

## STAFF REPORT

**39**

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02/28/20

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Lease 7191.9

R. Collins

### GENERAL LEASE – PUBLIC AGENCY USE

#### APPLICANT:

California Department of Fish and Wildlife

#### PROPOSED LEASE:

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

Sovereign land located in the Goose Flats and Big Hole areas adjacent to the Colorado River, near Blythe, Riverside County.

##### *AUTHORIZED USE:*

Habitat restoration, revegetation, and public recreation.

##### *LEASE TERM:*

10 years, beginning May 1, 2018.

##### *CONSIDERATION:*

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

#### STAFF ANALYSIS AND RECOMMENDATION:

##### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503;  
California Code of Regulations, title 2, sections 2000 and 2003.

##### **Public Trust and State's Best Interests Analysis:**

On January 29, 2009, the Commission authorized the issuance of a 10-year General Lease – Public Agency Use to the California Department of Fish and Wildlife (CDFW) for the continued use and maintenance of sovereign land for habitat restoration at Goose Flats and Big Hole sites adjacent to the Colorado River ([Item C31, January 29, 2009](#)). The lease expired on April 30, 2018. CDFW is continuing to use the State's sovereign land for their ecological value and has applied for a new lease. CDFW has completed the installation of habitat restoration and revegetation and now uses the lease premises for public recreation and conservation with only minimal required maintenance. Overnight camping is not permitted on the lease premises. The primary uses of the lease

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premises are recreational boating, fishing, and passive recreation such as bird and wildlife viewing. A large portion of the Goose Flats lease premises is accessible to the public, including the entire river waterfront, and the backwater areas are accessible by boat. Additionally, the habitat restoration and revegetation help support native species.

Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). Additionally, California's courts have upheld the preservation of Public Trust lands as habitat for birds and marine life. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and does not interfere or limit the Public Trust rights of the public.

### **Climate Change:**

The lease area in the Colorado River is not tidally influenced and, therefore, would not be subject to sea-level rise. The water level near the existing improvement is regulated primarily by water released upstream from the Davis Dam. As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, extreme heat, drought, and storms. However, maintaining the existing habitat restoration of the Goose Flats and Big Hole areas, adjacent to the Colorado River, is not likely to be affected by climate change.

### **Conclusion:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

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2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction; Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways; and Key Action 1.2.4 to prioritize the use of sovereign land where appropriate for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties and other conservation efforts, consistent with applicable law.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

### **EXHIBITS:**

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

### **RECOMMENDED ACTION:**

It is recommended that the Commission:

#### **CEQA FINDING:**

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 14, section 15301.

#### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

#### **AUTHORIZATION:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning May 1, 2018, for a term of 10 years, for habitat restoration, revegetation, and public recreation, as described in Exhibit A

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and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

## EXHIBIT A

LEASE 7191.9

### LAND DESCRIPTION

Three parcels of State owned sovereign land in Riverside County, State of California, more particularly described as follows:

#### PARCEL 1

BEGINNING at a point on the right bank of the Colorado River having CCS83, Zone 6 coordinates: Northing (y) = 2173811.81 feet and Easting (x) = 7085354.36 feet which bears North 02°42'57" East 5787.68 feet from a NGS monument PID DW1289; thence from said point of beginning along the right bank of the Colorado River the following five (5) courses:

- (1) North 01°51'18" East 802.14 feet;
- (2) North 30°20'16" West 701.81 feet;
- (3) North 11°12'41" West 238.25 feet;
- (4) North 02°30'11" East 427.27 feet;
- (5) North 10°59'17" East 332.64 feet;

thence North 80°15'14" West 880.16 feet to a point on the right bank of an unnamed backwater slough; thence along the bank of said backwater slough the following three (3) courses:

- (1) South 18°21'40" West 1067.85 feet;
- (2) South 04°00'04" East 509.48 feet;
- (3) South 55°01'59" East 1782.90 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying westerly of the adjudicated boundary line along the right bank of the Colorado River as set forth in California Superior Court Case No. 15156 (People V. Alice B. Copeland Vincillione, Et. Al.).

The BASIS OF BEARINGS for PARCEL 1 is the California Coordinate System of 1983, Zone 6 (1992). All distances are grid distances.

