

**Central Valley Flood Protection Board  
Meeting of May 25, 2012**

**Staff Report**

**Palisades Demonstration Bank Protection Project Lease**

By: Lester Aric, DWR Northern Region District and  
Alejandra Lopez, Real Estate Branch

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**Subject:**

The Board is requested to consider approval of Resolution No. 11-26 to:

1. Approve entering into a new ten year Lease No. PRC 6873.9 at a rental rate of zero dollars between the California State Lands Commission and the Central Valley Flood Protection Board (Board) for the purpose of securing the necessary rights of way for the Palisades Demonstration Bank Protection Project; and
2. Delegate to the Executive Officer the authority to execute the Lease No. PRC 6873.9.

**Location**

The remaining elements of the Palisades Demonstration Bank Protection Project, which include approximately 65 pylons and netting, are installed in the riverbed located within The California State Lands Commission's (SLC) jurisdiction along the Sacramento River, River Mile 218.7L, in Tehama County, near the Woodson Bridge State Recreation Area. This area is also within a designated floodway under the Board's jurisdiction. (see attached Figure 1 map)

**Description and History of the Project**

The Woodson Bridge State Recreation Area (Recreation Area) provides the residents of the area with the opportunity for camping, picnicking, canoeing, fishing, hiking, and nature walking along the Sacramento River. However, the concern for this area is that it is highly prone to bank erosion (see Exhibit A).

The Recreation Area experienced severe erosion problems resulting from multiple past storm and high water events and washed away part of the Recreation Area. A mitigation solution was necessary, so in 1985 the Ercon Corporation of Texas, the Reclamation Board (now known as the Central Valley Flood Protection Board), and the U. S. Army Corps of Engineers discussed the option of conducting a more environmentally benign way to reduce erosion in this area. The decision was reached to proceed with the experimental "flow modification system" that consisted of a collection of nets and poles designed to stop erosion by slowing flow velocities as well as trapping debris and sediment, thereby protecting the bank from further erosion.

The Palisades Demonstration Bank Protection Project (Project) was completed on August 12, 1986 as an experimental bank stabilization project along the left bank of the Sacramento River at the Recreation Area. As an alternative to standard rock riprap, the Project was designed to prevent bank erosion, promote deposition, create natural bank conditions, and minimize disturbance to fish, wildlife, and riparian vegetation. The work consisted of installing approximately 356 steel piles (10 inch diameter by 40 foot long) 18 feet deep into the riverbed in a series of 70 rows with 4 to 9 piles in each row. Web netting was strung between piles to trap debris and ultimately trap sediment, thus protecting the bank from further erosion. The length of the original project is approximately 2200 linear feet.

The Project did not perform as expected for the total Project area due to several storm and high water events that resulted in severe damage to the pylons and netting (see Exhibit B). Additionally, several boating accidents were reported in the Project area including one that resulted in a fatality. The Project was deemed a serious public and navigational hazard. In order to improve public safety, DWR removed damaged and ineffective Palisade structures. In 1997 the downstream two-thirds of the Project was removed. The upstream one-third of the Project (approximately 65 Palisade structures) was left in place because they were in acceptable condition and did not pose a significant public safety risk.

DWR has conducted bank erosion studies at the Project area before and after the removal of the lower portion of piles and netting. DWR studies showed that left bank erosion below the remaining structure continues to occur at up to 50 feet per year, significantly impacting the Recreation Area. The continued use of the Project area and Palisade structures help alleviate erosion and loss of the land in the Recreation Area, whereas complete removal of the project would have potentially increased erosion rates along the entire left bank (Exhibit C).

The river bank protected by the Palisade structures have remained stable as of the date of the inspections conducted by DWR Northern Region District (NR District) staff after the 2008, 2009, and 2010 high-flow seasons. From February 2008 to April 2009, maximum bank erosion downstream of the remaining Palisades was 60 feet. During 2010, maximum bank erosion downstream of the Palisades was 8 feet while the remainder of the bank showed little to no change (see Exhibit E). The remaining Project area is inspected periodically by Northern District staff and reported that the remaining Palisades in the upper third of the Project area continues to offer bank protection (see Exhibit D). The pile and netting are generally in acceptable condition; however, some of the pile and nets are starting to show signs of wear (leaning and tearing). As a requirement of the Lease, NR District staff provides annual reports and inspections of the remaining Project to California State Lands Commission. The prior Lease was approved and renewed for a 15 year term by the Board at the time by Resolution No. 95-16, which expired in December 2010 (see Exhibit F).



Staff Recommendations:

The current recommendation by DWR NR District staff is to continue use of the Palisade structures for erosion protection until other erosion prevention alternatives are employed or the structure becomes unsafe. Furthermore, since remaining structures are installed in the riverbed, within the jurisdiction of the SLC, and since the lease between the Board and the SLC expired in 2010 (see Exhibit F) for these remaining Palisade structures, Board staff is recommending that the Board:

1. Approve entering into a new ten year Lease No. PRC 6873.9 at a rental rate of zero dollars between the California State Lands Commission and the Central Valley Flood Protection Board (Board) for the purpose of securing the necessary rights of way for the Palisades Demonstration Bank Protection Project; and
2. Delegate to the Executive Officer the authority to execute Lease No. PRC6873.9

Attachments:

1. Resolution No. 11-26 authorizing entering into new Lease No. PRC 6873.9
2. Lease No. PRC 6873.
3. Figure 1 – location of Palisades Demonstration Bank Protection Project
4. Exhibit A – Photograph of the erosion along the Palisades Project area
5. Exhibit B – Photograph of the Palisades Demonstration Bank Protection Project prior to the removal of most of the structures
6. Exhibit C - – DWR, Northern Region Office Memorandum for Recreational Pier Lease Replacement
7. Exhibit D – Photograph of the few remaining structures of the project that are still providing bank protection
8. Exhibit E – Woodson Bridge Erosion Site map
9. Exhibit F – Lease Resolution No. 95-16 and Lease that expired in 2010

STATE OF CALIFORNIA  
CALIFORNIA NATURAL RESOURCES AGENCY  
Central Valley Flood Protection Board

RESOLUTION NO. 11-26

APPROVAL OF LEASE NO. PRC 6873.9  
FOR THE  
PALISADES DEMONSTRATION BANK PROTECTION PROJECT

WHEREAS, the Palisades Demonstration Bank Protection Project (Palisades Project) was authorized by the California Legislature pursuant to Water Code Section 9623 and was constructed in the summer of 1987; and

WHEREAS, the Palisades Project is located along the Sacramento River at River Mile 218.7L near the Woodson Bridge State Recreation Area in Tehama County; and

WHEREAS, the project is a demonstration bank protection project that was intended to have less adverse environmental impacts than traditional riprap. The project consists of 50 percent permeable net panels suspended from steel pilings driven into the river bottom. The remainder of the structure is located along the left bank of the river; and

WHEREAS, the previous 15-year lease with the California State Lands Commission has expired and staff has filed an application for a new lease for the term of 10 years; and

WHEREAS, the new lease contains two special conditions:

1. The Palisades Project must be inspected yearly after flood season; and
2. The Palisades Project shall be removed if both the Department of Water Resources and State Lands Commission determine that it is ineffective as a bank protection project, detrimental to the conservation of natural resources, or becomes a threat to public health and safety; and

WHEREAS, the structure is still providing protection to the bank despite the Palisades Project having sustained some damage from high water.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby 1) approves the Lease No. PRC6873.9; and 2) delegates the authority to the Executive Officer to execute Lease No. PRC 6873.9 with the California State Lands Commission for the Palisades Demonstration Bank Protection Project.

