

**CALENDAR ITEM  
C09**

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06/21/13  
W 26623  
R. Boggiano

**ISSUANCE OF A GENERAL LEASE - RIGHT-OF-WAY USE**

**APPLICANT:**

Three Rivers Acquisition Co., LLC.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Mokelumne River, adjacent to Assessor's Parcel Numbers (APN) 069-030-35, 156-0070-007, near the city of Isleton, San Joaquin and Sacramento counties.

**PROPOSED USE:**

Installation, use, maintenance, and operation of a 4.5-inch diameter steel natural gas pipeline installed using horizontal directional drilling (HDD) beneath the bed of the Mokelumne River.

**LEASE TERM:**

20 years, beginning June 21, 2013.

**CONSIDERATION:**

\$221 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance in an amount no less than \$3,000,000 per occurrence.

Surety or Other Security:

1. Surety or other security in the amount of \$25,000.
2. Construction Performance Bond or other security in the amount of \$250,000.
3. Guaranty by Summit Energy LLC for all the Applicants obligations under the Lease.

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Other:

1. The lease contains special provisions related to pre-construction and post-construction project engineering review and verification; and provisions related to emergency response and frac-out contingency plans.

**OTHER PERTINENT INFORMATION:**

1. The upland parcel located on the North side of the Mokelumne River (River), APN 156-0070-007 is owned by Carmentine Land Investments, LLC. The upland parcel located on the South side of the Mokelumne River, APN 069-030-35 is owned by Delta Wetlands Properties. The upland owners have signed right-of-entry authorizations and have agreed to go into an easement and right-of-way agreement prior to the start of construction. The lease requires submission of the agreements prior to the start of construction on the Lease Premises.
2. The Applicant is proposing to construct a 4.5-inch natural gas welded steel natural gas pipeline to transport natural gas from an existing natural gas well site located on the South side of State Highway 12 on Bouldin Island to an existing gas gathering facility located north of the River on Tyler Island. The well located on Bouldin Island was drilled in 2007 by Stream Energy, Inc.; however, the well has remained idle since its construction, as no pipeline was available to transport gas off of Bouldin Island. In 2010, Summit Energy, LLC purchased the well.

The Applicant is now proposing to construct a pipeline with the capacity to transport natural gas from the existing well, as well as from any future natural gas development in the area. The Applicant would own and operate the pipeline, which is designed to have a capacity of 10,000 million cubic feet (McF) of gas per day. The projected production rate for the well site is 2,250 McF per day. The total length of the pipeline would be approximately 5,737 feet (1.09 miles) in length with the River crossing approximately 2,092 feet in length. The pipeline would be installed using a HDD technology at a minimum depth of 45 feet below the river bed.

3. The Commission is the lead agency for the construction, use, and maintenance of the entire 5,737-foot pipeline (Project) pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063). Although the Initial Study identified several potentially significant impacts to Biological Resources and Cultural Resources, mitigation measures were proposed and agreed to by the Applicant prior

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to public review that would avoid or mitigate the identified potentially significant impacts “to a point where clearly no significant effects would occur” (State CEQA Guidelines, § 15070, subd. (b)(1)). Consequently, the Initial Study concluded that “there is no substantial evidence, in light of the whole record before the agency, that the Project as revised may have a significant effect on the environment” (State CEQA Guidelines, § 15070, subd. (b)(2)), and a Mitigated Negative Declaration (MND) was prepared.

4. Pursuant to the Commission’s delegation of authority and State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), the staff prepared a Proposed MND identified as CSLC MND No. 771, State Clearinghouse No. 2013042064. The Proposed MND and Initial Study were circulated for a 30-day public review period from April 23, 2013 to May 23, 2013, and staff received four comment letters:

- 1) Kathleen A. Dadey with the U.S. Army Corps of Engineers advised staff of permits the Project may require;
- 2) Terri Pencovic with the California Department of Transportation requested that construction traffic avoid peak traffic hours, and advised staff of permits the Project may require;
- 3) James Herota with the Central Valley Flood Protection Board (CVFPB) raised general concerns with improvements that could affect flood control and levee inspections, and advised staff of permits the Project may require; and
- 4) Trevor Cleak with the Central Valley Regional Water Quality Control Board advised staff of permits the Project may require.

Commission staff revised the MND to clarify that construction-related traffic would avoid transporting equipment to and from the Project site during peak traffic hours. Staff determined that these changes do not constitute a “substantial revision,” as defined in State CEQA Guidelines section 15073.5, subdivision (b), and that recirculation of the MND prior to Commission consideration is not required pursuant to in State CEQA Guidelines section 15073.5, subdivision (c). In regards to CVFPB comments, the Project does not involve improvements or vegetation on flood control structures or within waterways.

