

STAFF REPORT

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04/29/20

PRC 9239.9

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R. Collins

AMENDMENT OF LEASE

LESSEE:

U.S. Bureau of Reclamation

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the historic bed of the Colorado River, Moabi Regional Park, near Needles, San Bernardino County.

AUTHORIZED USE:

Construction, operation, maintenance, and monitoring of open backwater, wetland and upland habitat, and ancillary structures.

LEASE TERM:

49 years, beginning October 13, 2016.

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.

PROPOSED AMENDMENT:

- Construct and maintain a post and cable fence around the perimeter of the lease premises.

All other terms and conditions of the lease shall remain in effect without amendment.

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 October 13, 2016, The Commission authorized Lease No. PRC 9239.9, a 49-year General Lease – Public Agency Use (Lease) to the U.S.

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Bureau of Reclamation (Bureau), for the construction, operation, maintenance, and monitoring of an open backwater, wetland and upland habitat, and ancillary structures ([Item 39, October 13, 2016](#)). The Bureau notified Commission staff in May 2019 that construction was completed and provided as-built plans for review by staff. The Commission authorized the Executive Officer, or her designee, to replace Exhibits A and B in the Lease upon review of as-built plans if the as-built location of the improvements differs from the design location. Pursuant to the Commission's authorization, staff reviewed the as-built plans and revised Exhibits A and B on January 16, 2020.

On June 21, 2018, the Commission authorized Lease No. PRC 3321.1, a 23-year General Lease – Commercial Use to San Bernardino County, for use and maintenance of an existing regional park (Moabi Regional Park) for public recreation ([Item 59, June 21, 2018](#)). Moabi Regional Park occupies approximately 350 acres of sovereign land for public recreational purposes including campgrounds, a small boat marina, and an Off-Highway Vehicle (OHV) facility. Excavated spoils from the Bureau's backwater and riparian habitat area were stockpiled on the adjacent upland in the OHV facility.

The Bureau placed signage to deter OHV use in the newly created marsh area. However, in the fall and winter months, the Colorado River is typically 5 to 8 feet lower than in spring and summer. The lower river flow in the River exposes the marsh habitat in the backwater to OHV use. As a result of the lower river flow and unimpeded access, unauthorized trails and roads are being created by OHV users within the conservation area. The Bureau has applied for an amendment to authorize installation and maintenance of a post and cable fence around the perimeter of the lease premises.

The barrier would protect Public Trust resources by preventing OHVs from accessing the backwater and riparian habitat area. The lease premises would remain open to the public and to non-motorized water access.

Climate Change:

The project area is not tidally influenced and therefore, would not be subject to sea-level rise. However, 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, drought, and storms. The lease area is open lands with moderate to low vegetation fuels, and are vulnerable to the above events, including dust storms and flash flooding from

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thunderstorms, and to a lesser extent, wildland fires. The leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the uses of the leased lands for the perimeter post and cable fence.

Conclusion:

For all the reasons above, staff believes authorization of this lease amendment 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 for amending the lease 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 a trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of a lease, the lessee has no right to a new lease or renewal of any previous lease.
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 and Key Action 1.2.4 to prioritize the use of sovereign lands 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. Find that the activity is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

EXHIBITS:

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

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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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9239.9, a General Lease – Public Agency Use, of sovereign land in the historic bed of the Colorado River, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached, and by this reference made a part hereof, effective April 29, 2020; to construct and maintain a post and cable fence around the perimeter of the lease premises; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A
LAND DESCRIPTION

A portion of State sovereign land lying within the historic bed of the Colorado River, being adjacent to portions of Section 1, Township 7 North, Range 23 East, San Bernardino Meridian, Section 6, Township 7 North, Range 24 East, SBM, and Section 36, Township 8 North, Range 23 East, San Bernardino Meridian, San Bernardino County, California, more particularly described as follows:

COMMENCING at a 2 ½" iron pipe with 3" standard Bureau of Land Management brass cap marked as the witness point to the meander corner common to Section 36, T 8 N, R 23 E, and Section 1, T 7 N, R 23 E; thence N 01°29'37" W, 3656.98 feet to a point on the right (westerly) bank of the present channel of the Colorado River, said point being the **POINT OF BEGINNING**;

Thence along said right bank S 36°12'36" E, 278.23 feet; thence leaving said right bank S 42°32'16" W 329.53 feet to the top of easterly slope of the overflow channel as recently graded by the California Department of Fish and Wildlife; thence along said top of easterly slope the following thirty five (35) courses:

1. a non-tangent curve having a radius of 282.00', the radius point bearing from the beginning of said curve being S 36°05'10" W, through a central angle of 13°02'17", an arc distance of 64.17 feet (Chord: S 47°23'42" E, 64.03 feet)
2. a line tangent to last said curve, S 40°52'34" E, 97.99 feet
3. a curve to the right having a radius of 1000.00 feet, through a central angle of 08°19'29", an arc distance of 145.29 feet (Chord: S 36°42'49" E, 145.17 feet)
4. S 32°33'05" E, 142.49 feet
5. S 29°31'30" E, 186.16 feet
6. a curve to the right having a radius of 200.00 feet, through a central angle of 38°39'04", an arc distance of 134.92 feet (Chord: S 10°11'58" E, 132.37 feet)
7. a curve to the left having a radius of 100.00 feet, through a central angle of 25°02'42", an arc distance of 43.71 feet (Chord: S 03°23'47" E, 43.36 feet)
8. a curve to the right having a radius of 775.00 feet, through a central angle of 12°43'29", an arc distance of 172.12 feet (Chord: S 09°33'23" E, 171.77 feet)
9. S 03°11'38" E, 176.27 feet

10. S 02°23'45" E, 55.20 feet
11. a curve to the left having a radius of 1000.00 feet, through a central angle of 09°09'41", an arc distance of 159.90 feet (Chord: S 06°58'36" E, 159.73 feet)
12. a curve to the right having a radius of 425.00 feet, through a central angle of 19°20'30", an arc distance of 143.47 feet (Chord: S 01°53'11" E, 142.79 feet)
13. S 07°47'03" W, 94.09 feet
14. S 12°52'08" W, 142.25 feet
15. S 15°03'48" W, 152.23 feet
16. a curve to the left having a radius of 190.00 feet, through a central angle of 66°19'18", an arc distance of 219.93 feet (Chord: S 18°05'51" E, 207.86 feet)
17. a curve to the right having a radius of 275.00 feet, through a central angle of 43°37'42", an arc distance of 209.40 feet (Chord: S 29°26'39" E, 204.38 feet)
18. S 07°37'48" E, 98.95 feet
19. S 10°57'06" E, 125.71 feet
20. a curve to the left having a radius of 200.00 feet, through a central angle of 27°19'14", an arc distance of 95.37 feet (Chord: S 24°36'43" E, 94.47 feet)
21. S 38°16'20" E, 87.69 feet
22. S 42°38'56" E, 138.80 feet
23. S 48°02'54" E, 186.91 feet
24. S 53°00'17" E, 93.78 feet
25. a curve to the right having a radius of 800.00 feet, through a central angle of 17°12'23", an arc distance of 240.25 feet (Chord: S 44°24'06" E, 239.34 feet)
26. S 35°47'54" E, 286.11 feet
27. a curve to the right having a radius of 600.00 feet, through a central angle of 13°45'59", an arc distance of 144.16 feet (Chord: S 28°54'54" E, 143.82 feet)
28. S 22°01'55" E, 100.19 feet
29. a curve to the right having a radius of 1450.00 feet, through a central angle of 04°56'28", an arc distance of 125.05 feet (Chord: S 19°33'40" E, 125.01 feet)
30. a curve to the left having a radius of 350.00 feet, through a central angle of 15°20'45", an arc distance of 93.74 feet (Chord: S 24°45'50" E, 93.46 feet)
31. S 32°26'11" E, 77.16 feet
32. S 36°15'44" E, 135.83 feet