DATED:

THE CENTRAL VALLEY FLOOD BOARD  
THE STATE OF CALIFORNIA

By: \_\_\_\_\_  
Bill Edgar, President

By: \_\_\_\_\_  
Jane Dolan, Secretary

Approved as to Legal Form  
and Sufficiency

\_\_\_\_\_  
Jeremy Goldberg, Staff Counsel



RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:  
STATE OF CALIFORNIA  
California State Lands Commission  
Attn: Title Unit  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**STATE OF CALIFORNIA**  
**OFFICIAL BUSINESS**  
Document entitled to free recordation  
pursuant to Government Code Section 27383

LOCATION: 079-210-03-1  
County: Tehama

SPACE ABOVE THIS LINE FOR RECORDER'S USE

### LEASE NO. PRC 6873.9

This Lease consists of this summary and the following attached and incorporated parts:

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 or 3
Section 3	General Provisions
Exhibit A	Land Description
Exhibit B	Site and Location Map

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## SECTION 1

### BASIC PROVISIONS

**THE STATE OF CALIFORNIA**, hereinafter referred to as Lessor acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise, and let to **Central Valley Flood Protection Board**, hereinafter referred to as Lessee, those certain lands described in Exhibit A hereinafter referred to as Lease Premises, subject to the reservations, terms, covenants, and conditions of this Lease.

**MAILING ADDRESS:** 3310 El Camino Avenue, Room 151, Sacramento, CA 95821

**LEASE TYPE:** General Lease – Public Agency Use

**LAND TYPE:** Sovereign Land

**LOCATION:** Sacramento River Mile, 218.7, near the Woodson Bridge State Recreation Area, Tehama County, as described in Exhibit A attached and by this reference made a part hereof.

**LAND USE OR PURPOSE:** Continued use and maintenance of permeable net panels suspended from approximately 65 steel pilings used as a bank protection device.

**TERM:** 10 years; beginning December 7, 2010; ending December 6, 2020, unless sooner terminated as provided under this Lease.

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

**AUTHORIZED IMPROVEMENTS:** Permeable net panels suspended from approximately 65 steel pilings.

**X EXISTING:**

**LIABILITY INSURANCE:** N/A

**SURETY BOND OR OTHER SECURITY:** N/A

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## SECTION 2 SPECIAL PROVISIONS

**BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED, REVISED, OR SUPPLEMENTED AS FOLLOWS:**

1. Lessee acknowledges that the land described in Exhibit A of the Lease is subject to the Public Trust and is presently available to members of the public for recreational, waterborne commerce, navigation, fisheries, open space, or other recognized Public Trust uses and that Lessee's authorized activities and use of the Lease Premises shall not interfere or limit the Public Trust rights of the public.
2. Private owners of uplands on nontidal navigable waters own to the ordinary low water mark unless their deed provides otherwise. The area lying between the ordinary high and ordinary low water marks of the bed of such waters is subject to the public trust for commerce, navigation, fishing, recreation, and preservation. Private upland owners may utilize lands between low and high water in any manner not incompatible with public trust needs in the property.



3. Lessee agrees to inspect the lease premises annually at the end of each high water season but not later than July of each year. Submit a report on the project performance, project safety, and the existing environmental conditions at the project site and within the project influence area. The report shall give recommendations for the continued use of the lease premises. The report will be submitted annually to Commission staff by September 1.
4. Lessor reserves the right to require Lessee to remove the structure in its entirety or in part to the satisfaction of Lessor in the event that the project is determined by the Central Valley Flood Protection Board and Lessor to be ineffective as a bank protection project, detrimental to the conservation or natural resources, or becomes a threat to public health and safety.
5. Lessee shall install precautionary signage or buoys upstream and downstream of the Lease Premises to provide adequate warnings to recreational users on the Sacramento River of the potential safety hazards associated with the bank protection facilities in the river.
6. Lessee shall not add or permit any additional improvements to be placed on the lease premises without prior consent of the Lessor.

In the event of any conflict between the provisions of Section 2 and Section 3 of this Lease, the provisions of Section 2 shall prevail.

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## SECTION 3

### GENERAL PROVISIONS

#### 1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

#### 2. CONSIDERATION

##### (a) Categories

###### (1) Rental

Lessee shall pay the annual rental as stated in this Lease to Lessor without deduction, delay, or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

###### (2) Non-Monetary Consideration

If the consideration to Lessor for this Lease is the public use, benefit, health, or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State.

##### (b) Modification

Lessor may modify the method, amount, or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days notice prior to the effective date.

##### (c) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

#### 3. BOUNDARIES

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

#### 4. LAND USE

##### (a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements

and within sixty (60) days after completing them. Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

##### (b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

##### (c) Repairs and Maintenance

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and in safe condition. Lessor shall have no obligation for such repair and maintenance.

##### (d) Additions, Alterations, and Removal

(1) Additions - No improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of improvements on or natural features of the Lease Premises shall be undertaken without the prior written consent of Lessor.

##### (e) Conservation

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the Lease. Lessor, by its executive officer, shall notify Lessee, when in his or her opinion, Lessee has violated the provisions of this section and Lessee shall respond and discontinue the conduct or remedy the condition within 30 days.

##### (f) Toxics

Lessee shall not manufacture or generate hazardous wastes on the Lease Premises unless specifically authorized under other terms of this Lease. Lessee shall be fully responsible for any hazardous wastes, substances, or materials as defined under federal, State, or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, State, or local law, regulation or ordinance dealing with such wastes, substances, or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances, or materials.

##### (g) Enjoyment

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitutes a material interference with Lessee's use



and enjoyment of the Lease Premises as provided under this Lease.

**(h) Discrimination**

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

**(i) Residential Use**

No portion of the Lease Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to boats, barges, houseboats, trailers, cabins, or combinations of such facilities or other such structures which provide overnight accommodations to the Lessee or others.

**5. RESERVATIONS, ENCUMBRANCES, AND RIGHTS-OF-WAY**

**(a) Reservations**

- (1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber and minerals as defined under Public Resources Code Sections 6401 and 6407, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources; however, such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purposes associated with this Lease or for carrying out any function required by law, or the rules, regulations, or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.
- (3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

**(b) Encumbrances**

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances, and claims and is made without warranty by Lessor of title, condition, or fitness of the land for the stated or intended purpose.

**6. RULES, REGULATIONS, AND TAXES**

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtains and maintains all permits or other entitlements.

(c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises, and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

**7. INDEMNITY**

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

(b) Lessee shall notify Lessor immediately in case of any accident, injury, or casualty on the Lease Premises.

