

From: Smith, Jeffery [mailto:jefferysmith@usbr.gov]
Sent: Thursday, July 20, 2017 1:05 PM
To: Yue, Aaron@DTSC <Aaron.Yue@dtsc.ca.gov>; Baker, Karen@DTSC <Karen.Baker@dtsc.ca.gov>; Hong, Christina/LAC <Christina.Hong@CH2M.com>; Pamela Innis <psinnis@usbr.gov>
Subject: Fwd: FW: California State Lands Commission Letter to PG&E - June 13, 2017

Greetings,

Here is the response that I received from the Bureau of Reclamation, Regional Lands Office that I forwarded to Curt last week.

Please let me know if I can be of any additional assistance.

Jeffery Smith E.P.
Regional Hazmat Coordinator
Bureau of Reclamation
Lower Colorado Regional Office
ATTN: LC-2640
P.O. Box 61470
Boulder City NV 89006
JefferySmith@usbr.gov
Office 702-293-8060

Managing Water in the West

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----- Forwarded message -----

From: Liebhauser, William <wliebhauser@usbr.gov>

Date: Thu, Jul 13, 2017 at 10:19 AM

Subject: Re: FW: California State Lands Commission Letter to PG&E - June 13, 2017

To: "Smith, Jeffery" <jefferysmith@usbr.gov>, "Reed, Adrienne" <areed@usbr.gov>

Cc: Cheri Woodward <cwoodward@usbr.gov>, "Joe Liebhauser, SR/WA" <wjliebhauser@phedllc.com>

OK, I'll try to make this as short as I can. The bottom line is, there is disagreement between DOI and Calif as to what CSLC holds in this area. This is not a new issue, and BLM and CLSC have been at odds around Park Moabi, Beal Slough, and Topock. BLM Cadastral from the CA State Office was called in a couple years ago, and have done a lot of work in the area.

Attached are the BLM Master Title Plats, for T 7N R 24 E, SBM, and a supplement for Sec 8 of same. You'll note what BLM has on record and what CSLC is claiming are significantly different.

Under the Equal Footing Doctrine on admission of new states, the state has ownership of the bottom of navigable waters within the state. In this case, the Colo River centerline of channel forms the eastern boundary of the state. So from their west the state owns the bottom to the 'mean high water' of the river *as of the date of statehood*. That was 1850. Contemporary with the AZ-CA Boundary Compact, BLM surveyed the river in 1964 to set the land boundaries, based on a consensus of best available data. That is what is on the BLM MTPs and the official BLM cadastral survey plats. Calif did not contest this at the time.

A few years ago, CSLC did a lot of research, and landed on this alternative boundary based on the 1952 info and other data. BLM does not accept this. Because PG&E is a regulated public utility doing business in CA that must operate under CA state law, CSLC may be able to force them to pay a lease fee for land the state claims; that is between them.

As far as BLM-USBR, we have to stick to the Fed records, and CSLC would have to go to Congress of a court to force the Feds to accept their new interpretation. I called Havasu BLM, but wasn't able to reach anyone. I try to follow up with them to see if they are taking a position regarding PG&E use of the lands for the Topock issue. I'll let you know what I hear.

Jeff: Is Pam Innis engaged in this?

I know that does not 'clear up the issue,' but best I can do.

Two items we need to keep in mind.

1) BLM is the arbiter of all Federal lands ownership stemming from public lands status, e.g. on the Colo River.

2) BLM is the lead bureau for DOI in the Topock issue, and so if there needs to be any argument between PG&E and CSLC that DOI needs to get involved in, BLM is the bureau that would take the lead on that, not Reclamation.

As a side note, CSLC has never challenged Reclamation use or work on the river, and so Reclamation would be ill advised, IMHO, to get involved in a dispute between CSLC and PG&E, unless there is an actual impact to Reclamation O&M, including MSCP.

If I'm missing something, or you have any questions, let me know.

On Thu, Jul 13, 2017 at 6:14 AM, Smith, Jeffery <jefferysmith@usbr.gov> wrote:

Good Morning,

Just a quick clarification, the portion in yellow is the lands that PG&E just was informed by the California State Lands Commission (CSLC) that they are stating they own. The map was provided by CSLC to PG&E.

With all the work that has already been performed in the area as part of the PG&E remediation activities and with the final remedy getting ready to be built to cleanup the chromium groundwater it is imperative that we resolve this issue as soon as possible.