5. Based upon the Initial Study, the Proposed Mitigated Negative Declaration, and the comments received in response thereto, there is no substantial evidence that the project will have a significant effect on the environment; California Code of Regulations, Title 14, section 15074, subdivision (b). A Mitigation Monitoring Program has been prepared in

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conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6), and is contained in Exhibit C, attached hereto.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS REQUIRED:**

U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Central Valley Flood Protection Board, Central Valley Regional Water Quality Control Board, California Department of Fish and Wildlife, and Reclamation Districts 563 and 756, and California Department of Transportation.

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Certify that the Proposed MND, CSLC MND No. 771, State Clearinghouse No. 2013042064, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto, and that the Proposed MND reflects the Commission's independent judgment and analysis.

Adopt the Proposed MND and determine that the Project, as approved, will not have a significant effect on the environment.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

**SIGNIFICANT LANDS INVENTORY FINDING:**

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

CALENDAR ITEM NO. **C09** (CONT'D)

**AUTHORIZATION:**

Authorize issuance of a General Lease – Right-of-Way Use to Three Rivers Acquisition Co., LLC, beginning June 21, 2013, for a term of 20 years, for the installation, use, maintenance, and operation of a 4.5-inch diameter steel natural gas pipeline not previously in the bed of the Mokelumne River as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$221, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in an amount no less than \$3,000,000 per occurrence; surety bond or other security in the amount of \$25,000; a construction performance bond in the amount of \$250,000; and a guaranty by Summit Energy LLC for all of Three Rivers Acquisition Co., LLC's obligations under the terms of the Lease.

**EXHIBIT A**

**W 26623**

**LAND DESCRIPTION**

A 20 foot wide strip of tide and submerged land lying in the bed of the Mokelumne River and Georgiana Slough, adjacent to Sacramento County Swamp and Overflowed survey 956, approved 11/27/1868 and San Joaquin County Swamp and Overflowed survey 668, approved 7/5/1861, Counties of Sacramento and San Joaquin, State of California, the centerline of which is described as follows:

BEGINNING at a point lying distant S 68°46'34" E 734.98 feet from a 5/8" rebar having CCS83, Zone 2 (2007.00) coordinates of North (Y) = 1,808,652.57 feet and East (X) = 6,683,462.57 feet; thence N 37°42'58" W 2000.00 feet to the terminus of said strip.