**8. INSURANCE**

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition, or maintenance of the Lease Premises and all improvements.

(b) The insurance policy or policies shall name the State of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Lessor. Lessor will not be responsible for any premiums or other assessments on the



policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

**9. SURETY BOND**

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants, and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

**10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING**

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee;

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give prior written notice to Lessor;

(2) Provide the name and complete business organization and operational structure of the proposed assignee, sublessee, secured third party, or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee, or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable;

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrance or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbrancing of Lease) available from Lessor upon request.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of



or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

## 11. DEFAULT AND REMEDIES

### (a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease;
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease;
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term;
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements;
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law;
- (6) Lessee's Failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease; and/or

- (7) Lessee's failure to comply with applicable provisions of federal, State or local laws or ordinances relating to issues of Health and Safety, or whose purpose is to conserve resources or to protect the environment.

(b) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

### (c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises;
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice, Lessee shall immediately surrender possession of the Lease Premises to Lessor;
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises; and/or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

## 12. RESTORATION OF LEASE PREMISES

(a) Upon expiration or sooner termination of this Lease, Lessor upon written notice may take title to any or all improvements, including fills, or Lessor may require Lessee to remove all or any such improvements at its sole expense and risk; or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense. Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such improvements to Lessor free and clear of any liens, mortgages, loans or any other encumbrances.

(b) In removing any such improvements Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction.



(c) All plans for and subsequent removal and restoration shall be to the satisfaction of Lessor and shall be completed within ninety (90) days after the expiration or sooner termination of this Lease or after compliance with paragraph 12(d), whichever is the lesser.

(d) In removing any or all the improvements Lessee shall be required to obtain any permits or other governmental approvals as may then be required by lawful authority.

(e) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, State or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency(ies) and shall further be responsible for removing or taking other appropriate remedial action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

### 13. QUITCLAIM

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

### 14. HOLDING-OVER

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to month and not an extension of the Lease term and shall be on the terms, covenants, and conditions of this Lease, except that the annual rental then in effect shall be increased by twenty-five percent (25%).

### 15. ADDITIONAL PROVISIONS

#### (a) Waiver

(1) No term, covenant, or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition of any other default or breach of any term, covenant or condition of this Lease.

#### (b) Time

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

#### (c) Notice

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

#### (d) Consent

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

#### (e) Changes

This Lease may be terminated and its term, covenants, and conditions amended, revised, or supplemented only by mutual written agreement of the parties.

#### (f) Successors

The terms, covenants, and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

#### (g) Joint and Several Obligation

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

#### (h) Captions

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

#### (i) Severability

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.



STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 6873.9

This Lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

**LESSEE:**

**CENTRAL VALLEY FLOOD  
PROTECTION BOARD**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**LESSOR:**

**STATE OF CALIFORNIA  
STATE LANDS COMMISSION**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ACKNOWLEDGEMENT**

This Lease was authorized by the  
California State Lands Commission on

\_\_\_\_\_  
(Month Day Year)

## EXHIBIT A

PRC 6873.9

### LAND DESCRIPTION

A parcel of submerged land situate in the bed of the Sacramento River, lying adjacent to Rancho Bosquejo, patented January 10, 1862, at Woodson Bridge State Recreation Area, Tehama County, State of California, bounded as follow:

Bounded on the southwest by a line defined by the following two points having California Coordinate System 1983 Zone 1 coordinates of North = 1852670 feet, East = 6537163 feet and North = 1852721 feet, East = 6537119 feet; bounded on the northeast by a line parallel with and 800 feet perpendicular to said line; bounded on the southeast by the low water mark of the left bank of said Sacramento River; bounded on the northwest by a line parallel with and 50 feet perpendicular to said low water mark.

### END OF DESCRIPTION

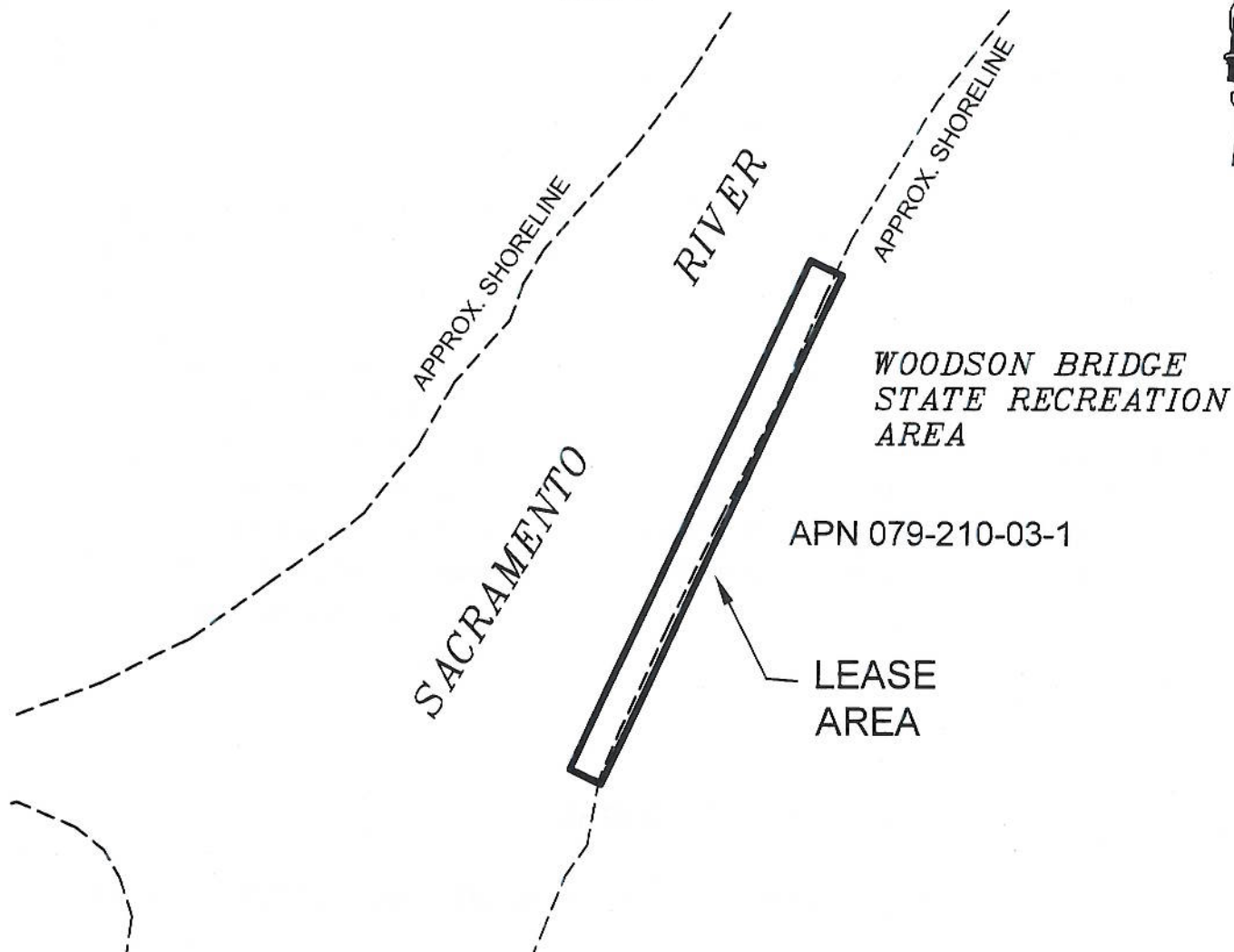
Prepared 02/07/12 by the California State Lands Commission Boundary Unit





