

**CALENDAR ITEM
C65**

A 12

12/02/13

PRC 2511.1

S 14

G. Asimakopoulos

**TERMINATION OF A GENERAL LEASE – RIGHT-OF-WAY USE AND
ISSUANCE OF A NEW GENERAL LEASE – RIGHT-OF-WAY USE**

LESSEES:

Alexander Hildebrand and Barbara F. Hildebrand, as Trustees of the Hildebrand Family Trust, established pursuant to that certain Trust Agreement, dated March 1, 1995

APPLICANT:

Mary Kathleen Hildebrand as Trustee of the Mary Kathleen Hildebrand Revocable Trust

AREA, LAND TYPE, AND LOCATION:

0.51 acre, more or less, of sovereign land located in the historic and current bed of the San Joaquin River, adjacent to 23443 Hays Road, near the city of Manteca, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing earth fill access road with a steel-framed deck and a nine-foot culvert.

LEASE TERM:

20 years, beginning December 2, 2013.

CONSIDERATION:

\$230 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:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On August 26, 1976, the Commission authorized the issuance of a 15-year General Lease – Right-of-Way Use to Alexander Hildebrand. The lease had three 10-year renewal options. On April 6, 2010, the Commission authorized the third and final 10-year renewal to Alexander Hildebrand and Barbara F. Hildebrand, as Trustees of the Hildebrand Family Trust, established pursuant to that certain Trust Agreement, dated March 1, 1995. That lease will expire on December 31, 2019.
3. Alexander Hildebrand passed away on January 23, 2012, and on June 5, 2012, the upland property was transferred to Mary Kathleen Hildebrand. On August 8, 2012, the upland property was transferred to Mary Kathleen Hildebrand as Trustee of the Mary Kathleen Hildebrand Revocable Trust. Barbara F. Hildebrand then passed away on August 28, 2013. The Applicant is now applying for the termination of the existing lease and issuance of a new General Lease – Right-of-Way Use.
4. The earth fill access road was constructed in the early 1960's to provide the Lessees access to two upland agricultural parcels bisected by the San Joaquin River. The nine-foot culvert was constructed as part of the access structure to allow the San Joaquin River to pass through the road and continue downstream. In 1986, the Lessees installed a steel-framed wooden deck over a portion of the existing dirt road to provide additional support for large agricultural equipment crossing the roadway. In July of 2011, when substantial repairs were needed to the wooden deck, it was replaced with a rubber skirt board deck. No alterations were made to the underlying structures.
5. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.
6. **Issuance of a New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the person's 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.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of a New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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.

AUTHORIZATION:

1. Authorize termination, effective December 1, 2013, of Lease No. PRC 2511.1, a General Lease – Right-of-Way Use, issued to Alexander Hildebrand and Barbara F. Hildebrand, as Trustees of the Hildebrand Family Trust, established pursuant to that certain Trust Agreement, dated March 1, 1995.

CALENDAR ITEM NO. **C65** (CONT'D)

2. Authorize issuance of a General Lease – Right-of-Way Use, to Mary Kathleen Hildebrand as Trustee of the Mary Kathleen Hildebrand Revocable Trust, for a term of 20 years beginning December 2, 2013, for the continued use and maintenance of an existing earth fill access road with a steel-framed deck and a nine-foot culvert, 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 \$230, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LAND DESCRIPTION

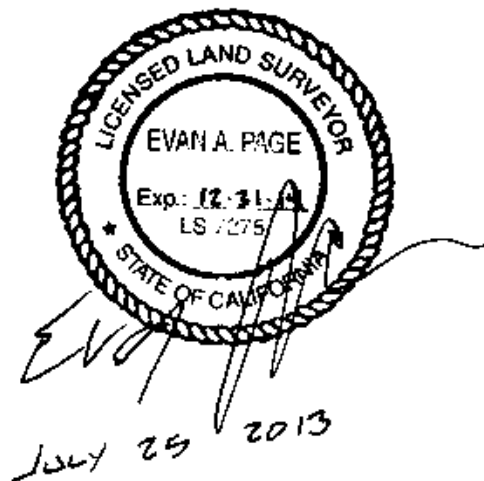
A strip of submerged land, 50 feet wide, lying in the bed of the San Joaquin River, within protracted Section 22, Township 2 South, Range 6 East, MDM, in San Joaquin County, California, said strip lying 25 feet on each side of the following described centerline:

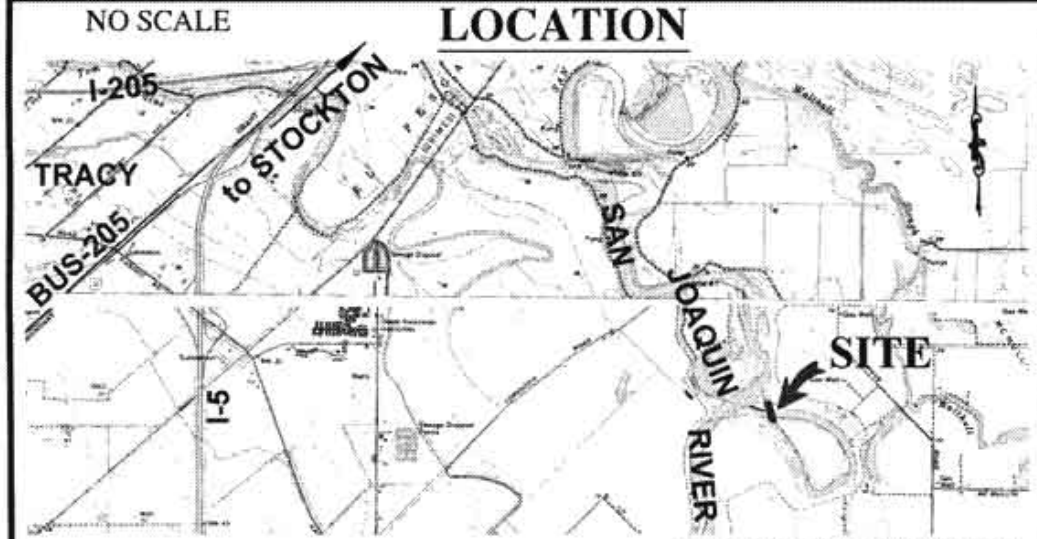
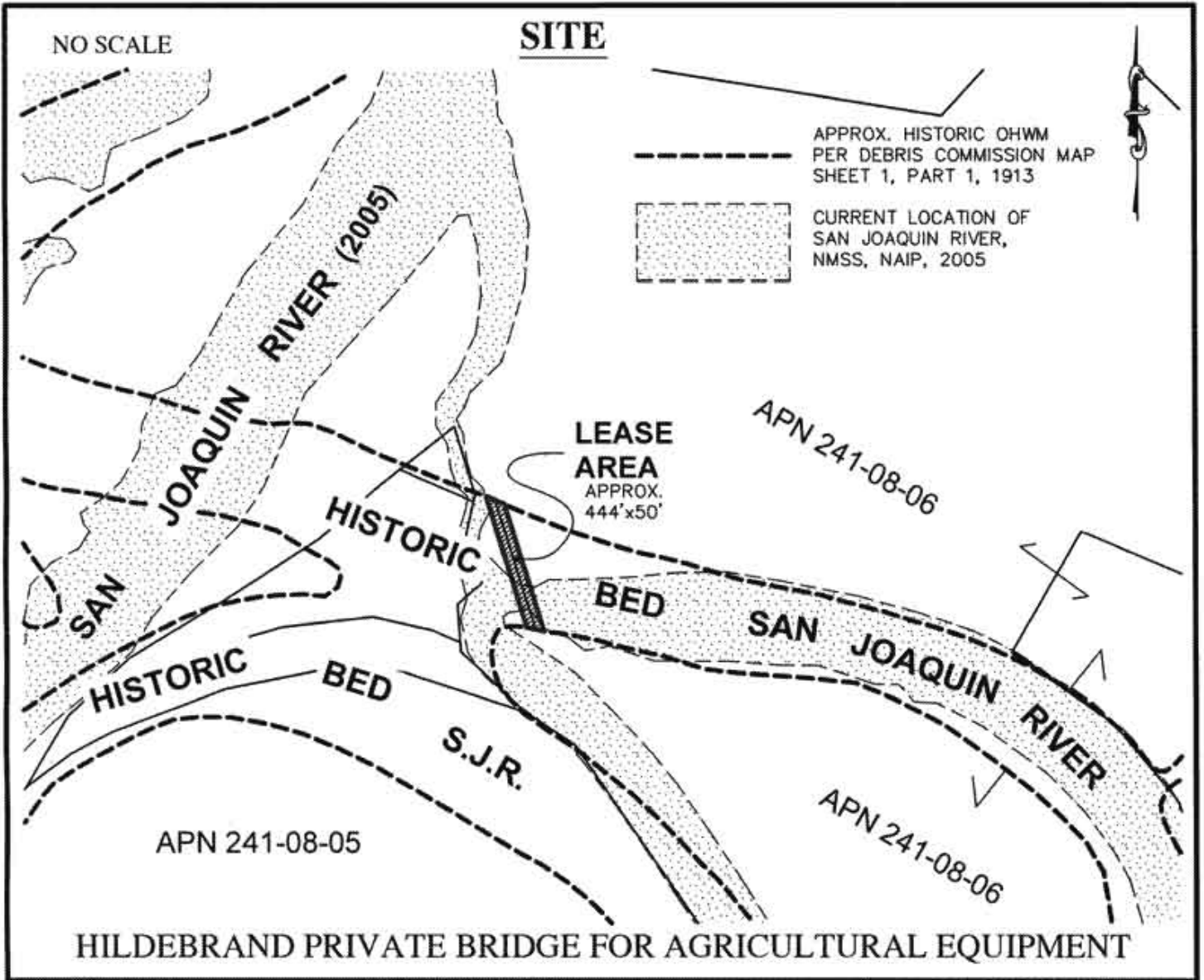
COMMENCING at the northeast corner of Section 25, T 2 S, R 6 E, MDM; thence S 89°05'30" W 6606.1 feet to the southeast corner of the 59.03 acre parcel belonging to King according to the map filed in book 6 of Surveys at Page 77, records of San Joaquin County; thence S 89°50' W 2256.4 feet to the right bank of the San Joaquin River and the southwesterly line of said King parcel; thence northwesterly along the southwesterly line of said King parcel AND THE RIGHT BANK OF THE San Joaquin River the following three (3) courses: 1) N 17°00' W 151.2 feet, 2) N 38°30' W 330.0 feet, and 3) N 54°00' W 410.0 feet to the most westerly corner of said King parcel, also being the most southerly corner of the 106.00 acre parcel belonging to Hildebrand according to said map; thence N 72°26'30" W 1760.5 feet to a point on the right bank of the San Joaquin River, said point being the **POINT OF BEGINNING**; thence S 16°03'30" E 444.0' to the left bank of the San Joaquin River, said point being the **POINT OF TERMINATION**.

The side lines of said strip lengthened or shortened as necessary to begin on the right bank of the Sna Joaquin River and to end on the left bank of the San Joaquin River.

EXCEPTING therefrom any portion lying landward of the ordinary high water marks of the San Joaquin River.

END DESCRIPTION





MAP SOURCE: USGS QUAD

Exhibit B

PRC 2511.1
Mary Kathleen Hildebrand
Revocable Trust
APN 241-08-06
GENERAL LEASE -
RIGHT-OF-WAY USE
SAN JOAQUIN 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.