I am also confused how a state can have jurisdiction over federal land with out some type of agreement or documentation.

Jeffery Smith E.P.

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On Wed, Jul 12, 2017 at 2:35 PM, Reed, Adrienne <areed@usbr.gov> wrote:

Hi Joe,

Could you help us with this.....please? Apparently there's a question about who has jurisdiction over what part of land. According to PG&E's map, they own the area in yellow. According to our GIS map (Attached "TOPOCK Area" map), that section appears to be fee land. Is there someplace I can find docs to support either party's jurisdiction of the area in question? Could you reply to me with a cc to Jeff Smith and Curt Russell (GCR4@pge.com)? Thanks a ton!

Take care,
Adrienne

Adrienne Reed
Realty Technician
Resource Management Office
Bureau of Reclamation
Lower Colorado Region
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Fax: 702-293-8146
Email: areed@usbr.gov

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From: **Smith, Jeffery** <jefferysmith@usbr.gov>

Date: Wed, Jul 12, 2017 at 12:36 PM

Subject: Fwd: FW: California State Lands Commission Letter to PG&E - June 13, 2017

To: Adrienne Reed <areed@usbr.gov>

Adrienne,

Lets Talk about this!

Jeffery Smith E.P.

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----- Forwarded message -----

From: **Russell, Curt** <GCR4@pge.com>
Date: Wed, Jul 12, 2017 at 11:08 AM
Subject: FW: California State Lands Commission Letter to PG&E - June 13, 2017
To: Pamela Innis <pamela_innis@ios.doi.gov>, "JefferySmith@usbr.gov" <JefferySmith@usbr.gov>,
Aaron Yue <AYue@dtsc.ca.gov>, 'Karen Baker' <kbaker@dtsc.ca.gov>
Cc: "Sullivan, Kevin (Remediation)" <KMSu@pge.com>, "Jayo, Juan" <JMJ8@pge.com>,
"Christina.Hong@ch2m.com" <Christina.Hong@ch2m.com>

As we discussed during the RCRA / CERLA Meeting today, here is the letter that CSLC sent to me this week. Please let me know if you also want to see any of the earlier correspondence.

Curt

From: Pino, Lucien@SLC [mailto:Lucien.Pino@slc.ca.gov]
Sent: Monday, July 10, 2017 10:30 AM
To: Russell, Curt
Subject: RE: California State Lands Commission Letter to PG&E - June 13, 2017

*******CAUTION:** This email was sent from an EXTERNAL source. Think before clicking links or opening attachments.*****

Mr. Russel,

Thank you for our response, sorry for the delay in getting back to you. I apologize for any confusion, Let me clarify, on navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the Ordinary Low Water Mark and a Public Trust easement landward to the Ordinary High Water Mark, except where the boundary has been fixed by agreement or a court; or where the waterway has been subject to artificial influence. When a water way has been subject to artificial influences, the Commission's jurisdiction is based on the last known natural location of the waterway. Such boundaries may not be readily apparent from present day site inspections.

The Colorado River at this location is subject to artificial influences, as such, the Commission's jurisdiction is based on the last known natural location of the river. Commission staff has determined that 1952 aerial photography was the best available evidence for demarcating the Low Water Mark of the right bank of the Colorado River prior to artificial influences from the Army Corps of Engineers work. I have attached a draft copy of the proposed lease area, based on what was described in the Draft Subsequent Environmental Impact Report (Draft EIR), for the Pacific Gas and Electric Company Topock Compressor Station Final Groundwater Remediation Project, dated January 2017.

The attached map represents a rough delineation of Commission jurisdiction based on a tracing of the 1952 shore line over a current aerial of the Colorado River. However, because it is an approximation based on the described work in the Draft EIR, the project has a rather large foot print. If you could provide us with a more specific description of the location of the proposed improvements, the lease area could be tightened up.

Please let me know if you have any questions about the above information. I can be reached by phone at 916-574-1858 or by email at lucien.pino@slc.ca.gov. Thank you for your time and have a wonderful day.