NO SCALE

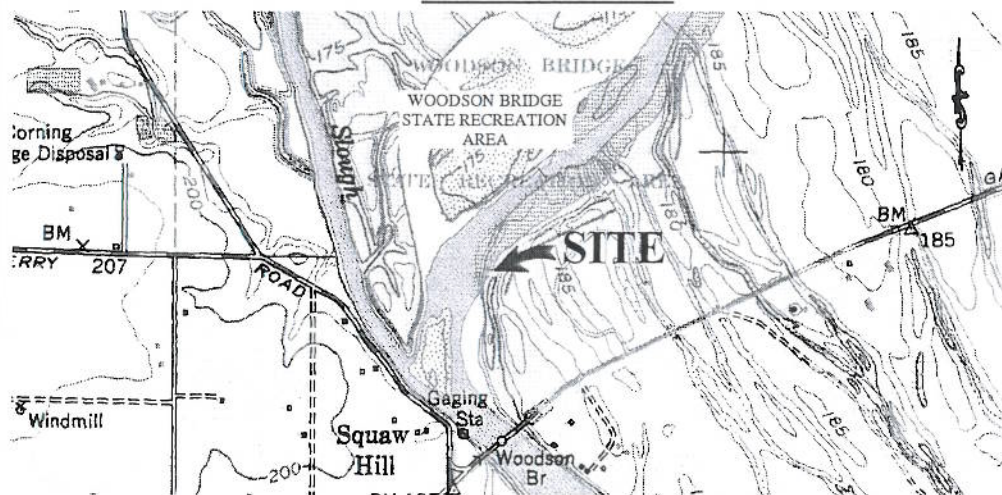
## SITE



## WOODSON BRIDGE STATE RECREATION AREA

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 B**

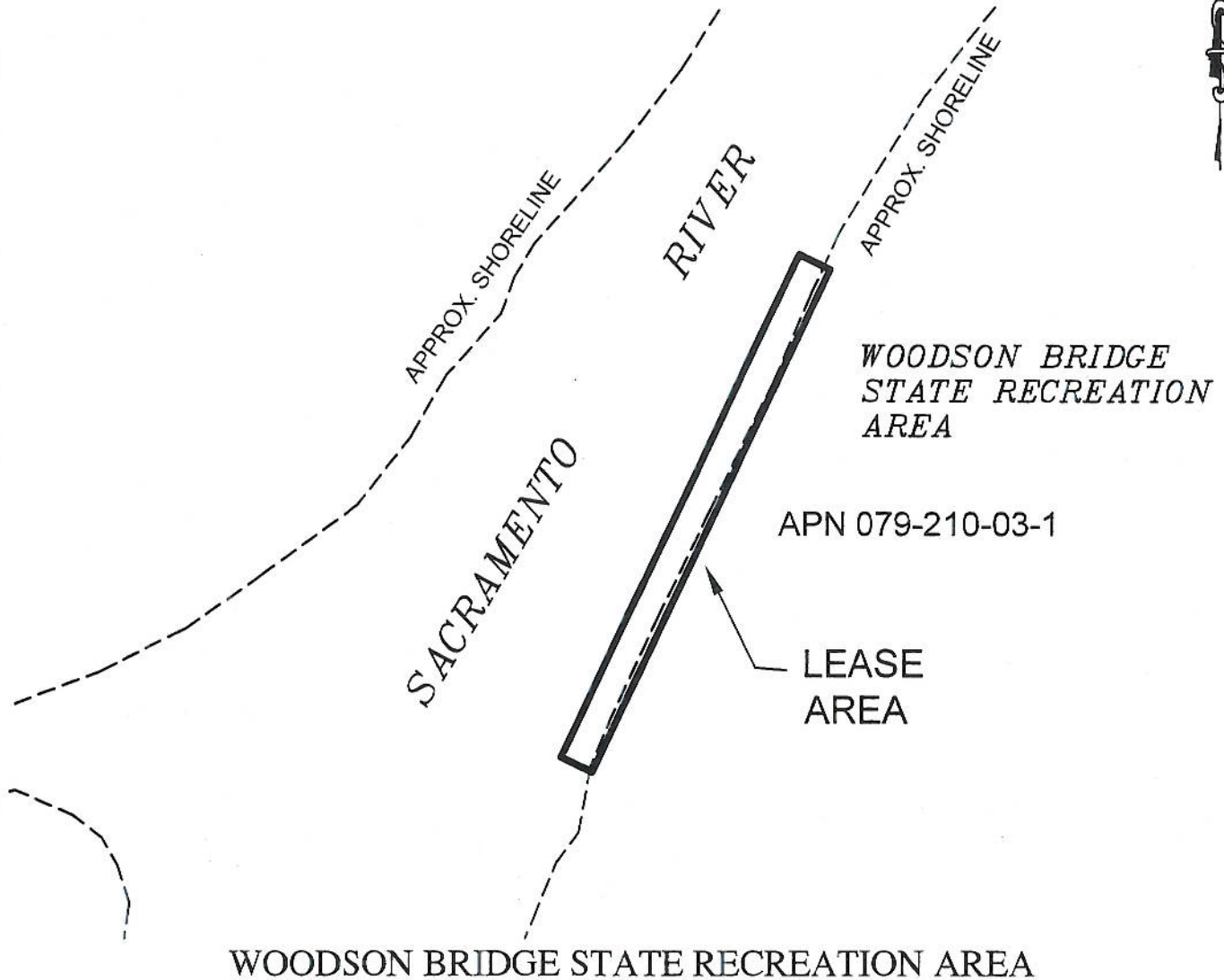
PRC 6873.9  
CENTRAL VALLEY FLOOD  
PROTECTION BOARD  
APN 079-210-03-1  
GENERAL LEASE-  
PUBLIC AGENCY USE  
TEHAMA COUNTY