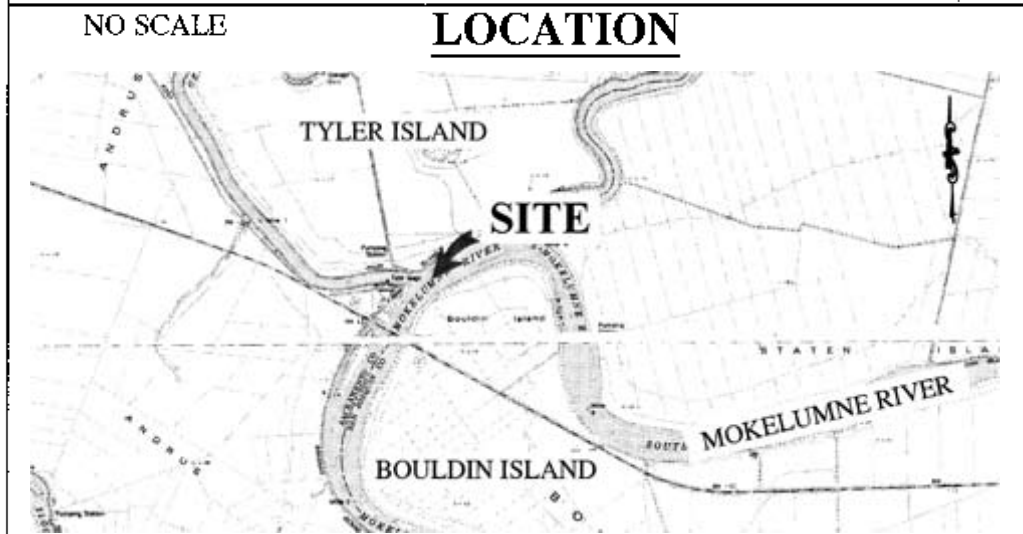
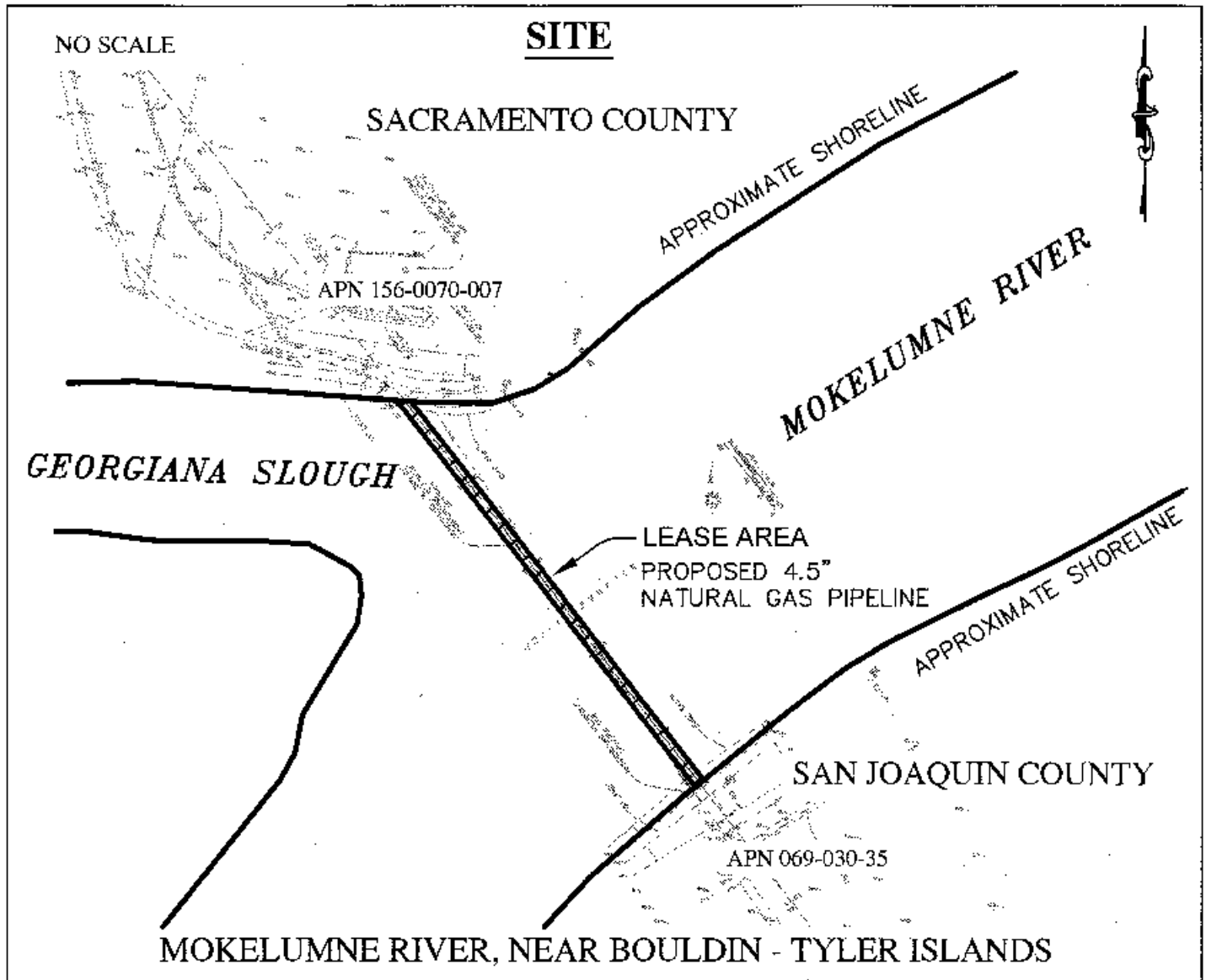
EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Mokelumne River and the left bank of Georgiana Slough.

The BASIS OF BEARINGS for this description is the CCS83, Zone 2 (2007.00). All distances are grid distances.

**END OF DESCRIPTION**

Prepared 6/13/2013 by the California State Lands Commission Boundary Unit.





**Exhibit B**  
W 26623  
THREE RIVERS ACQUISITION  
APN 069-030-35, 156-0070-007  
GENERAL LEASE -  
RIGHT - OF - WAY USE  
SACRAMENTO &  
SAN JOAQUIN COUNTIES



DJF 06/03/13

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

## **EXHIBIT C MITIGATION MONITORING PROGRAM**

### **AUTHORITY**

CEQA directs lead agencies to adopt, concurrent with adoption of an MND, a program for reporting or monitoring the changes that have been incorporated into the project or that have been made a condition of approval to mitigate or avoid significant environmental effects. This proposed Mitigation Monitoring Program (MMP) has been prepared to provide a summary and discussion of the ways in which the CSLC, as the CEQA lead agency for the Project, would ensure the measures identified in the MND are implemented, and identifies other agencies potentially having enforcement and compliance responsibilities. While the MMP may identify other public agencies with oversight or permitting jurisdiction, until the mitigation measures (MMs) have been completed, the CSLC would remain responsible for ensuring all measures are implemented in accordance with the MMP. Should the CSLC adopt the MND after considering it together with any comments received during the public review process, it would adopt a final MMP in compliance with CEQA. (See Pub. Resources Code § 21081.6, subd. (a); State CEQA Guidelines, § 15074, subd. (d), § 15097.)