Sincerely,

Lucien Pino

Lucien Pino

Public Land Management Specialist

Office (916) 574-1858

Email: lucien.pino@slc.ca.gov

California State Lands Commission

Land Management Division

100 Howe Avenue, Suite 100 South

Sacramento, California 95825

Web: www.slc.ca.gov

From: Russell, Curt [<mailto:GCR4@pge.com>]

Sent: Wednesday, July 05, 2017 1:32 PM

To: Pino, Lucien@SLC <Lucien.Pino@slc.ca.gov>

Cc: Yue, Aaron@DTSC <Aaron.Yue@dtsc.ca.gov>; Maureen Snelgrove (msnelgrove@parks.sbcounty.gov) <msnelgrove@parks.sbcounty.gov>; Baker, Karen@DTSC <Karen.Baker@dtsc.ca.gov>; Christina.Hong@ch2m.com; Pamela Innis <pamela_innis@ios.doi.gov>

Subject: California State Lands Commission Letter to PG&E - June 13, 2017

Dear Lucien Pino:

I have received your June 13, 2017 letter addressed to Yvonne Meeks of PG&E on the subject of PG&E's groundwater remediation project near Needles, CA. I have prepared a response letter and attached it to this e-mail.

I also want you to know that Yvonne Meeks is on leave and I will manage this matter for PG&E in her absence. Don't hesitate to contact me at 760-791-5884 or Christina Hong of CH2M at 626-703-4475 if you have any questions. Thank you.

Curt Russell

PG&E Topock Site Manager

--

Joe Liebhauser
Realty Contractor
P.O. Box 61470
Boulder City, NV 89006
wliebhauser@usbr.gov
(702) 875-1788 (Cell)
(702) 293-8226 (Boulder City)

ARIZONA
CALIFORNIA

YUMA DISTRICT SEC 15
16N 21W G & SR Mer
15N 21W G & SR Mer

**MTP
SUPPL Sec 8**



Records herein do not reflect title changes which may have been affected by lateral movements of rivers or other bodies of water. Individual investigation of each situation is recommended.

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS.

NO 1

WARNING STATEMENT

This plat is the Bureau's Record of Title, and should be used only as a graphic display of the township survey data. Records herein do not reflect title changes which may have been effected by lateral movements of rivers or other bodies of water. Refer to the cadastral surveys for official survey information.

SCALE in Chains

A horizontal scale bar with markings at 5, 0, 5, 10, and 20. The scale is labeled 'SCALE in Chains' above it.