TS 02/07/12

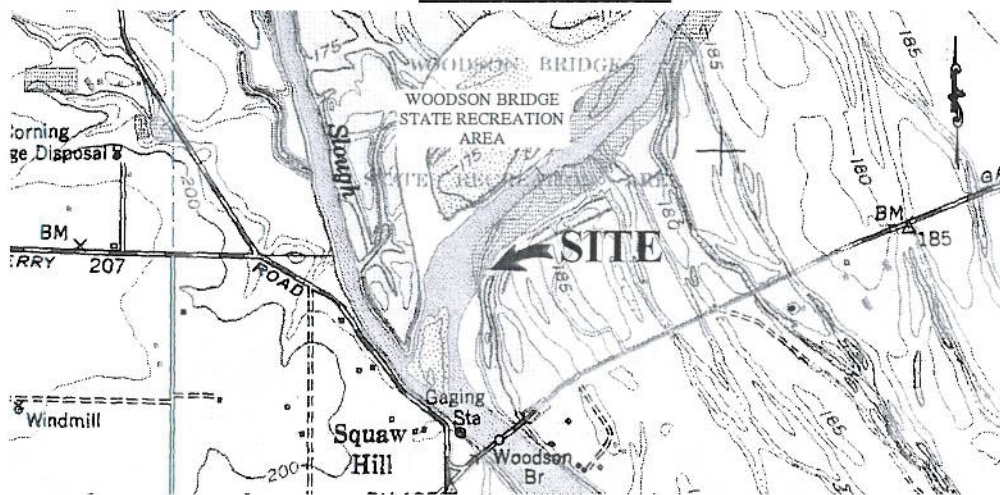
NO SCALE

## SITE



NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

## **Exhibit B**

PRC 6873.9  
CENTRAL VALLEY FLOOD  
PROTECTION BOARD  
APN 079-210-03-1  
GENERAL LEASE-  
PUBLIC AGENCY USE  
TEHAMA COUNTY

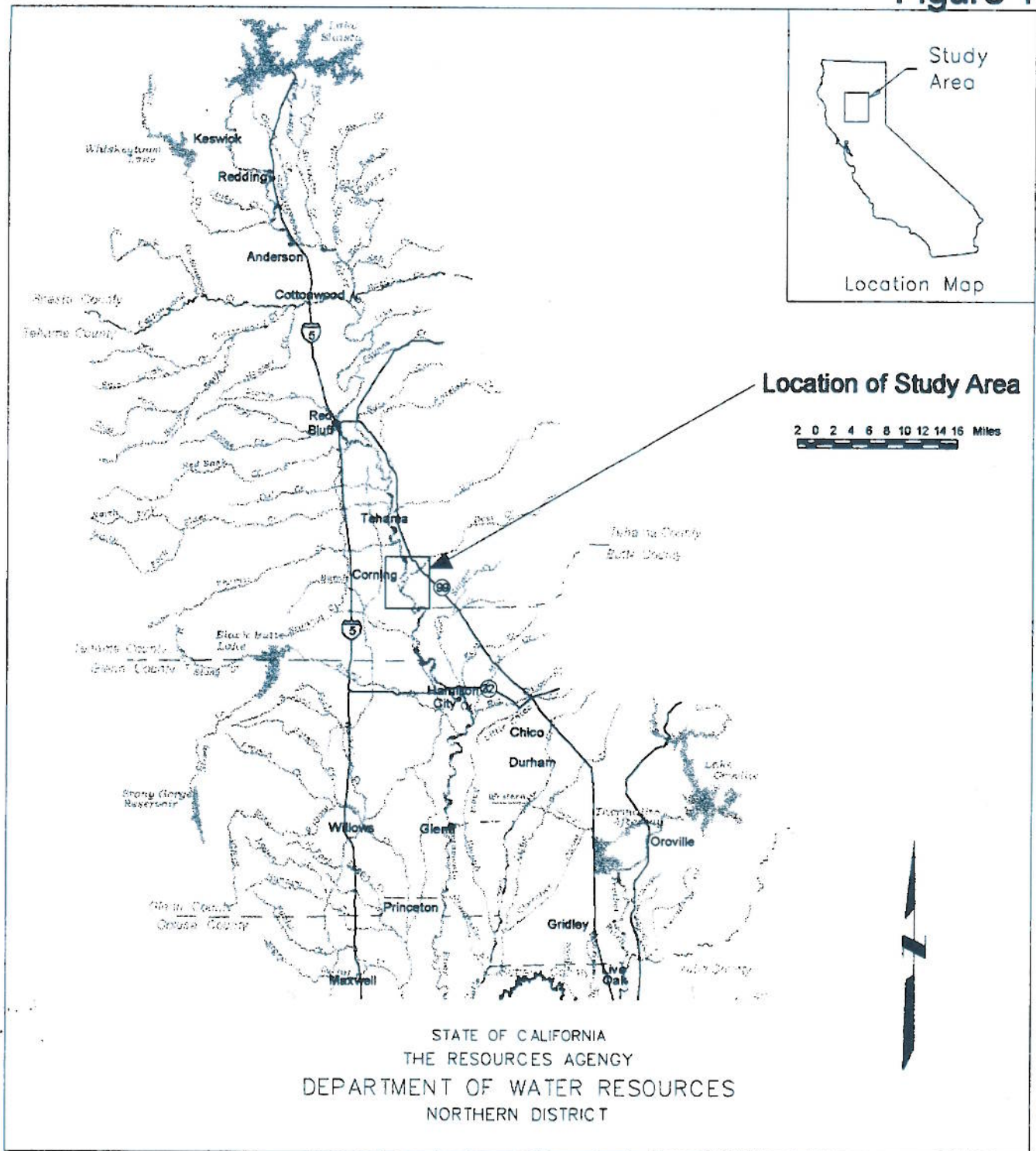


This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

TS 02/07/12



### Figure 1



Woodson Bridge State Recreation Area  
Long-Term Solutions Study  
Location Map



Exhibit A





Exhibit B

# Memorandum

Date: March 16, 2011

To: Vicki Caldwell, Public Land Management Specialist  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, California 95825-8202

From: Peter Coombe, Environmental Scientist  
Northern Region Office  
Division of Integrated Regional Water Management  
Department of Water Resources

Subject: Palisades Demonstration Bank Protection Project - Recreational Pier Lease Replacement

The purpose of this memorandum is to apply for a twenty-year lease to replace the fifteen-year Public Agency Use Lease No. PRC 6873.9 that expired on December 6, 2010, for the Palisades Bank Protection Demonstration Project (Project), which is located on the Sacramento River between River Miles 218.5 and 219.0 in Tehama County.

The following items are enclosed:

1. California State Lands Commission Recreational Pier Lease Application (with highlighted sections completed)
2. Resolution No. 95-16 (as evidence of authority to execute contracts)
3. A check in the amount of \$2,525 made payable to the State Lands Commission (\$2,500 minimum expense deposit plus \$25 filing fee)

Additionally, a statement of Justification of Rent-Free Status and a Project Description with Annual Status Reports are provided below as you requested.

## Palisades Bank Protection Project Justification of Rent-Free Status

The Project was designed to prevent erosion and loss of land within the Woodson Bridge State Recreation Area. By providing a rent-free lease, the Project will benefit the public by preventing loss of public land and continued preservation of old-growth, riparian forest located within the recreation area. The Project may also minimize the risk of damage to park infrastructure, which will help to avoid costly repairs and other maintenance costs in the future.

