

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Public Works *DM*

BOARD AGENDA #                      \*C-3

Urgent  Routine

AGENDA DATE April 27, 2010

CEO Concur with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Authorize the Director of Public Works to Sign a General Lease - Right of Way Use Agreement with the California State Lands Commission for the Hills Ferry Road Bridge at San Joaquin River

STAFF RECOMMENDATIONS:

Authorize the Director of Public Works to sign a General Lease - Right of Way Use Agreement with the California State Lands Commission for the Hills Ferry Road Bridge at San Joaquin River.

FISCAL IMPACT:

The Hills Ferry Road Bridge at San Joaquin River is for public use, and is therefore exempt from annual rental fees from the California State Lands Commission. Funding for the approximately \$5,000 of required repairs is available in the Fiscal Year 2010/2011 Road Operations budget.

BOARD ACTION AS FOLLOWS:

No. 2010-243

On motion of Supervisor Chiesa, Seconded by Supervisor DeMartini  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

## Approval to Authorize the Director of Public Works to Sign a General Lease - Right of Way Use Agreement with the California State Lands Commission for the Hills Ferry Road Bridge at San Joaquin River

### **DISCUSSION:**

The General Lease Agreement allows the County to operate and maintain the Hills Ferry Road bridge improvements within the right-of-way of the California State Lands Commission. The agreement specifies the duties and obligations between Stanislaus County and the California State Lands Commission relative to the Hills Ferry Road bridge at San Joaquin River.

In summary, the General Lease Agreement specifies:

1. Lessee shall not place any utilities or other improvements on the bridge or within the Lease Premises without the prior approval of the Lessor.
2. Lessee acknowledges that the land described in Section 3 of the Lease is subject to the Public Trust and is presently available to members of the public for recreation, waterborne commerce, navigation, fisheries, open space, or other recognized Public Trust uses.
3. All future repairs, structural modifications or abandonment/removal of the facility within the Lease Premises shall require prior review and approval by Lessor's engineering staff. In the event of an urgent repair requiring immediate action, telephone contact can be made through the Lessor's 24-hour emergency response number (562) 590-5201.
4. Lessee shall submit to Lessor, no later than January 1, 2012, evidence that all recommendations set forth in the California Department of Transportation Inspection Report, dated October 29, 2007 (Bridge No. 38C0001) have been met.

Caltrans Structures Maintenance and Investigations has the following recommendations for minor repairs to the bridge based upon their October 29, 2007 bridge report:

1. Repair the damaged steel rail post in Span 11.
2. Repair the Abutment 1 approach to the structure.
3. Remove the accumulated dirt and crushed rock from both steel sliding plate joints.

All the repairs are scheduled to be completed by March 2011.

Approval to Authorize the Director of Public Works to Sign a General Lease - Right of Way Use Agreement with the California State Lands Commission for the Hills Ferry Road Bridge at San Joaquin River

**POLICY ISSUES:**

The Board should consider if the recommended actions are consistent with its priorities of providing a safe community, a healthy community and a well-planned infrastructure system.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

**CONTACT PERSON:**

Matt Machado, Director of Public Works. Telephone: 209-525-6550.

PS:jg

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**CALIFORNIA STATE LANDS COMMISSION**

100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



**PAUL D. THAYER, Executive Officer**

(916) 574-1800 FAX (916) 574-1810

California Relay Service From TDD Phone 1-800-735-2922  
from Voice Phone 1-800-735-2929

**RECEIVED**

FEB 03 2010

STANISLAUS COUNTY  
DEPARTMENT OF PUBLIC WORKS

January 25, 2010

Contact Phone: (916) 574-0200

Contact FAX: (916) 574-1925

**COPY**

File Ref: PRC 2563.9

**Matt Machado**  
Stanislaus County  
1010 Tenth Street  
Modesto, CA95354

Dear Mr. Machado:

The enclosed document, in duplicate, states the terms and conditions of a General Lease – Public Agency Use, for the continued use and maintenance of an existing bridge know as Hills Ferry Road bridge, near the city of Newman, Stanislaus and Merced Counties.