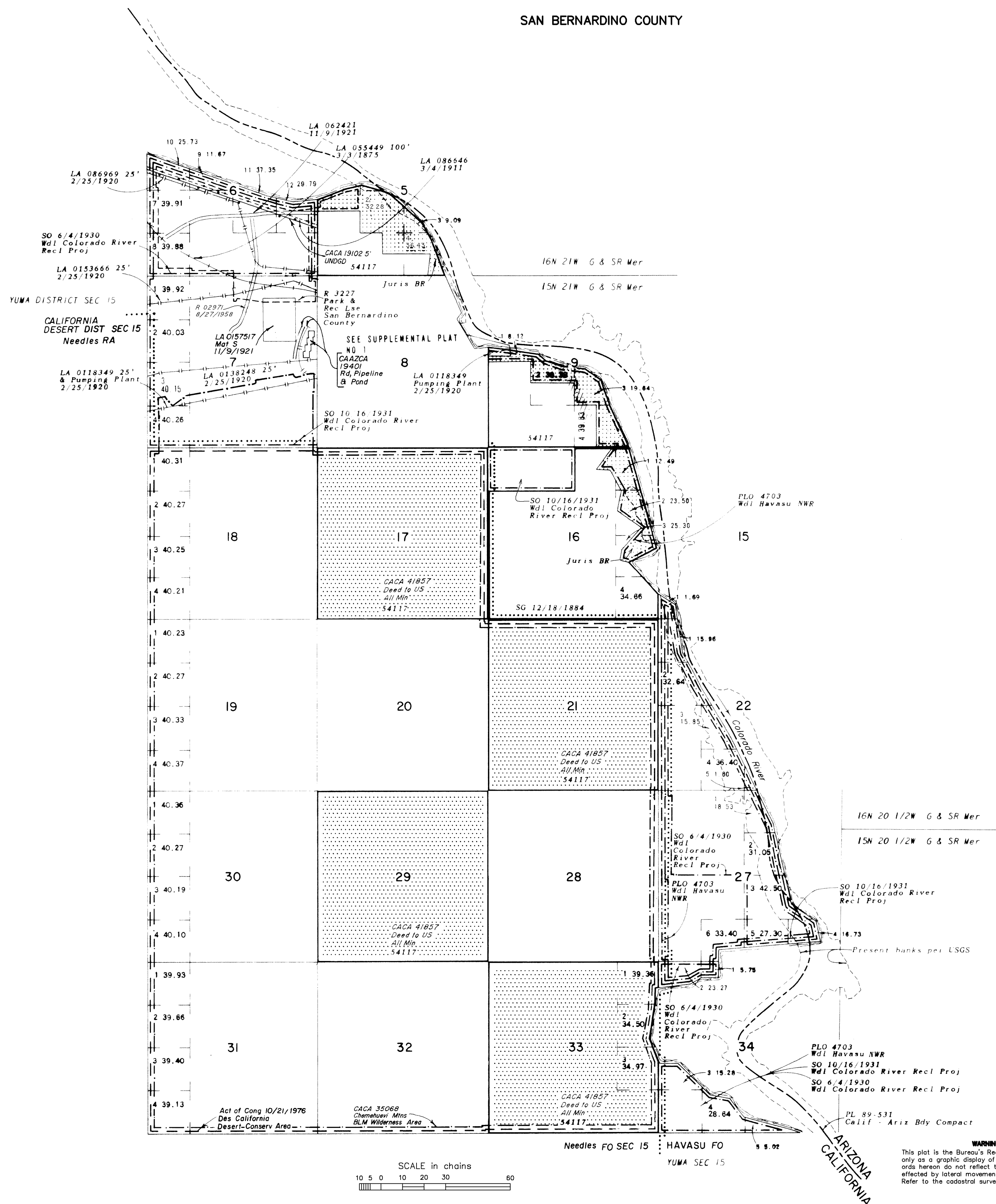
B Mer
7 N
24 E

SAN BERNARDINO COUNTY

MT PLAT

[illegible]