## Palisades Demonstration Bank Protection Project Description with Annual Status Reports

The Project is an experimental bank stabilization structure installed on the left bank of the Sacramento River at Woodson Bridge State Recreation Area in Tehama County. As an alternative to standard rock riprap, the Project was designed to prevent bank erosion, promote deposition, create natural bank conditions, and minimize disturbance to fish, wildlife, and riparian vegetation. It consisted of driving 356 steel piles (10 inches in diameter by 40 feet in length) 18 feet deep into the riverbed in a series of 70 rows with 4 to 9 piles per row, which were installed with a barge-mounted pile driver. Heavy web netting was strung between posts on each row. The structures were intended to slow velocities as well as trap debris and sediment to protect the bank from further erosion.

Exhibit  
C



The Project suffered damage in 1988, 1989, and 1993. At the end of 1993, it was estimated that 10 to 15 of the nets had been washed out, but only minor bank erosion had occurred. Additional damage occurred during high flows in 1995, 1996, and 1997. Most of the outer nets in the downstream two-thirds of the Project were washed out or damaged. A few of the piles were bent or pushed over and about 20 were missing after high flows in 1997. As a result of the compounded damage, the Project had lost its effectiveness in the downstream two-thirds of the Project. Left bank erosion continued in the lower and middle thirds of the Project with an estimated 60 feet of lateral bank erosion in the winters of 1995 and 1996 and an additional 70 feet in 1997. Continued erosion on the left bank caused movement of the main channel and created conditions where 213 steel pipes were considered a hazard to navigation and other recreational use. Several boating accidents were reported in the reach with one resulting in a fatality.

To improve public safety, California Department of Water Resources (DWR) removed damaged and ineffective Palisade structures. In 1997 the downstream two-thirds of the Project were removed. The upstream one-third of the structures were left in place because they were in acceptable condition and did not pose a significant public safety risk.

The remaining Palisades in the upper third of the site continue to offer bank protection. River bank protected by the structure has remained stable as of inspections conducted after the 2008, 2009, and 2010 high-flow seasons. The piles and netting are generally in acceptable condition; however, some of the piles and nets are starting to show signs of wear (leaning and tearing).

High flows of 1997, when river flow at Woodson Bridge exceeded 165,000 cubic feet per second (cfs), caused significant damage to the Project. The 2008, 2009, and 2010 high-flow seasons have had relatively lower flows, minimizing the potential of significant damage to existing structures and bank erosion. The maximum flows for 2008, 2009, and 2010 were recorded at the Sacramento River at Woodson Bridge by DWR at 63,200 cfs; 51,900 cfs, and 72,500 cfs respectively.

DWR has conducted bank erosion studies at the Project area before and after the removal of the lower portion of piles and netting. Left bank erosion below the remaining structure continues to occur at up to 50 feet per year, significantly impacting the Woodson Bridge State Recreation Area. From February 2008 to April 2009 maximum bank erosion downstream of the remaining Palisades was 60 feet. During 2010 maximum bank erosion downstream of the Palisades was 8 feet while the remainder of the bank showed little to no change. See enclosed Woodson Bridge Erosion Site Map (DWR 2010). Continued use of the Project site and Palisades will help alleviate erosion and loss of land in the recreation area, where as complete removal of the project would potentially increase erosion rates along the entire left bank.

Vicki Caldwell, Public Land Management Specialist  
September 14, 2011  
Page 3

The current configuration of structures remain close to the left bank and out of the main channel allowing water craft to navigate the reach without posing a significant safety risk. Environmental conditions at the site have been minimally impacted by remaining Palisades and riparian vegetation now covers a significant portion of the structure.

The current recommendation is to continue use of the Palisades structure for erosion protection until other erosion prevention alternatives are employed or the structure becomes unsafe.

If you have any questions or need additional information, please contact me at (530) 529-7377, or via email at [pcoombe@water.ca.gov](mailto:pcoombe@water.ca.gov).

Peter Coombe, Environmental Scientist  
Northern Region Office

Enclosures

Peter Coombe: Donelle Black

Outgoing 3193



# Exhibit D

## June and October 2011 Photos of Palisades Project Department of Water Resources, Northern Region Office

Pictures A and B. Section of State Parks' Property where Palisades have been removed. No measures have been taken to halt erosion at this site. State Park's has closed area to visitors.



Pictures C-I. Pictures showing the Palisades pilings and netting that were left in place. The pilings are in good repair and the bank has not eroded where the pilings remain. Pilings shown are representative of the condition of all project pilings.









# Exhibit E



## LEGEND

on prior to removal of Palisades  
 on after removal of Palisades  
 on during high flow event

## NOTES

- 1) The aerial photography base is 2007 (N:\EnvServer\Sacramento\_River\2007\_SID-Clips\12k\400dpi)
- 2) Control points set by DWR-Geology in 1986, 2005 and 2007 consist of concrete and pipe capped and centerpunched, then GPS'd with a Geoinformatics RTK total station. Coordinates obtained are accurate plus/minus 0.1 feet.

DEPAR	
Sacramento	
Woodson B	
River Mil	



**Exhibit F**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
THE RECLAMATION BOARD

Resolution No. 95-16

APPROVAL OF LEASE NO. PRC 6873.9  
FOR THE  
PALISADES DEMONSTRATION BANK PROTECTION PROJECT

WHEREAS, the Palisades Demonstration Bank Protection Project was authorized by the California Legislature pursuant to Water Code Section 8623 and was constructed in the summer of 1987; and

WHEREAS, the Palisades is located in the Sacramento River at River Mile 218.7 near the Woodson Bridge State Recreation Area. The project is a demonstration bank protection project that was intended to have less adverse environmental impacts than traditional riprap. The project consists of 50 percent permeable net panels suspended from steel pilings driven into the river bottom. The structure extends about 2,600 feet along the left bank of the river; and

WHEREAS, the original lease with State Lands Commission has expired and staff has filed an application for a renewed lease; and

WHEREAS, the new lease contains two special conditions:

1. The Palisades must be inspected yearly after flood season, and
2. The Palisades shall be removed if both the Department of Water Resources and SLC determine that it is ineffective as a bank protection project, detrimental to the conservation of natural resources, or becomes a threat to public health and safety; and

WHEREAS, although the Palisades have sustained some damage from high water, the structure is still providing protection to the bank; and



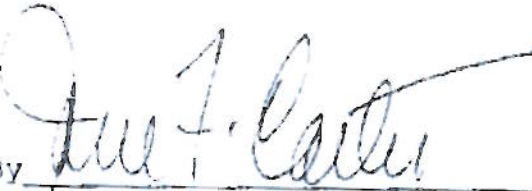
Resolution No. 95-16  
Page Two

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby approves the Lease and delegates the authority to the General Manager to execute Lease No. PRC 6873.9 with the State Lands Commission for the Palisades Demonstration Bank Protection Project.


Dated: September 15, 1995

THE RECLAMATION BOARD OF THE  
STATE OF CALIFORNIA

By   
President

By   
Secretary

Approved as to Legal Form  
and Sufficiency

  
Counsel for The Reclamation  
Board

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

FOR RECORDERS USE ONLY

**RECORDED AT THE REQUEST OF**

State of California  
State Lands Commission  
Document entitled to free  
recording pursuant to  
Government Code Section 27383.