### **MITIGATION COMPLIANCE RESPONSIBILITY**

Three Rivers is responsible for successfully implementing all the MMs in the MMP, and is responsible for assuring that these requirements are met by all of its construction contractors and field personnel. Standards for successful mitigation also are implicit in many mitigation measures that include such requirements as obtaining permits or avoiding a specific impact entirely. Additional MMs may be imposed by applicable agencies with jurisdiction through their respective permit processes.

### **GENERAL MONITORING AND REPORTING PROCEDURES**

The CSLC and the environmental monitor(s) are responsible for integrating the mitigation monitoring procedures into the Project implementation process in coordination with Three Rivers. To oversee the monitoring procedures and to ensure the required measures are implemented properly, the environmental monitor assigned must be onsite during any portion of project implementation that has the potential to create a significant environmental impact or other impact for which mitigation is required. The environmental monitor is responsible for ensuring that all procedures specified in the MMP are followed.

Site visits and specified monitoring procedures performed by other individuals will be reported to the assigned environmental monitor. A monitoring record form will be submitted to the environmental monitor by the individual conducting the visit or procedure so that details of the visit can be recorded and progress tracked by the



environmental monitor. A checklist will be developed and maintained by the environmental monitor to track all procedures required for each mitigation measure and to ensure that the timing specified for the procedures is adhered to. The environmental monitor will note any problems that may occur and take appropriate action to rectify the problems.

### **MITIGATION AND MONITORING TABLE**

The following mitigation monitoring table lists all mitigation measures identified in Section 3 of the MND. The table lists the following information, by column:

- Potential Impact;
- Mitigation Measure;
- Location;
- Monitoring/reporting action;
- Responsible agency/party; and
- Timing.

Table 5.4-1. Mitigation Monitoring Program

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
Biological Resources <b>Wildlife interactions and habitat damage</b>	<b>BIO-1: Worker Environmental Awareness Training.</b> A worker environmental awareness training shall be conducted prior to Project initiation for construction personnel, and shall consist of a brief presentation in which a biologist knowledgeable in local sensitive habitats and wildlife and regulatory protection will discuss environmental concerns. All personnel working on the Project shall be educated on the sensitivity of adjacent habitats and species.	Compliance monitoring	CSLC and Three Rivers	Prior to construction period
<b>Wildlife interactions and habitat damage</b>	<b>BIO-2: Pre-Construction Biological Surveys.</b> A pre-construction biological species clearance survey shall be conducted by a qualified biologist, approved by California State Lands Commission (CSLC) staff, no fewer than 14 days or more than 30 days prior to the beginning of construction activities to determine evidence of the presence of any of the special-status animal species identified in Table 2 of the attached Biological Assessment Report (Appendix D of the Mitigated Negative Declaration). Mitigation Measures BIO-3, BIO-4, BIO-6 and BIO-8 detail procedures that shall be followed in the event the survey identifies evidence of the presence of special-status species.	Compliance monitoring	CSLC and Three Rivers	Prior to construction period
<b>Impacts to Nesting Avian Species</b>	<b>BIO-3: Pre-construction Avian Nesting Surveys.</b> To avoid or reduce potential impacts to nesting special-status avian species, a qualified biologist, approved by California State Lands Commission (CSLC) staff, will conduct pre-construction nesting surveys for special-status avian species within the Project and buffer area during the appropriate survey periods for each species. Surveys and survey timing will follow California Department of Fish and Wildlife (CDFW)- and U.S. Fish and Wildlife Service (USFWS)-approved protocols where applicable.	Compliance monitoring	CSLC and Three Rivers	Prior to construction period

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>Where active special-status bird nest sites are identified or suspected to occur during pre-construction surveys, the qualified biologist shall establish the following buffer zones around nest sites, and no disturbance activities will occur within these buffer zones until the biologist confirms that young birds have fledged or the nests have failed. Nesting buffer zones shall be marked with stakes, and signs shall be placed on the stakes indicating that no construction activities are to be conducted in the buffer areas until the areas are cleared by the qualified biologist:</p> <p><u>Swainson's Hawk</u></p> <p>To avoid and minimize impacts on nesting Swainson's hawks, a 1,320-foot buffer shall be established around active nesting sites for work between March 1 and August 31. No Project-related activities will be allowed to occur within this zone. A biological monitor shall monitor the nest site on a regular schedule to ensure no impacts are occurring to nesting Swainson's hawks. Monitoring protocol shall be determined in consultation with CDFW. The buffer area can be removed prior to August 31 if the qualified biologist determines that all juveniles have fledged from occupied nests.</p> <p><u>White-Tailed Kite</u></p> <p>To avoid and minimize impacts on white-tailed kites, a 250-foot buffer shall be established around active nests for work between January 1 and October 31. No Project-related activities will be allowed to occur within this buffer until the qualified biologist determines that young have fledged or the species are no longer attempting to nest. The buffer area can be removed prior to October 31 if the qualified biologist determines that all juveniles have fledged from occupied nests.</p>			