If you find the documents to be in order, **please execute both copies before a notary public and return them to this office together with a certified copy of the resolution or other document authorizing execution** on behalf of the County of Stanislaus.

Once the duplicate documents have been signed by the County of Stanislaus, staff of the Commission will send the documents to the County of Merced for signature.

If you have any questions regarding this matter, please contact Michelle Clark at (916) 574-0200.

Sincerely,

Michelle Clark  
Public Land Management Specialist

Enclosure

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 049-037-002, 049-037-003,  
County: Stanislaus

A.P.N. 045-280-011, 045-280-012  
County: Merced

2011 OCT 11 P 2:16  
BOARD OF SUPERVISORS

**LEASE PRC 2563.9**

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
Exhibit A	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 **County of Stanislaus and County of Merced**, hereinafter referred to as Lessee, those certain lands described in Section 3 subject to the reservations, terms, covenants and conditions of this Lease.

**MAILING ADDRESS:** 1010 Tenth Street, Suite 3500, Modesto, California 95341  
(Stanislaus County)

95341  
715 Martin Luther King, Jr. Way, Merced, California  
(Merced County)

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

**LAND TYPE:** Sovereign Lands

**LOCATION:** San Joaquin River, near the city Newman, adjacent to Assessor’s Parcel Numbers 049-037-002, 049-037-003 in Stanislaus County, and adjacent to Assessor’s Parcel Numbers 045-280-011 and 045-280-012 in Merced County.

**LAND USE OR PURPOSE:** Continued use and maintenance of an existing bridge known as the Hills Ferry Road bridge.

**TERM:** 20 years; beginning April 28, 2009; ending April 27, 2029, unless sooner terminated as provided under this Lease.

**CONSIDERATION:** The public use and benefit; subject to modification by Lessor as specified in Paragraph 2(b) of Section 4 - General Provisions.

**AUTHORIZED IMPROVEMENTS:** A bridge crossing the bed of the San Joaquin River.

X **EXISTING:**

\_\_\_\_\_ **TO BE CONSTRUCTED; CONSTRUCTION MUST BEGIN BY:** N/A

**AND BE COMPLETED BY:** N/A

**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 shall not place any utilities or other improvements on the bridge or within the Lease Premises without the prior approval of the Lessor.



**SECTION 3**

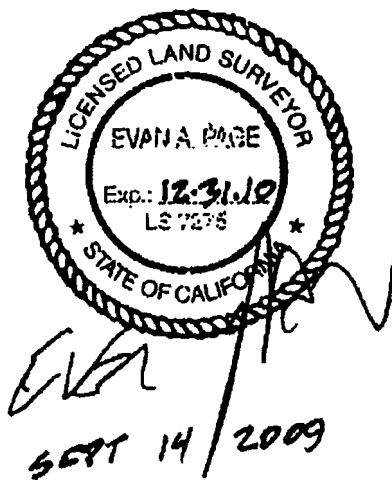
**LAND DESCRIPTION**

A strip of submerged land, 200 feet wide, within the bed of the San Joaquin River, being adjacent to Sections 3 and 4, Township 7 South, Range 9 East, MDM, Stanislaus and Merced Counties, California, said strip being 100' on each side of the following described centerline:

Commencing at an angle point on the centerline of the Newman-Hills Ferry Road, being Station 139+00 as referred to in Book of Highway Layouts, Volume G11, at Pages 32 through 36, Stanislaus County Surveyor's Records; thence North  $41^{\circ}57'15''$  East along said centerline of Newman-Hills Ferry Road a distance of 439.32 feet; thence Northeasterly along a 1600 foot radius curve to the left, through a central angle of  $24^{\circ}26'23''$ , for an arc distance of 682.56 feet (Chord: N  $30^{\circ}10'31''$  E, 677.40') to the left bank of the San Joaquin River, said point being the **POINT OF BEGINNING**; thence continuing Northeasterly along said 1600 foot radius curve to the left, through a central angle of  $13^{\circ}36'08''$ , for an arc distance of 379.85 feet (Chord: N  $49^{\circ}11'52''$  E, 378.96') to the right bank of the San Joaquin River, being the **POINT OF TERMINATION**.

Excepting therefrom any portion lying landward of the low water marks of the San Joaquin River.

**END DESCRIPTION**





## 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. 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 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 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.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 2563.9

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.

LESSEES:

COUNTY OF STANISLAUS

By: [Signature]

Title DIRECTOR

Date 2-4-10

COUNTY OF MERCED

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

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

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

LESSOR:

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

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

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

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

This Lease was authorized by the  
California State Lands Commission on

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

ACKNOWLEDGEMENT

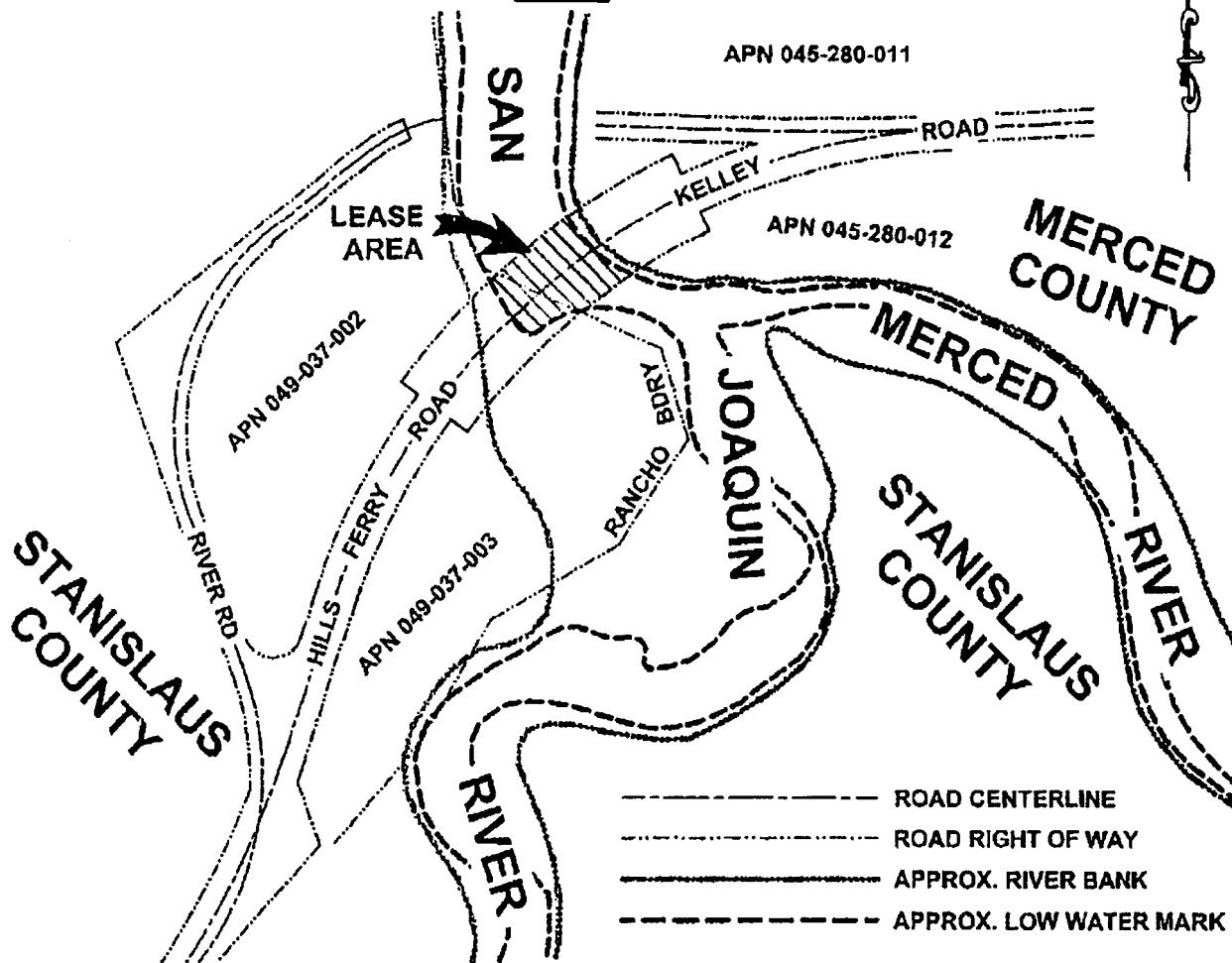
APPROVED AS TO FORM:  
STANISLAUS COUNTY COUNSEL

BY [Signature]

DATE: 4-19-2010

NO SCALE

**SITE**

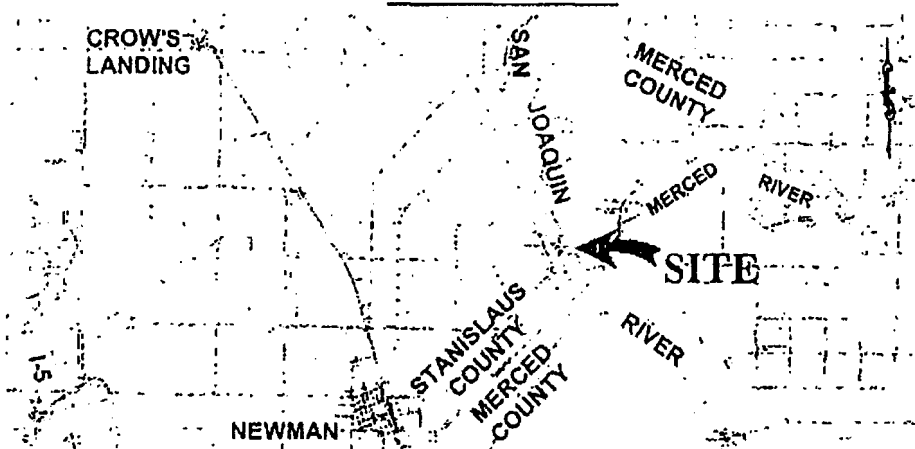


- ROAD CENTERLINE
- ROAD RIGHT OF WAY
- APPROX. RIVER BANK
- APPROX. LOW WATER MARK

HILLS FERRY ROAD BRIDGE, STANISLAUS & MERCED COUNTIES

NO SCALE

**LOCATION**



MAP SOURCE: USGS QUAD

**Exhibit A**

WP 2563.9  
 Counties of Stanislaus & Merced  
 APN 049-037-002,003 (Stan),  
 APN 045-280-011,012 (Mer)  
 General Lease  
 Public Agency Use  
 Stanislaus & Merced Counties



EAP 02/09

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.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA )  
COUNTY OF Stanislaus )

On February 4, 2010 before me, Keimi Espinoza, Notary Public  
DATE INSERT NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC

personally appeared, Matt Machado

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Keimi Espinoza (SEAL)  
NOTARY PUBLIC SIGNATURE



**OPTIONAL INFORMATION**

THIS OPTIONAL INFORMATION SECTION IS NOT REQUIRED BY LAW BUT MAY BE BENEFICIAL TO PERSONS RELYING ON THIS NOTARIZED DOCUMENT.

TITLE OR TYPE OF DOCUMENT Lease PRC 2563.9 General Lease - Public Agency Use 049-037-002, 049-037-003

DATE OF DOCUMENT \_\_\_\_\_ NUMBER OF PAGES Twelve

SIGNERS(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

SIGNER'S NAME \_\_\_\_\_ SIGNER'S NAME \_\_\_\_\_

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