**WHEN RECORDED MAIL TO**

State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, California 95825  
Attention: Title Unit

**LEASE NO. PRC 6873.9**

This Lease consists of this summary and the following attached and incorporated parts:

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 or 4
Section 3	Description of Lease Premises
Section 4	General Provisions

---

**SECTION 1****BASIC PROVISIONS**

**THE STATE OF CALIFORNIA**, hereinafter referred to as Lessor acting by and through the **STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100 South, Sacramento, California 95825), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise and let to:

**STATE RECLAMATION BOARD / DEPARTMENT OF WATER RESOURCES**

hereinafter referred to as Lessee:

**WHOSE MAILING ADDRESS IS:** 1416 Ninth Street  
Sacramento, California 95814



those certain lands described in Section 3 subject to the reservations, terms, covenants and conditions of this Lease.

**LEASE TYPE:** Public Agency Lease

**LAND TYPE:** Submerged

**LOCATION:** Sacramento River, Mile 219, Tehama County

**LAND USE OR PURPOSE:** Continued placement and maintenance of the Palisade demonstration bank protection project.

**TERM:** 15 years; beginning Dec. 7<sup>th</sup>, 1995; ending Dec. 6<sup>th</sup>, 2010.

**CONSIDERATION:** The public use and benefit; Subject to modification by Lessee as specified in Section 4 - General Provision, Paragraph 2 (a)(2).

**AUTHORIZED IMPROVEMENTS:** Palisade bank protection system.

☒ **EXISTING:**

☐ **TO BE CONSTRUCTED; CONSTRUCTION MUST NOT BEGIN:**

☐ **AND BE REMOVED BY:**

**LIABILITY INSURANCE:** As specified in Section 4 - General Provisions, Paragraph 8 (a) through (c).

**SURETY BOND OR OTHER SECURITY:** N/A

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## SECTION 2 SPECIAL PROVISIONS

BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED, REVISED OR SUPPLEMENTED AS FOLLOWS:

1. Lessee agrees to inspect the project site annually at the end of each high water season but not later the July of each year and report on project performance, project safety, and the existing environmental conditions at the project site and within the project influence area. Such report will

also suggest recommendations for the continued use of the project site. Such report will be prepared and submitted to staff of the State Lands Commission annually.

2. Lessor reserves the right to require Lessee to remove the structure in its entirety or in part to the satisfaction of the Commission in the event that the project is determined by the Department of Water Resources and the State Lands Commission to be ineffective as a bank protection project, detrimental to the conservation of natural resources or becomes a threat to public health and safety.

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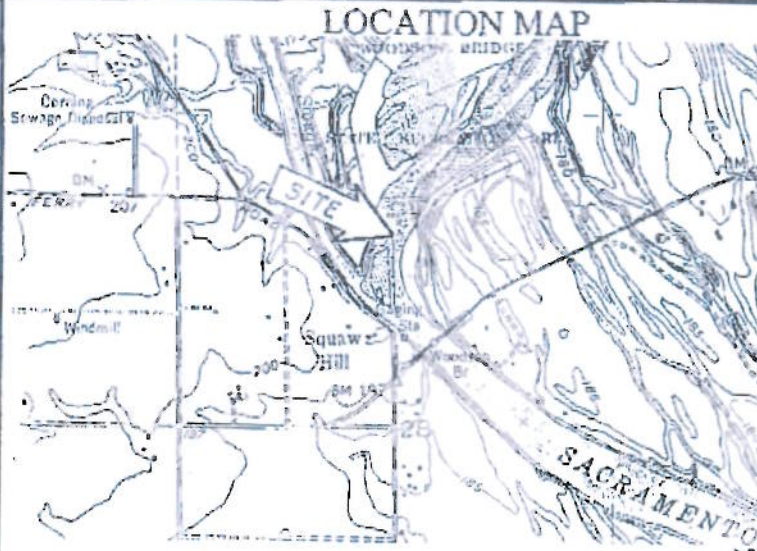
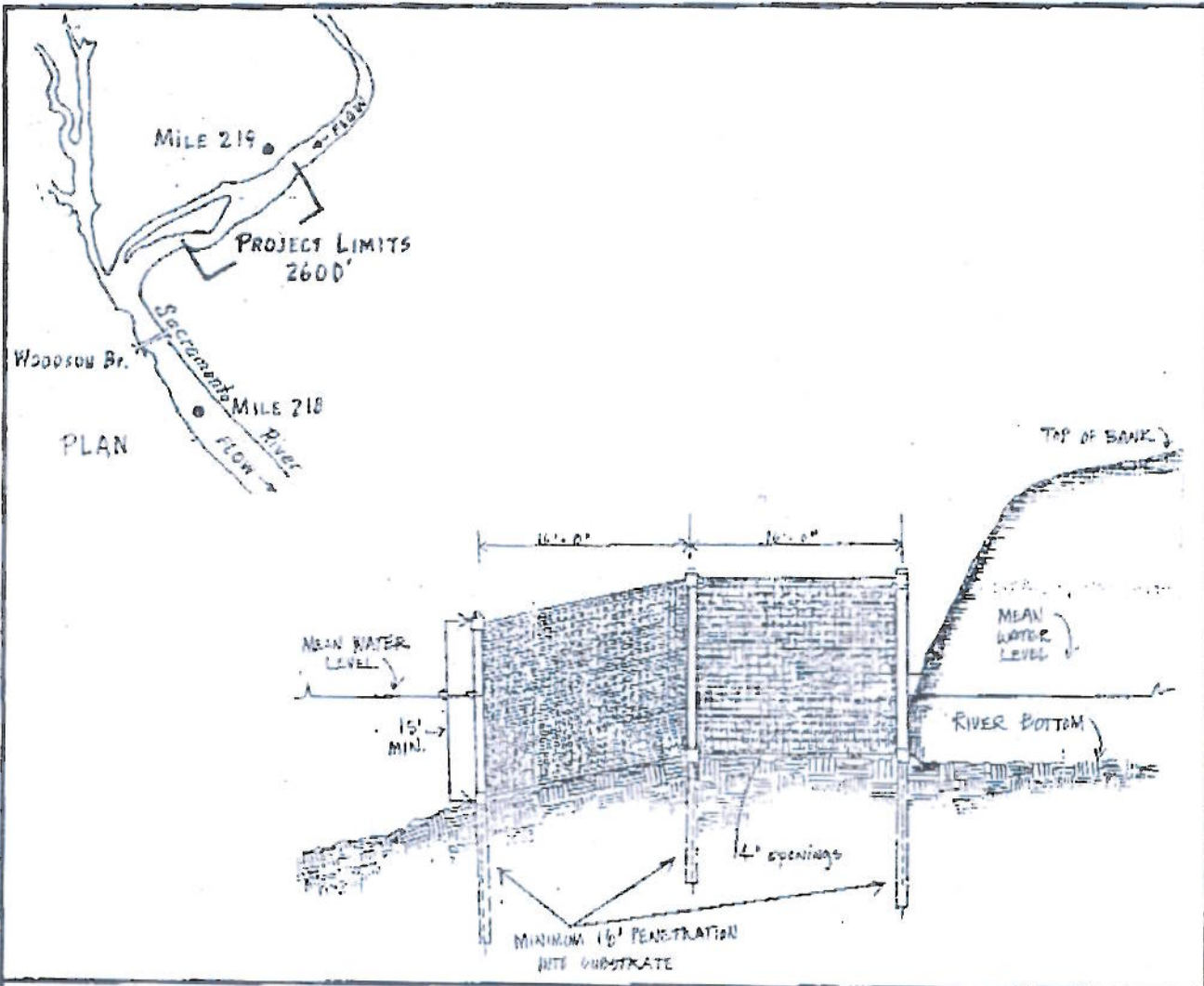
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SECTION 3  
PRC 6873.9  
State Reclamation Board  
Sacramento River  
TEHAMA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, 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.