33. a curve to the left having a radius of 200.00 feet, through a central angle of $19^{\circ}11'39''$, an arc distance of 67.00 feet (Chord: S $45^{\circ}51'33''$ E, 66.69 feet)
34. S $55^{\circ}27'23''$ E, 106.16 feet
35. S $49^{\circ}37'19''$ E, 56.72 feet to the northwesterly edge of a paved road;

thence southwesterly and southerly along said northwesterly edge of paved road the following three (3) courses:

1. S $42^{\circ}49'16''$ W, 67.01 feet
2. A curve to the left having a radius of 250.00 feet, through a central angle of $41^{\circ}39'11''$, an arc distance of 181.75 feet (Chord: S $21^{\circ}59'41''$ W, 177.77 feet)
3. S $01^{\circ}10'05''$ W, 118.25 feet;

thence leaving said edge of road N $80^{\circ}18'25''$ E, 506.19 feet to the right (southwesterly) bank of a side channel of the present location of the Colorado River; thence S $27^{\circ}10'05''$ E along said right bank of said side channel, 226.44 feet; thence S $79^{\circ}04'41''$ W, 918.19 feet; thence S $17^{\circ}18'10''$ W, 98.37 feet; thence along the arc of a curve to the right having a radius of 25.00 feet, through a central angle of $98^{\circ}28'16''$, an arc distance of 42.97 feet (Chord: S $66^{\circ}32'28''$ W, 37.87 feet) to the northeasterly edge of a gravel road;

thence in a generally northwesterly and northerly direction along said northeasterly edge of said gravel road the following thirty four (34) courses:

1. N $64^{\circ}13'15''$ W, 125.77 feet
2. A curve to the right having a radius of 600.00 feet, through a central angle of $07^{\circ}11'25''$, an arc distance of 75.30 feet (Chord: N $60^{\circ}37'32''$ W, 75.25 feet)
3. N $57^{\circ}01'50''$ W, 239.36 feet
4. N $52^{\circ}57'53''$ W, 193.25 feet
5. A curve to the right having a radius of 1500.00 feet, through a central angle of $07^{\circ}21'13''$, an arc distance of 192.51 feet (Chord: N $49^{\circ}17'17''$ W, 192.38 feet)
6. N $45^{\circ}36'40''$ W, 94.14 feet
7. A curve to the right having a radius of 1800.00 feet, through a central angle of $12^{\circ}10'36''$, an arc distance of 382.55 feet (Chord: N $39^{\circ}31'22''$ W, 381.83 feet)
8. N $33^{\circ}26'04''$ W, 148.83 feet
9. N $30^{\circ}41'11''$ W, 155.58 feet
10. N $27^{\circ}30'38''$ W, 144.94 feet

11. N 25°15'01" W, 91.75 feet
12. A curve to the right having a radius of 1750.00 feet, through a central angle of 08°45'34", an arc distance of 267.54 feet (Chord: N 20°52'14" W, 267.28 feet)
13. N 16°29'27" W, 83.86 feet
14. A curve to the right having a radius of 1000.00 feet, through a central angle of 06°33'37", an arc distance of 114.50 feet (Chord: N 13°12'39" W, 114.44 feet)
15. N 09°55'50" W, 228.46 feet
16. A curve to the right having a radius of 1250.00 feet, through a central angle of 05°56'14", an arc distance of 129.53 feet (Chord: N 06°57'43" W, 129.47 feet)
17. N 03°59'36" W, 98.69'
18. N 00°09'35" W, 157.56 feet
19. N 01°48'11" E, 151.24 feet
20. N 04°09'45" E, 154.83 feet
21. N 06°14'05" E, 96.43 feet
22. A curve to the left having a radius of 1700.00 feet, through a central angle of 03°01'52", an arc distance of 89.93 feet (Chord: N 04°43'10" E, 89.92 feet)
23. N 03°12'14" E, 225.75 feet
24. N 06°21'54" E, 114.76 feet
25. N 04°04'15" E, 331.33 feet
26. N 00°43'03" E, 157.72 feet
27. N 03°56'03" W, 117.62 feet
28. A curve to the left having a radius of 1200.00 feet, through a central angle of 12°41'26", an arc distance of 265.79 feet (Chord: N 10°16'46" W, 265.25 feet)
29. N 16°37'28" W, 150.79 feet
30. N 20°05'40" W, 139.01 feet
31. N 25°17'35" W, 62.74 feet
32. A curve to the left having a radius of 1500.00 feet, through a central angle of 13°03'24", an arc distance of 341.82 feet (Chord: N 31°49'17" W, 341.08 feet)
33. N 38°20'58" W, 41.30 feet
34. N 35°17'40" W, 96.73 feet to the beginning of a road intersection return curve;

thence along the easterly and southeasterly edge of said return curve and the southerly and southwesterly edge of a gravel and paved road the following three (3) courses:

1. A curve to the right having a radius of 45.00 feet, through a central angle of $86^{\circ}35'42''$, an arc distance of 68.01 feet (Chord: N $08^{\circ}00'11''$ E, 61.72 feet)
2. A curve to the right having a radius of 135.72 feet, through a central angle of $41^{\circ}18'48''$, an arc distance of 97.86 feet (Chord: N $71^{\circ}57'26''$ E, 95.75 feet)
3. A curve to the right having a radius of 440.28 feet, through a central angle of $23^{\circ}04'48''$, an arc distance of 177.35 feet (Chord: S $75^{\circ}50'46''$ E, 176.16 feet)

thence leaving said edge of road N $40^{\circ}52'09''$ E, 428.67 feet to the right bank of the present channel of the Colorado River and the **POINT OF BEGINNING**.

EXCEPTING THEREFROM any portions lying landward of the historic ordinary high water mark of the right bank of the Colorado River.

The bearings and distances of this description are based on the California Coordinate System 1983, Zone 5.

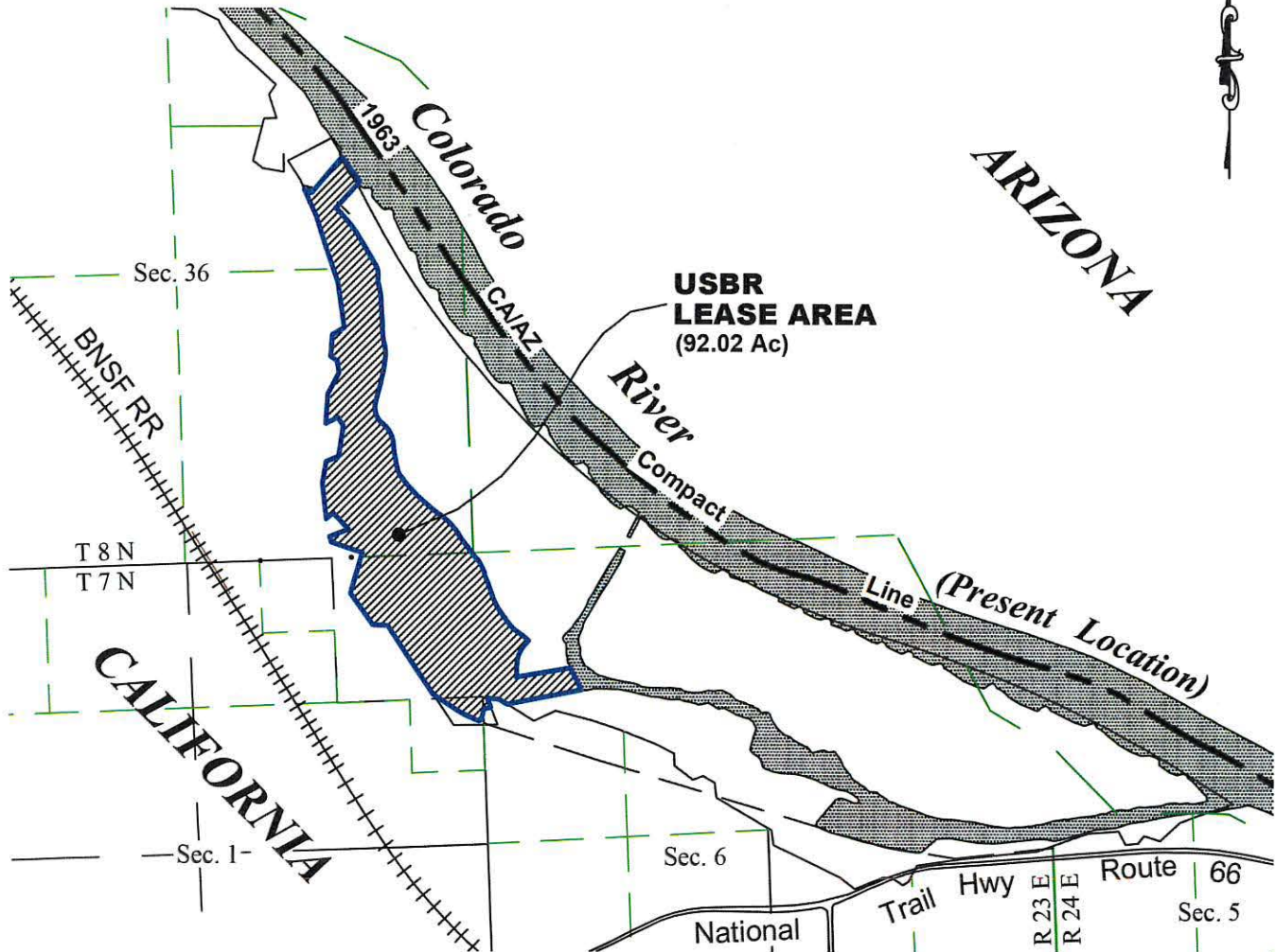
END DESCRIPTION



JAN 14, 2020

NO SCALE

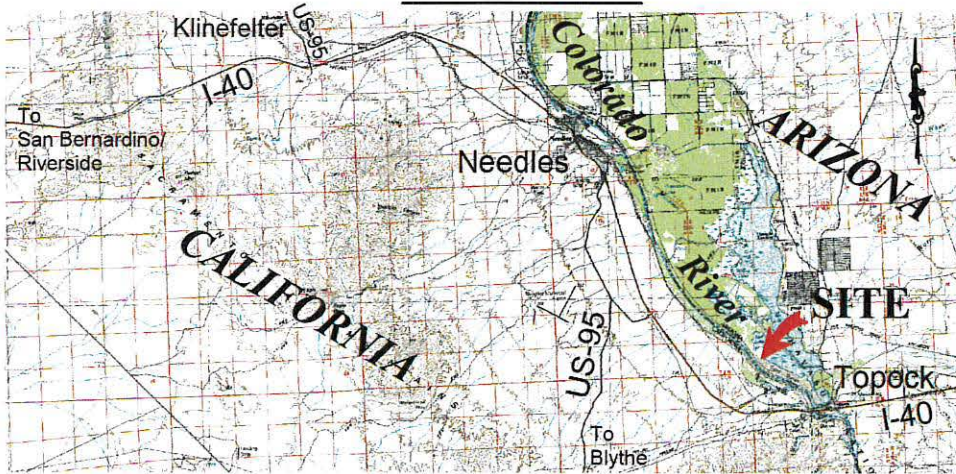
SITE



MULTI-SPECIES CONSERVATION AREA at PARK MOABI

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 B

PRC 9239.9

U.S. Bureau of Reclamation

Park Moabi

GENERAL LEASE -

PUBLIC AGENCY USE

SAN BERNARDINO COUNTY



EAP 01/20