

CALENDAR ITEM

C43

A 5, 21, 31

08/15/14

W 26377

S 12, 14, 16

J. Porter

**CONSIDER AUTHORIZING STAFF TO FILE A RECORD OF SURVEY FOR THE
REACH 4A SAN JOAQUIN RIVER ADMINISTRATIVE MAP**

PARTY:

California State Lands Commission

BACKGROUND:

The San Joaquin River (also referred to as “River”) is the second longest river in California and used to be home to the southernmost Chinook salmon population in the United States. As a natural and navigable river, the bed of the San Joaquin River involves sovereign land under the jurisdiction of the California State Lands Commission (“Commission”). The River was dramatically changed by the construction of the Friant Dam in 1942 and other Central Valley Project water diversions. Not only has the volume of water flowing in the River been drastically reduced, but the course of the River has been altered in certain areas (referred to as “reaches”). These changes have led to significant portions of the River drying up and the depletion of fish populations, most notably in the San Joaquin salmon fisheries.

The United States Bureau of Reclamation (“Bureau”) has requested the technical and specialized assistance of Commission staff to help identify the location and extent of the State’s claims in and to the bed of the River for the San Joaquin River Restoration Project (“Project”). The objective of the Project is to restore water flows to more than 60 miles of the River and reintroduce Chinook salmon and other fish populations to the River. The identification of the location and extent of the State’s title interest claims will facilitate the construction of the channel modifications and improvements needed for the Project.

The San Joaquin River is 366 miles long, running from the Sierra Nevada Mountains down to Suisun Bay, and emptying into San Francisco Bay. There are eight reaches of the San Joaquin River from the River’s crossing at Highway 99 near Herndon to its confluence with the Merced River, seven of which are being surveyed under the current agreement between the Commission and the California Department of Water Resources. The subject drawing set, the Record of Survey for Reach 4A, is the third to be completed. Staff anticipates completing

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a similar Record of Survey Drawing set for Reach 3 later this year. Authorization to file Records of Survey for the other reaches will be requested as they are completed.

OTHER PERTINENT INFORMATION:

1. As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. On navigable non-tidal waterways, such as the San Joaquin River, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where there has been fill or artificial accretions or the boundary has been fixed by agreement or court decision. Such boundaries may not be readily apparent from present day site inspections.
2. The survey of an additional reach, Reach 1A, from Friant Dam to Highway 99 was completed by Commission staff in 1990. No Record of Survey was filed, but an Administrative Map set was developed, published and distributed to Fresno and Madera Counties and other parties. The Record of Survey drawings staff is now preparing will serve as the Administrative Map sets for each respective reach as they are completed and filed.
3. These maps depict the location and extent of sovereign land title interest claims of the State in and to the bed of the River within the Project area. These maps are intended to depict the common boundaries between State property interests and those of adjacent property owners. These maps do not constitute a division or subdivision of any parcel nor does it represent any acquisition of any private parcel or portion thereof. These maps are based upon an analysis of the best evidence known to Commission staff at the time of the survey and as these maps were being prepared. Evidence presented to the Commission or its staff that may indicate a more accurate position of the high or low water lines with respect to any specific parcel is welcome and will be carefully considered.
4. In September 2006, a settlement was reached to end an 18-year-old lawsuit brought by a coalition of conservation and fishing groups led by the Natural Resources Defense Council against the Bureau and the Friant Water Users Authority. *Natural Resources Defense Council, et al. v. Rodgers*, Civ. No. S-88-1658 LKK/GGH (E.D. Cal.); 2005 U.S. Dist. LEXIS 46293. The settlement calls for restoring the 153-mile stretch of the San

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- Joaquin River between the Friant Dam and the confluence of the Merced River with water flows sufficient enough to maintain Spring and Fall run Chinook Salmon. Accomplishing this will require constructing extensive channel modifications and improvements in many stretches of the River.
5. In April 2008, the Bureau, acting as lead agency for the Project, requested technical assistance from the Commission. Specifically, the Bureau requested assistance from the Commission's Boundary Unit in mapping the historic bed of the San Joaquin River from State Highway 99 to the confluence with Bear Creek, approximately 18 miles upstream from the San Joaquin River's confluence with the Merced River, identifying all Public Trust lands under the jurisdiction of the Commission, and case-by-case assistance for site-specific projects needed to implement the Project. There is no other State or federal agency, or private entity, with the historical records, mapping, expertise, and experience to satisfy the Bureau's request for technical assistance.
 6. A public meeting to discuss staff's preliminary boundary analysis, current boundary determination process, and to solicit information from landowners and other interested parties for Reach 4A was held in March 2012. Additionally, requests to provide any potentially pertinent information was made of the landowners and other interested parties by letter in October 2011.
 7. The Professional Land Surveyors' Act provides, in pertinent part, that a record of Survey be filed after completion of a field survey which discloses among other matters, the *"establishment... of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey."* (Cal. Bus. & Prof. Code, § 8762, subd. (b)(4)).
 8. The staff recommends that the Commission find that the subject filing of a record of survey 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.