## SECTION 4

## GENERAL PROVISIONS

## 1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

## 2. CONSIDERATION

## (a) Categories

## (1) Rental

Lessee shall pay the annual rental as stated in this Lease to Lessor without deduction, delay or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

## (2) Non-Monetary Consideration

If the consideration to Lessor for this lease is the public use, benefit, health or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State.

## (b) Modification

Lessor may modify the method, amount or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days notice prior to the effective date.

## (c) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

## 3. BOUNDARIES

This lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

## 4. LAND USE

## (a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements and

within sixty (60) days after completing them. Lessor's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

## (b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

## (c) Repairs and Maintenance

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and in safe condition. Lessor shall have no obligation for such repair and maintenance.

## (d) Additions, Alterations and Removal

(1) Additions - No improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of improvements on or natural features of the Lease Premises shall be undertaken without the prior written consent of Lessor.

## (e) Conservation

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the lease. Lessor, by its executive officer, shall notify Lessee, when in his or her opinion, Lessee has violated the provisions of this section and Lessee shall respond and discontinue the conduct or remedy the condition within 30 days.

## (f) Toxics

Lessee shall not manufacture or generate hazardous wastes on the Lease Premises unless specifically authorized under other terms of this Lease. Lessee shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, state or local law, regulation or ordinance dealing with such wastes, substances or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

## (g) Enjoyment

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or



activity constitutes a material interference with Lessee's use and enjoyment of the Lease Premises as provided under this Lease.

**(h) Discrimination**

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

**(i) Residential Use**

No portion of the Lease Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to boats, barges, houseboats, trailers, cabins or combinations of such facilities or other such structures which provide overnight accommodations to the Lessee or others.

**5. RESERVATIONS, ENCUMBRANCES AND RIGHTS-OF-WAY**

**(a) Reservations**

- (1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber and minerals as defined under Public Resources Code Sections 6401 and 6407, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources; however, such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

Form 51.15 (Rev. 11/91)

- (2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purpose associated with this Lease or for carrying out any function required by law, or the rules, regulations or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.
- (3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

**(b) Encumbrances**

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims and is made without warranty by Lessor of title, condition or fitness of the land for the stated or intended purpose.

**6. RULES, REGULATIONS AND TAXES**

- (a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

- (b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtain and maintain all permits or other entitlements.

- (c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises, and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

**7. INDEMNITY**

- (a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

- (b) Lessee shall notify Lessor immediately in case of any accident, injury or casualty on the Lease Premises.

**8. INSURANCE**

- (a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Lease Premises and all improvements.

- (b) The insurance policy or policies shall name the State of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Lessor. Lessor will not be responsible for any premiums or other assessments on the



policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

#### 9. SURETY BOND

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

#### 10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee.

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall

do all of the following:

(1) Give prior written notice to Lessor;

(2) Provide the name and complete business organization and operational structure of the proposed assignee, sublessee, secured third party or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable;

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrancing or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(c) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbrancing of Lease) available from Lessor upon request.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any



hazardous wastes, substances or materials as defined under federal state or local law, regulation or ordinance manufactured, generated used, placed disposed, stored or transported on the Lease Premises.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

## 11. DEFAULT AND REMEDIES

### (a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease;
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease;
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term;
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements;
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law;
- (6) Lessee's failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease; and/or
- (7) Lessee's failure to comply with applicable provisions of federal, state or local laws or ordinances relating to issues of Health and Safety, or whose purpose is to conserve resources or to

protect the environment.

(h) Lessee's failure to observe or perform any other term, covenant or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

### (c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises;
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice Lessee shall immediately surrender possession of the Lease Premises to Lessor;
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises; and/or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

## 12. RESTORATION OF LEASE PREMISES

(a) Upon expiration or sooner termination of this Lease, Lessor upon written notice may take title to any or all improvements, including fills, or Lessor may require Lessee to remove all or any such improvements at its sole expense and risk; or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense. Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such improvements to Lessor free and clear of any liens, mortgages, loans or any other encumbrances.

(b) In removing any such improvements Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction.

(c) All plans for and subsequent removal and restoration shall be to the satisfaction of Lessor and shall be completed within ninety (90) days after the expiration or sooner termination of this Lease or after compliance with paragraph



12(d), whichever is the lesser.

(d) In removing any or all the improvements Lessee shall be required to obtain any permits or other governmental approvals as may then be required by lawful authority.

(e) Lessor may at any time during the lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency(ies) and shall further be responsible for removing or taking other appropriate remedial action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

### 13. QUITCLAIM

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

### 14. HOLDING-OVER

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to month and not an extension of the Lease term and shall be on the terms, covenants, and conditions of this Lease, except that the annual rental then in effect shall be increased by twenty five percent (25%).

### 15. ADDITIONAL PROVISIONS

#### (a) Waiver

(1) No term, covenant, or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition of any other default or breach of any term, covenant or condition of this Lease.

#### (b) Time

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

#### (c) Notice

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

#### (d) Consent

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

#### (e) Changes

This Lease may be terminated and its term, covenants and conditions amended, revised or supplemented only by mutual written agreement of the parties.

#### (f) Successors

The terms, covenants and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

#### (g) Joint and Several Obligation

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

#### (h) Captions

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

#### (i) Severability

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

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## STATE OF CALIFORNIA - STATE LANDS COMMISSION


LEASE P.R.C. NO. 6873.9

This lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

LESSEE

By:

  
Raymond E. Barsh, General Manager  
STATE RECLAMATION BOARD

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By:

  
Assistant Chief  
Land Management Division

Title:

ACKNOWLEDGEMENT

Date:

JAN 29 1996

This Lease was authorized by the  
California State Lands Commission on  
12-7, 1995.

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of CaliforniaCounty of SacramentoOn 20 October 1995 before me, Joan E. Willard, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"personally appeared RAYMOND E. BARSCH  
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Joan E. Willard  
SIGNATURE OF NOTARY

## OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

## CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED  
☐ GENERAL  
☐ ATTORNEY-IN-FACT  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER \_\_\_\_\_

SIGNER IS REPRESENTING:  
 NAME OF PERSON(S) OR ENTITY(IES)

## DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE