of the Stanislaus River.

EXCEPTING THEREFROM any portion lying landward of the ordinary Low Water Mark of the right and left bank of the Stanislaus River.

**END OF DESCRIPTION**

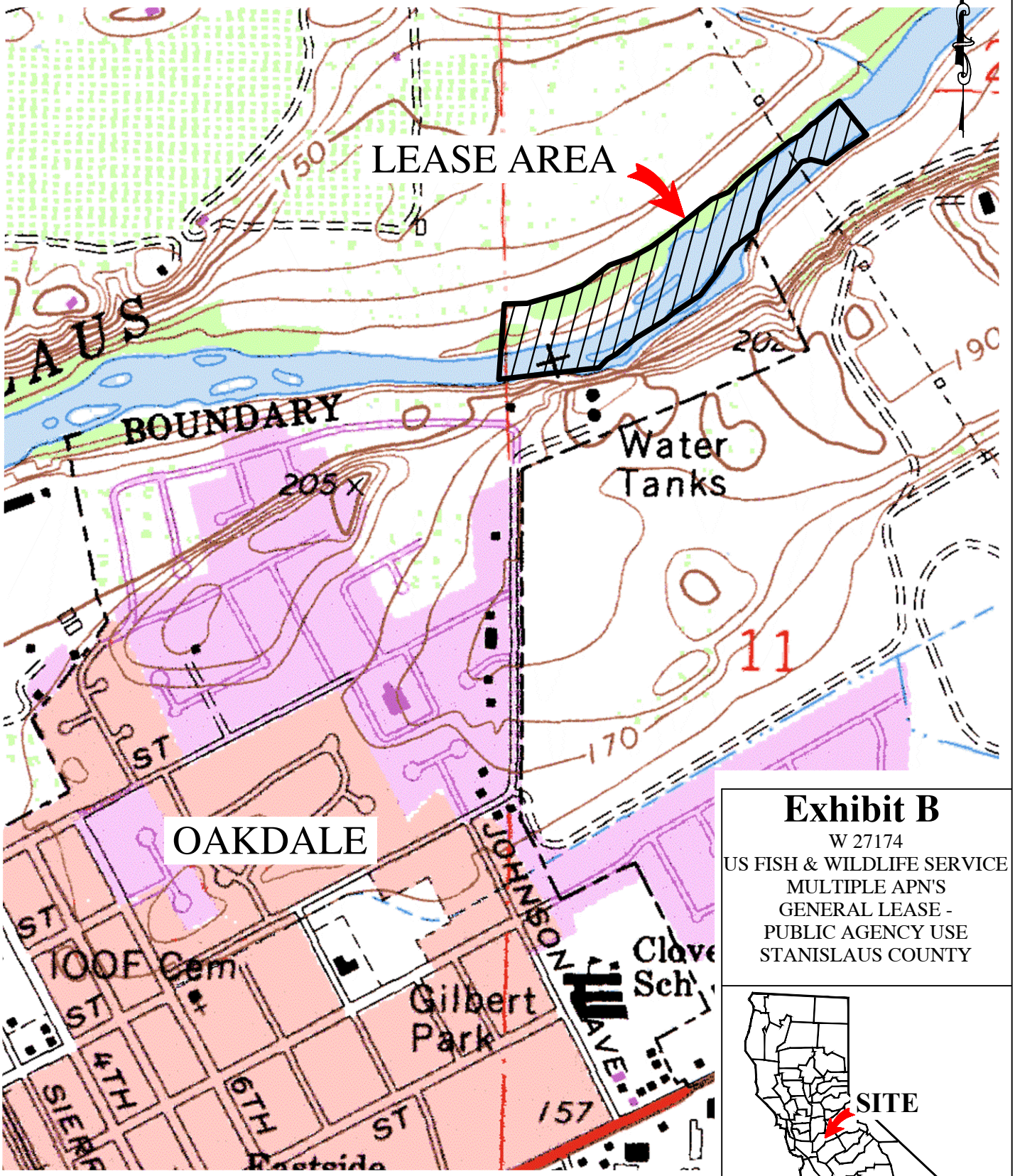
This description is based on Applicant provided design plans for a proposed salmon habitat restoration project, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 07/19/2018 by the California State Lands Commission Boundary Unit.



NO SCALE

# SITE




## Exhibit B

W 27174
US FISH & WILDLIFE SERVICE
MULTIPLE APN'S
GENERAL LEASE -
PUBLIC AGENCY USE
STANISLAUS COUNTY




ADJACENT TO 8282 RODDEN ROAD, OAKDALE, CA

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.

RGB 7/19/18