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EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

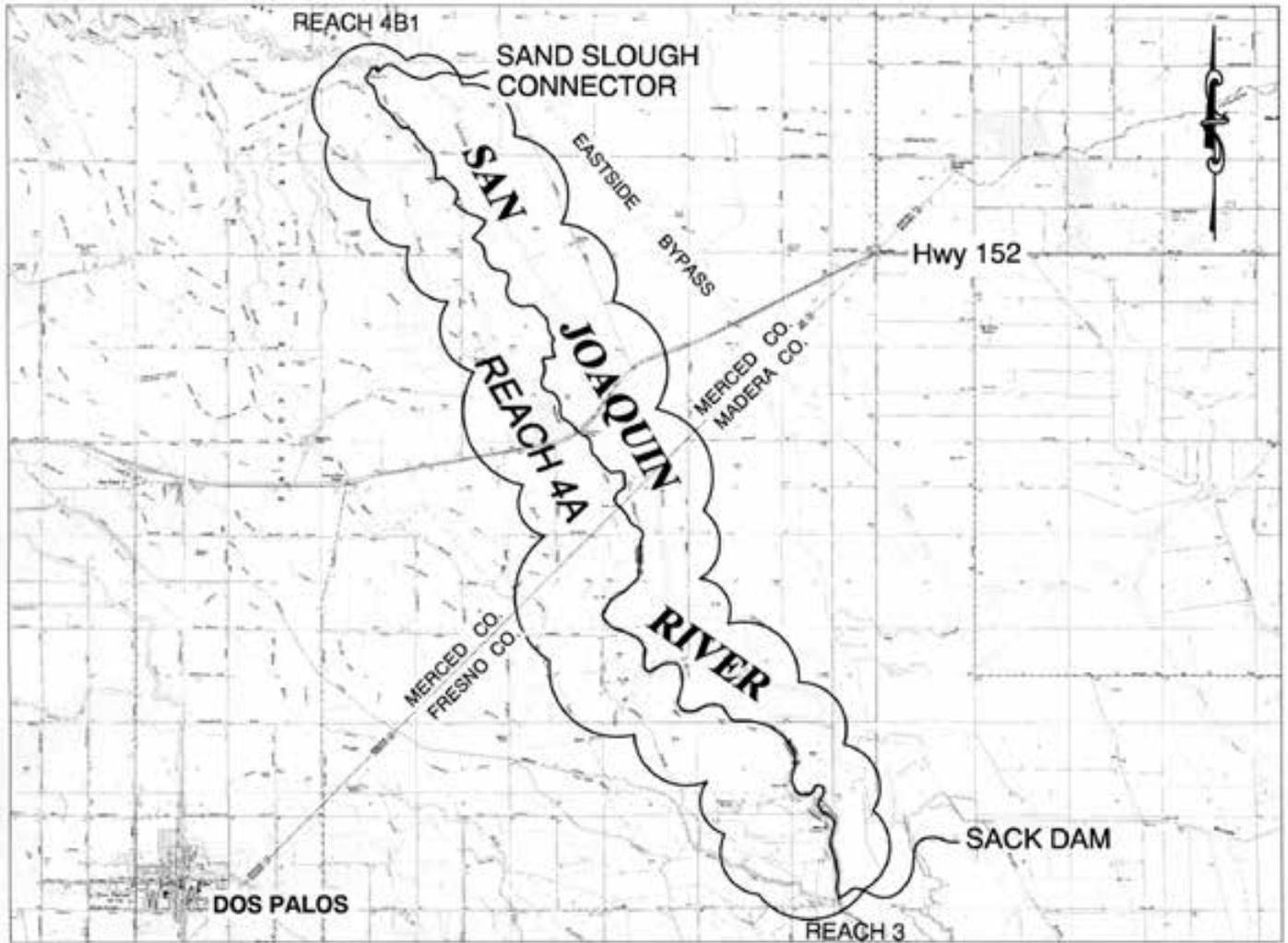
Find that the subject filing of a record of survey is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of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

AUTHORIZATION:

Authorize staff to file the Record of Survey for the San Joaquin River Administrative Map Reach 4A.

NO SCALE

SITE



SAN JOAQUIN RIVER RESTORATION PROGRAM, REACH 4A

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 A

W 26377
 DEPARTMENT OF WATER
 RESOURCES
 ADMINISTRATIVE MAPS
 RECORD OF SURVEY
 FRESNO, MADERA AND
 MERCED COUNTIES