Up within limits of RR Grant. Re: Transp Act
1940, SO 4/14/1953, SO 10/1/1953

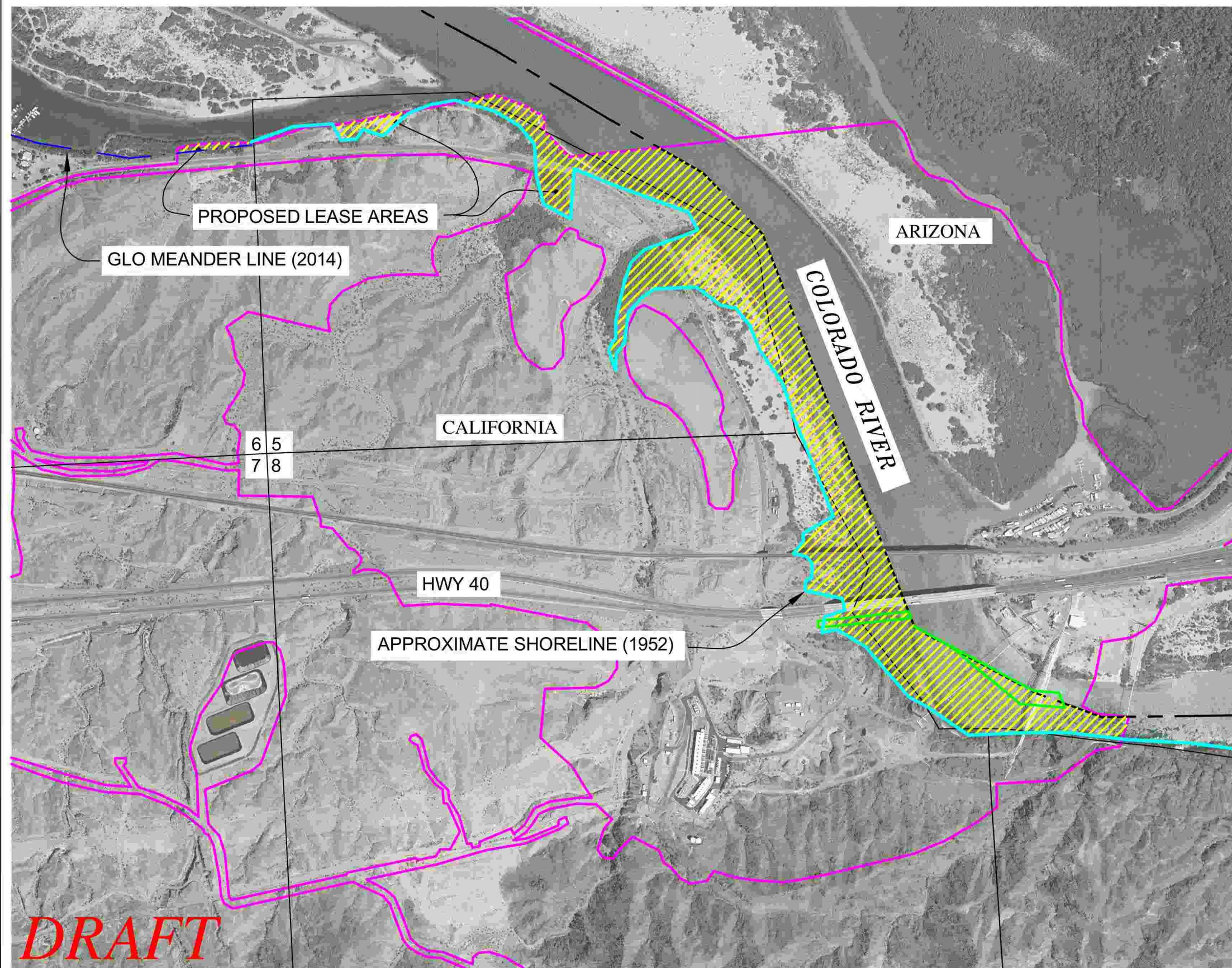


FOR ORDERS AFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO
8-2-2016	VH

SB Mer

T 7 N
R 24 E



LEGEND

- APPROXIMATE GROUNDWATER SEIR AREA. (TRACED FROM FIGURE 3-3 SHOWN IN APPLICANT PROVIDED DRAFT EIR DATED JANUARY 2017.
- APPROXIMATE SHORELINE 1952.
- PRC 8737 – LEASE AREA.
- . - . - 2014 GLO MEANDERS.
- - - APPROXIMATE INTERSTATE COMPACT LINE (SEE NOTE 4 BELOW)
- APPROXIMATE AREA TO COME UNDER LEASE.

NOTES

- 1) THE LEASE AREA SHOWN HEREON ARE PRELIMINARY AND ARE FOR DISCUSSION PURPOSES ONLY.
- 2) LEASE BOUNDARIES ARE A COMPILATION OF OFFICIAL RECORDS AND CSLC FIELD SURVEYS.
- 3) THIS PRELIMINARY PLAT DOES NOT REPRESENT A THOROUGH ANALYSIS BASED ON A FIELD SURVEY OF PORTIONS OF THE BOUNDARIES OR OTHER LINES SHOWN. IT ALSO DOES NOT CONSTITUTE A COMPLETE SEARCH OF ALL AVAILABLE RECORDS. IT IS TO BE USED AS AN APPROXIMATE GRAPHICAL REPRESENTATION OF RECORD LINES. A THOROUGH AND COMPLETE SURVEY MAY PLACE THESE LINES AND ASSOCIATED POINT AT DIFFERENT LOCATIONS.
- 4) THE LOCATION OF THE INTERSTATE COMPACT LINE SHOWN HEREON IS APPROXIMATE. IT WAS SCALED OFF OF THE USGS QUAD MAP "TOPOCK 1970". IT IS SHOWN FOR GRAPHIC AND REFERENCE PURPOSES ONLY.
- 5) BACKGROUND IMAGERY RELATION TO DELINEATED LINEWORK IS APPROXIMATE, AND FOR GENERAL REFERENCE PURPOSES ONLY.

CALIFORNIA STATE
LANDS COMMISSION



BACKGROUND ORTHOIMAGERY
WAS OBTAINED FROM THE USGS
SEAMLESS SERVER. IMAGERY IS
DATED 2004/07.

DRAWING NAME:
PRC8737-PGE.DWG

DRAWN BY: D. FRINK PLS 8864
CHECKED BY: J. KOEPKE PLS 8487

DATE: 06/06/17

FILE NO.: PRC 8737

SCALE: 1"=800'

COMPILATION PLAT
DEPARTMENT OF TOXIC SUBSTANCE CONTROL
COLORADO RIVER, SAN BERNARDINO COUNTY

SHEET

1

1 OF 1