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p><b>Migratory Song Birds</b></p> <p>To avoid and minimize impacts on nesting migratory songbirds, a 250-foot buffer shall be established around active nesting sites when Project activities will occur between March 1 and August 31. No Project activities will be allowed to occur within this zone. The buffer area can be removed prior to August 31 if the qualified biologist determines that all juveniles have fledged from occupied nests.</p>			
<p><b>Impacts to Burrowing Owls and Their Nesting Sites</b></p>	<p><b>BIO-4: Contingency Measures for Burrowing Owls and Nest Sites.</b> If active burrowing owl nest sites are observed on or within 500 feet of the Project or buffer area during the pre-construction biological survey (Mitigation Measure BIO-2), the biologist shall consult with the California Department of Fish and Wildlife (CDFW) and the following measures shall be implemented:</p> <ul style="list-style-type: none"> <li>If the species is found to be present and it is within the nesting season (February 1 through August 31), construction shall not occur within 300 feet of the active burrows unless a qualified biologist, approved by the CDFW, verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. The 300-foot buffer shall be clearly marked before construction commences;</li> <li>Burrowing owls present between September 1 and January 31 (outside of the breeding season) shall be moved away from the disturbance area using passive relocation techniques. Relocation shall only take place between September 1 and January 31, and must be completed by January 31. Prior to commencement of relocation, a Relocation Management and Mitigation Plan (RMMP) shall</li> </ul>	<p>Compliance monitoring</p>	<p>CSLC and Three Rivers</p>	<p>Prior to construction period</p>

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>be prepared by Three Rivers and approved by CDFW. Passive relocation techniques and mitigation will comply with the RMMP and recommendations in the CDFW Staff Report on Burrowing Owl Mitigation Guidelines (2012), and shall include the following measures and criteria:</p> <ul style="list-style-type: none"> <li>o One-way doors shall be installed in burrow entrances. Doors shall be left in place for 48 hours to ensure owls have left the burrow;</li> <li>o Once owls have relocated off-site, existing burrows shall be collapsed to prevent reoccupation. Prior to burrow excavation, flexible plastic pipe shall be inserted into the tunnels to allow escape of any remaining owls during excavation. Excavation shall be conducted by hand whenever possible;</li> <li>o Destruction of burrows shall only occur in conformance with the CDFW-approved RMMP specified above; and</li> <li>o Destruction of occupied burrows after relocation shall be mitigated through enhancement of existing unsuitable burrows (through enlargement or debris clearing) or creation of new burrows (by installation of artificial burrows) at a ratio of 2:1 on protected lands (mitigation lands). This mitigation will meet the following criteria: <ul style="list-style-type: none"> <li>▪ A specific site (mitigation lands) shall be identified where owl burrows will be created and/or enhanced;</li> <li>▪ A minimum of 6.5 acres of foraging habitat per displaced owl or pair of owls shall be conserved in conjunction with the creation and enhancement of burrows. In the event that there is overlap between displaced owls' or pair of owls' foraging habitat, there can also be overlap in an equal level to the</li> </ul> </li> </ul>			

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>existing conditions, in the amount of foraging habitat mitigation provided, if approved by CDFW;</p> <ul style="list-style-type: none"> <li>▪ A conservation easement or other protection for the mitigation lands shall be authorized which will ensure that the created burrows (and their associated owl population) will be conserved in-perpetuity; and</li> <li>▪ Specific success criteria, management directives and annual reporting requirements shall be identified to ensure the success of the burrow creation and enhancement.</li> </ul>			
<p><b>Impacts to Riparian Brush Rabbit Habitat</b></p>	<ul style="list-style-type: none"> <li>• As an alternative to the above two measures (if approved by CDFW), all occupied burrows identified outside of the construction and buffer areas, but within 500 feet of construction activities, both during and outside of nesting season (September through January) and during nesting season (February 1 through August 31) may be buffered by hay bales, fencing (e.g., sheltering in place) or as directed by a qualified biologist and the CDFW.</li> </ul>	<p>Compliance monitoring</p>	<p>CSLC and Three Rivers</p>	<p>Prior to and throughout construction</p>
<p><b>BIO-5: Riparian Brush Rabbit Protective Fencing.</b> In areas where Project activities are proposed adjacent to freshwater emergent wetland habitat (potential habitat for the riparian brush rabbit), wildlife proof barrier fencing shall be installed prior to conducting Project activities (i.e., clearing of the pipeline right-of-way, trenching activities, etc.) to prevent riparian brush rabbits from entering Project work areas. If at any time during Project implementation an individual riparian brush rabbit is discovered within the fenced Project, all activities in the area would cease, and a qualified biologist, approved by the California Department of Fish and Wildlife (CDFW), would temporarily open the protective</p>				

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
<p>Impacts to San Joaquin Kit Foxes and Their Habitat</p>	<p>fencing and herd the rabbit out of the work area. Fencing would be closed after the rabbit has left the Project.</p> <p><b>BIO-6: Contingency Measures for San Joaquin Kit Fox.</b> If San Joaquin kit foxes are determined to be residing in the Project area or within 200 feet of the Project or buffer area during the pre-construction biological surveys, Three Rivers will implement the following measures, consistent with the U.S. Fish and Wildlife Service (USFWS) (2011) "Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance:"</p> <ul style="list-style-type: none"> <li>If kit fox dens have become established in the Project area or within 200 feet of the Project area prior to Project implementation that may be indirectly impacted by construction activities, exclusion zones shall be established prior to construction by a qualified biologist approved by the California Department of Fish and Wildlife (CDFW), and dens shall not be disturbed in any way. Exclusion zone fencing shall include untreated wood particle-board, silt fencing, orange construction fencing or other fencing as approved by the USFWS and CDFW. Exclusion zone barriers shall be maintained until all construction and drilling activities have been completed, after which all barriers shall be removed. Exclusion zones shall be roughly circular with a radius of 50 feet outward from the entrance of potential dens or 100 feet outward from the entrance of known dens. Fencing must contain openings for kit fox ingress / egress and keep humans and equipment out. If a natal/pupping den is discovered within the Project area or within 200 feet of the Project area, the USFWS and CDFW shall be immediately notified and under no circumstances should the den be disturbed or destroyed</li> </ul>	<p>Compliance Monitoring</p>	<p>CSLC and Three Rivers</p>	<p>Prior to and throughout construction period</p>

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>without prior authorization from USFWS and CDFW.</p> <ul style="list-style-type: none"> <li>• If specified exclusion zones described above cannot be observed for any reason, USFWS and CDFW shall be contacted for guidance prior to ground-disturbing activities on the den or within the exclusion zones described above. In the event that USFWS and CDFW concur that an occupied San Joaquin kit fox den would be unavoidably destroyed by a planned Project action, procedures detailed in the USFWS (2011) "Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance" shall be implemented, and the following procedures shall be followed: <ul style="list-style-type: none"> <li>o Three Rivers must first obtain authorization / permit from the USFWS and CDFW;</li> <li>o Known dens occurring within the footprint of the activity must be monitored for three (3) days with tracking medium or an infra-red beam camera to determine the current use: <ul style="list-style-type: none"> <li>▪ If no kit fox activity is observed during this period, the den shall be destroyed immediately to preclude subsequent use;</li> <li>▪ If kit fox activity is observed at the den during this period, the den should be monitored for at least five (5) consecutive days from the time of the observation to allow any resident animal to move to another den during its normal activity. Use of the den can be discouraged during this period by partially plugging its entrances(s) with soil in such a manner that any resident animal can escape easily. Only when the den is determined to be unoccupied may the den be excavated under the direction of the biologist. If the</li> </ul> </li> </ul> </li> </ul>			



Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>animal is still present after five (5) or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant, for example during the animal's normal foraging activities. Whenever possible, burrows should be excavated using hand tools.</p> <ul style="list-style-type: none"> <li>o For potential dens, if a take authorization / permit has been obtained, den destruction may proceed without monitoring for kit fox use, unless other restrictions were issued with the take authorization/permit. If no take authorization / permit has been issued, then potential dens should be monitored as if they were known dens. If any den is considered to be a potential den, but is later determined during monitoring or destruction to be currently, or previously used by kit fox (e.g., if kit fox sign is found inside), then all construction activities shall cease and the USFWS and CDFW shall be notified immediately;</li> <li>o Destruction of the den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period;</li> <li>o If at any point during excavation, a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den as described above shall be resumed. Destruction of the den may only be completed when the biologist has determined that the animal has escaped, without further disturbance, from the partially destroyed den. Natal or pupping dens which are occupied shall not be destroyed until the pups and adults</li> </ul>			

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>have vacated, and then only after consultation with and authorization by the USFWS and CDFW; and</p> <ul style="list-style-type: none"> <li>o Den excavation shall be undertaken only by a qualified biologist pursuant to USFWS and CDFW authorization and direction for excavation of kit fox dens.</li> <li>• In the event that a San Joaquin kit fox is found to be injured, dead, or entrapped, the incident shall immediately be reported to the Project biologist. The Project biologist shall then contact the following parties: <ul style="list-style-type: none"> <li>o CDFW State Dispatch - (916) 445-0045</li> <li>o Mr. Paul Hoffman, CDFW wildlife biologist - (530) 934-9309</li> <li>o USFWS, Endangered Species Division - (916) 414-6620 or (916) 414-6600.</li> </ul> </li> </ul> <p>The USFWS and CDFW shall be notified in writing within three (3) working days of the accidental death or injury to a San Joaquin kit fox during Project related activities. Notification shall include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information, and be sent to the following addresses:</p> <ul style="list-style-type: none"> <li>o USFWS: Chief of the Division of Endangered Species, 2800 Cottage Way, Suite W2605, Sacramento, CA 95825-1846</li> <li>o CDFW: Mr. Paul Hoffman, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670</li> </ul> <p>New sightings of kit fox shall be reported to the California Natural Diversity Database using a California Native Species Field Survey Form, and a copy of the Form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to the USFWS; and</p>			

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<ul style="list-style-type: none"> <li>All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS and CDFW have been consulted. If necessary, and if approved by USFWS and CDFW, the pipe may be moved only once, and under the direct supervision of the biologist, to remove it from the path of construction activity until the fox has escaped.</li> </ul>			
<p><b>Impacts to Special-Status Fish Species and Other Aquatic Wildlife</b></p>	<p><b>BIO-7: Frac-Out Contingency Plan.</b> To reduce or avoid impacts to special-status fish species and other aquatic wildlife species, Three Rivers shall implement the <i>Frac-Out Contingency Plan</i> as described in the Mitigated Negative Declaration in the event a frac-out should occur in the Mokelumne River, in agricultural drainage ditches, or in adjacent upland areas, including areas immediately adjacent to areas with aquatic resources. A copy of this plan shall be maintained at the Project site for reference during all times. Appropriate clean up materials shall be staged at each individual location of boring so that equipment will be available at all times.</p>	Compliance monitoring	CSLC and Three Rivers	Throughout construction period
<p><b>Impacts to Western Pond Turtle and Their Habitat</b></p>	<p><b>BIO-8: Contingency Measures for Western Pond Turtle.</b> The Applicant shall implement the following measures to avoid impacts to western pond turtle during Project construction.</p> <ul style="list-style-type: none"> <li>If juvenile or adult turtles are found within Project work areas during pre-construction biological surveys, the individual turtles shall be moved out of the Project disturbance zone by a qualified biologist approved by the California Department of Fish and Wildlife (CDFW); and</li> </ul>	Compliance monitoring	CSLC and Three Rivers	Prior to and throughout construction period

Potential Impact	Mitigation Measure	Monitoring/Reporting Action	Responsible Party	Timing
<p><b>Interactions with Giant Garter Snakes and Their Habitat</b></p>	<ul style="list-style-type: none"> <li>If this species is observed within Project work areas at any time during construction activities, construction work shall cease within 150 feet of the area until the turtle(s) can be moved by the qualified biologist to a safe location consistent with CDFW regulations.</li> </ul> <p><b>BIO-9: Giant Garter Snake (GGS) Protective Measures:</b> In accordance with <i>Standard Avoidance and Minimization Measures for Construction Activities in Giant Garter Snake Habitat</i> (USFWS 1997), the following mitigation measures shall be implemented during implementation of the Project to avoid impacts to GGS:</p> <ul style="list-style-type: none"> <li>24 hours prior to construction activities, construction work areas within 200 feet of agricultural drainage ditches shall be surveyed for GGS by a qualified biologist approved by CSLC staff. Surveys of these areas shall be repeated if a lapse in construction activity of two weeks or greater has occurred. If a GGS is encountered during surveys, Three Rivers shall report the sighting(s) to the U.S. Fish and Wildlife Service (USFWS) immediately by telephone at (916) 414-6600. Additionally, the Project biologist shall submit all sightings to the California Natural Diversity Database using a California Native Species Field Survey Form and provide copies to the California Department of Fish and Wildlife (CDFW) and the USFWS;</li> <li>If construction activities are to be conducted within 200 feet of agricultural drainage ditches between October 2 and April 30, the Sacramento USFWS Office and CDFW will be consulted with to determine what additional measures are necessary to minimize and avoid take, and what permits would be required. These measures shall be implemented and all necessary permits obtained before work in those</li> </ul>	<p>Compliance monitoring</p>	<p>CSLC and Three Rivers</p>	<p>Prior to and throughout construction period</p>

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>areas continues;</p> <ul style="list-style-type: none"> <li>• Vegetative clearing shall be confined to the minimum area necessary for construction. Potential GGS habitat adjacent to the pipeline alignment shall be flagged and posted prior to ground-disturbing activities to avoid encroachment by construction personnel;</li> <li>• All movement of construction equipment and vehicles shall be confined to existing roadways and the pipeline alignment, including the 15-foot buffer around the alignment;</li> <li>• The qualified biologist shall be on-site during all construction and earthmoving activities that occur within 200 feet of potential GGS habitat. The biologist shall contact CDFW and USFWS if any GGS are encountered, or if any incidental take occurs. In the event GGS are observed near or in the construction area, the biologist shall have the authority to stop construction until the GGS has left the area. Physical removal of GGS from the Project area shall only be conducted with CDFW and USFWS authorization, and shall be conducted by a biologist qualified and listed by USFWS to handle this species. The biologist shall record all relevant environmental, biological, and behavior data observed, and submit summary reports to CDFW and USFWS; and</li> <li>• All Project-related traffic shall observe a speed limit of 15 miles per hour to ensure that any GGS crossing or basking on access roadways or the proposed pipeline alignment will have time to move out of the way of traffic;</li> </ul>			
<p><b>Wildlife interactions and habitat</b></p>	<p><b>BIO-10: General Impact Avoidance and Minimization Measures:</b> Three Rivers shall implement the following general environmental avoidance and minimization measures to protect biological</p>	<p>Compliance monitoring</p>	<p>CSLC and Three Rivers</p>	<p>Throughout construction period</p>

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
<p>damage</p>	<p>resources within the Project and buffer area:</p> <ul style="list-style-type: none"> <li>• Hazardous materials, fuels, lubricants, or solvents that are accidentally spilled during drilling activities shall be cleaned up and disposed of immediately and according to applicable federal, State and local regulations;</li> <li>• The speed of Project-related vehicular traffic shall be limited to 15 miles per hour once vehicles have left State or County roads and are traveling along unpaved dirt access roads to and from the Project;</li> <li>• All equipment storage during site development and operation shall be confined to areas proposed for disturbance or to previously disturbed offsite areas that are not potential habitat for sensitive species;</li> <li>• Sediment-control devices (e.g., weed-free straw wattles, silt fence, straw bales, etc.) shall be installed around construction work zones to prevent runoff to adjacent sensitive wildlife habitats;</li> <li>• To prevent entrapment of wildlife species during the construction phase of the Project, all excavated, steep-walled holes and trenches in excess of 3 feet in depth shall be provided with one or more escape ramps constructed of earthen fill or a wood/metal plank. If wildlife-proof barricade fencing is available, it shall also be utilized where appropriate. Escape ramps shall be at less than a 45° angle. Trenches and pits shall be inspected for entrapped wildlife each working day before construction activities resume. Before such pits and trenches are filled, they shall be thoroughly inspected for entrapped animals. If any wildlife species are discovered, they shall be allowed to escape voluntarily, without harassment, before construction activities resume, or removed from the</li> </ul>			

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>trench or hole by a qualified biologist approved by California State Lands Commission staff and allowed to escape unimpeded;</p> <ul style="list-style-type: none"> <li>• All construction pipes, culverts, or similar structures that are stored at a construction site overnight shall be thoroughly inspected for trapped animals before the pipe is buried, capped, or otherwise used or moved. Pipes laid in trenches overnight shall be capped. If an animal is discovered inside a pipe, that section of pipe shall not be capped or buried until the animal has escaped;</li> <li>• All trash items such as wrappers, cans, bottles, and food scraps generated both during construction and subsequent operation shall be disposed of in closed containers only and regularly removed from the site. No deliberate feeding of wildlife shall be allowed;</li> <li>• To prevent harassment, mortality, or unauthorized "take" of sensitive species and/or their habitat by domestic dogs and cats, no pets shall be permitted onsite; and</li> <li>• Firefighting equipment shall be maintained on site during Project-related activities to minimize impacts associated with wild fires. Shields, protective mats or other fire preventive methods shall be used during grinding and welding activities to prevent or minimize the potential for fire. Personnel shall be trained regarding fire hazard for wildlife and their habitats.</li> </ul>			
<b>Cultural Resources</b>				
<b>Discovery of Unanticipated Archaeological Resources</b>	<b>CUL-1. Unanticipated Archaeological Resources.</b> Should any previously unknown archaeological resources be discovered during construction, work will stop within 100 feet of the find until a qualified archaeologist can assess the significance of the find.	Compliance monitoring	CSLC and Three Rivers	Throughout construction period

Potential Impact	Mitigation Measure	Monitoring / Reporting Action	Responsible Party	Timing
	<p>and, if necessary, develop appropriate treatment measures in consultation with California State Lands Commission (CSLC) staff. If human remains are discovered, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains. Three Rivers shall notify the county coroner immediately in compliance with State Health and Safety Code section 7050.5 and work in the vicinity may not resume until the coroner has made the necessary findings as to origin and circumstances of the death. CSLC staff shall also be notified immediately. If the remains are determined by the coroner to be of Native American origin, the coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. The NAHC would then contact the most likely descendant of the deceased Native American, who would make a recommendation on how to treat or dispose of the remains with appropriate dignity as set forth in Public Resources Code section 5097.98.</p> <p>After construction is complete, the Project archaeologist shall prepare a construction monitoring report and submit it to CSLC staff and the Central California and the North Central Information Centers.</p>			