#### PARCEL 2

BEGINNING at a point on the right bank of the Colorado River having CCS83, Zone 6 coordinates: Northing (y) = 2169939.25 feet and Easting (x) = 7086562.27 feet which bears North 37°49'52" East 2416.52 feet from a NGS monument PID DW1289; thence from said point of beginning along the right bank of the Colorado River the following five (5) courses:

- (1) North 65°45'34" East 761.44 feet;

- (2) North 47°40'25" East 214.05 feet;
- (3) North 14°29'58" East 184.03 feet;
- (4) North 18°58'08" West 227.32 feet;
- (5) North 33°27'05" West 742.76 feet to a point on the right bank of an unnamed backwater slough;

thence along the bank of said backwater slough the following eight (8) courses:

- (1) South 49°04'58" West 271.33 feet;
- (2) South 89°11'49" West 295.96 feet;
- (3) South 66°45'17" West 190.20 feet;
- (4) South 30°05'07" West 201.83 feet;
- (5) South 34°49'05" East 277.89 feet;
- (6) South 27°04'15" East 342.83 feet;
- (7) South 00°30'43" West 213.66 feet;
- (8) South 09°31'20" East 295.06 feet to the point of beginning.

The BASIS OF BEARINGS for PARCEL 2 is the California Coordinate System of 1983, Zone 6 (1992). All distances are grid distances.

### PARCEL 3

BEGINNING at River Point 13.05 as defined in the "Interstate Compact Defining the States of Arizona and California" (Chapter 859, Statutes of 1963); Arizona Laws 1963, Chapter 77; Public Law 89-531 (80 Stat. 340, August 11, 1966); thence southeasterly 3200 feet more or less along said Arizona-California Compact Boundary to the west bank of the existing channelized bed of the Colorado River; thence leaving said Arizona-California boundary line southerly 500 feet more or less along said channelized bank to the shore line on the right bank of the Colorado River as shown on Boundary Map 15 of said Arizona-California Boundary Compact; thence leaving said channelized bank northwesterly along the right bank shore line of the Colorado River as shown on said Boundary Map 15, a distance of 9200 feet more or less to the intersection with the easterly prolongation of the southerly line of Lot 24 as said lot is shown on that map recorded in Record of Survey Book 31, Page 63, Riverside County Recorder's Office; thence leaving said line westerly along the easterly prolongation of the southerly line of said Lot 24, a distance of 760 feet more or less to the southeast corner of said Lot 24; thence northerly along the easterly line of a portion of those lands shown on said Record of Survey Book 31, Page 63, being along the easterly lines of Lots 24, 23, 22, 21, 20, 19, the northerly line of Lot 18, the easterly line of Lots 31 and 32, the southerly line of Lot 17, the easterly line of Lots 16 and 15, to the northeast corner of Lot 15; thence leaving said easterly along the easterly prolongation of the northerly line of said Lot 15, a distance of 200 feet more or less to the right bank shore line of the Colorado River as shown on the hereinbefore mentioned Boundary Map 15; thence leaving

said line southeasterly along said right bank shore line 600 feet more or less to the westerly bank of the existing channelized bed of the Colorado River; thence leaving said line southeasterly along the westerly bank of the channelized river 4400 feet more or less to an intersection with the hereinbefore mentioned Arizona-California Compact Boundary; thence leaving said line southerly along said Compact Boundary 1400 feet more or less to the point of beginning.

EXCEPTING THEREFROM any portion lying westerly of the westerly line and northerly of the northerly line of lands described in Instrument No. 196193 recorded May 28, 1996 as Exhibit "D-1".

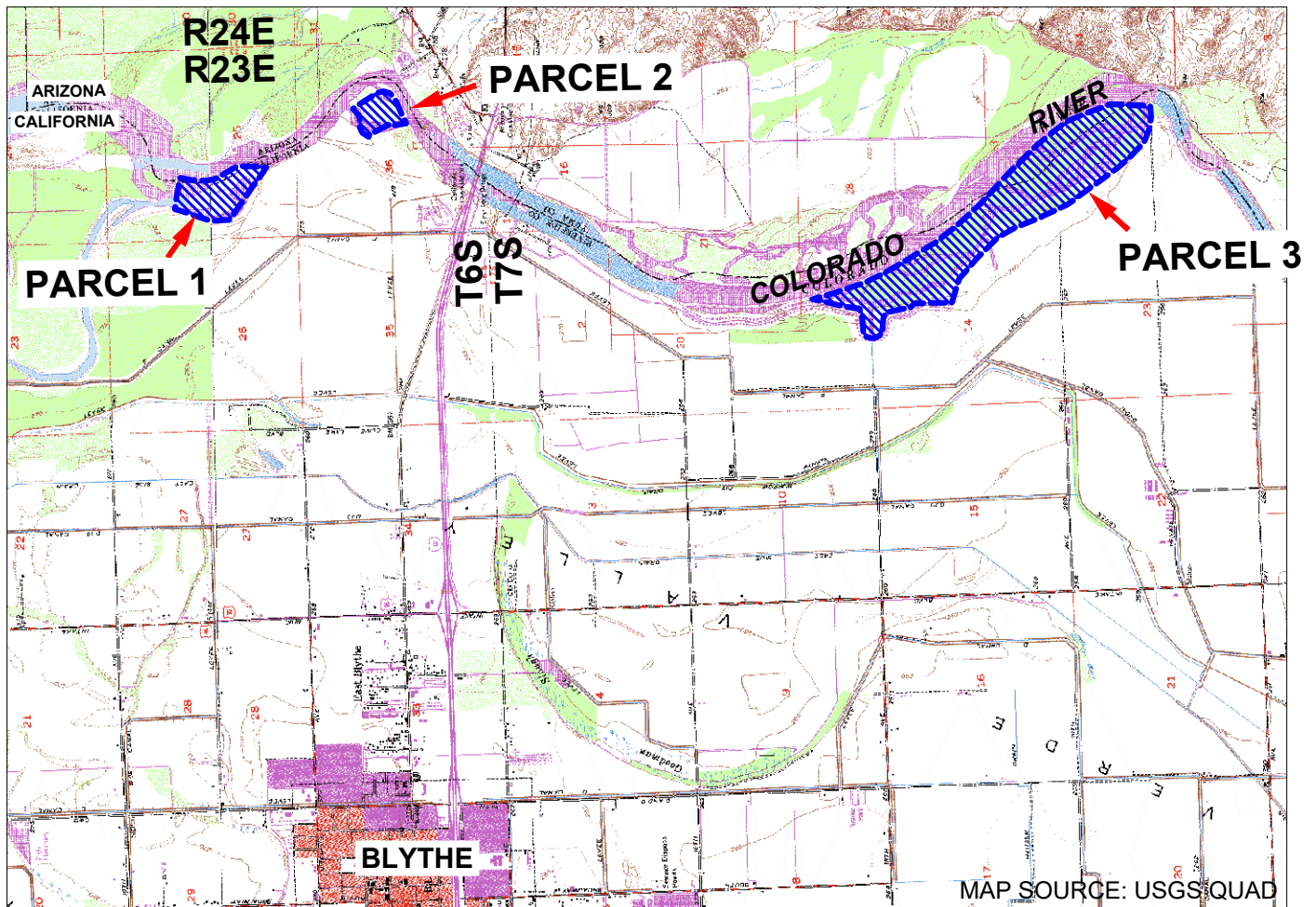
### END OF DESCRIPTION

Prepared 12/29/2008 by the California State Lands Commission Boundary Unit



NO SCALE

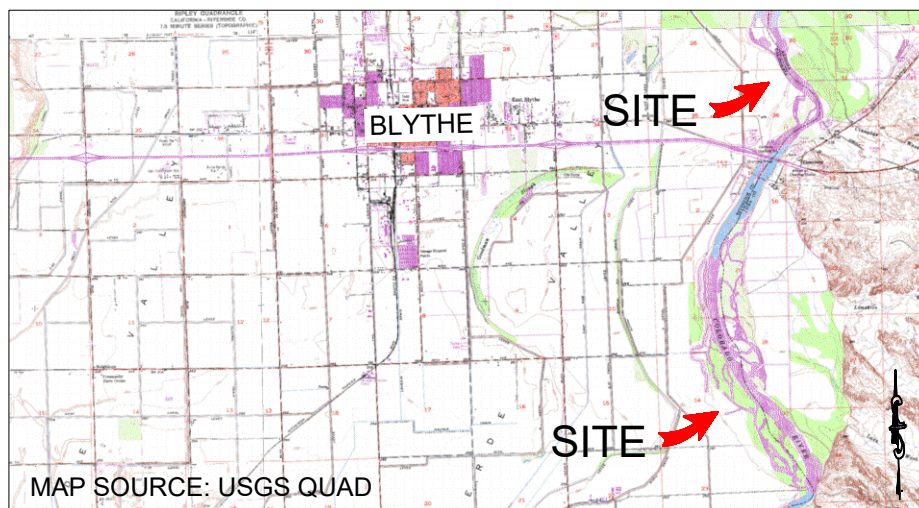
## SITE



### GOOSE FLATS AND BIG HOLE AREAS, NEAR BLYTHE

NO SCALE

## LOCATION



## EXHIBIT B

LEASE 7191.9  
CALIFORNIA  
DEPARTMENT OF FISH  
AND WILDLIFE  
GENERAL LEASE -  
PUBLIC AGENCY USE  
RIVERSIDE 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.

JWP 1/22/2020