

Staff Report 06

PARTY:

California State Lands Commission

PROPOSED ACTION:

Authorize staff to file a Record of Survey for the Reach 3 San Joaquin River Administrative Map.

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.

The San Joaquin River (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 includes sovereign land under the jurisdiction of the Commission. The River was dramatically changed by the construction of Friant Dam in 1942 and other water diversions by the federally operated Central Valley Project. 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.

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 United States Bureau of Reclamation (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 Joaquin River between Friant Dam and the confluence of the Merced River with water flows sufficient to maintain Spring and Fall run Chinook Salmon. Accomplishing this will require constructing extensive channel modifications and improvements in many stretches of the River.

The Bureau 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.

In April 2008, the Commission's Boundary Unit provided technical assistance to map 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; identify all Public Trust lands under the jurisdiction of the Commission; and provide case-by-case assistance for site-specific projects needed to implement the Project.

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 for the implementation of a restoration project below Friant Dam. The Commission is tasked with identifying sovereign and Public Trust lands within Reaches 1B, 2A, 2B, 3, 4A, 4B, and 5.

On August 14, 2012, the Commission authorized the filing of a Record of Survey for Reach 2B of the San Joaquin River Administrative Map ([Item C53, August 14, 2012](#)); on August 15, 2014, the Commission authorized the filing of a Record of Survey for Reach 4A of the San Joaquin River Administrative Map ([Item C43, August 15, 2014](#)); and, on April 23, 2014, the Commission authorized the filing of a Record of Survey for Reach 4B1 of the San Joaquin River Administrative Map ([Item C51, April 23, 2014](#)). Reaches 1B and 5 have not been started. Reach 2A is anticipated to start in 2022, and Reach 4B2 is currently underway. Commission staff is now seeking authorization to file a Record of Survey for Reach 3.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code 6005, 6301, 6106, and 6108; Cal. Bus. & Prof. Code, § 8762.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Administrative Maps developed by the Commission's survey staff depict the location and extent of sovereign land title interest claims of the State in 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 do they 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 each survey and as these maps were being prepared.

Administrative Mapping for Reach 1A, from Friant Dam to Highway 99, was completed in April 1992. Field surveying for this mapping was completed in 1990. This mapping is on file with the Commission and was submitted to both Fresno and Madera Counties for public reference and use. These Administrative Maps were prepared to depict the State's sovereign and Public Trust interests along the San Joaquin River between Friant Dam and Highway 99. Subsequent areas have been mapped in recent years, with the latest, Reach 3, being the emphasis of this report.

This Record of Survey is of the high and low water marks of the right and left banks of Reach 3 of the San Joaquin River. The upstream limits located at the present location of the Mendota Dam is just north of the city of Mendota in Section 19, Township 13 South, Range 15 East, Mount Diablo Base and Meridian. The downstream limits is the present location of the Sack Dam is just east of the city of Dos Palos, and just east of the eastern end of Valeria Avenue in Section 12, Township 11 South, Range 13 East, Mount Diablo Base and Meridian.

No Record of Survey has been filed for Reach 3, but an Administrative Map set was developed, published, and distributed to Fresno and Madera Counties. These original Administrative Maps have been relied upon for over 29 years as the single, definitive source of the State's interest along the stated portion of the River. 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 in Fresno and Madera counties.

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)).

Requests to provide any potentially pertinent information was made of the landowners and other interested parties by letter in October 2011. Additionally, 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 3 was held in March 2012.

Authorization to file Records of Survey for the other reaches will be requested as they are completed.

OTHER PERTINENT INFORMATION:

1. The subject filing of a Record of Survey is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

2. Commission staff are still in the process of mapping two subsequent areas of the San Joaquin River. Reach 2A is in the very early stages of mapping with no estimated completion date at this time. Reach 4B-2 is expected to be complete in late 2021 or early 2022.
3. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Committing to Collaborative Leadership" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

EXHIBIT:

- A. Exhibit A Site and Location Map

RECOMMENDED ACTION:

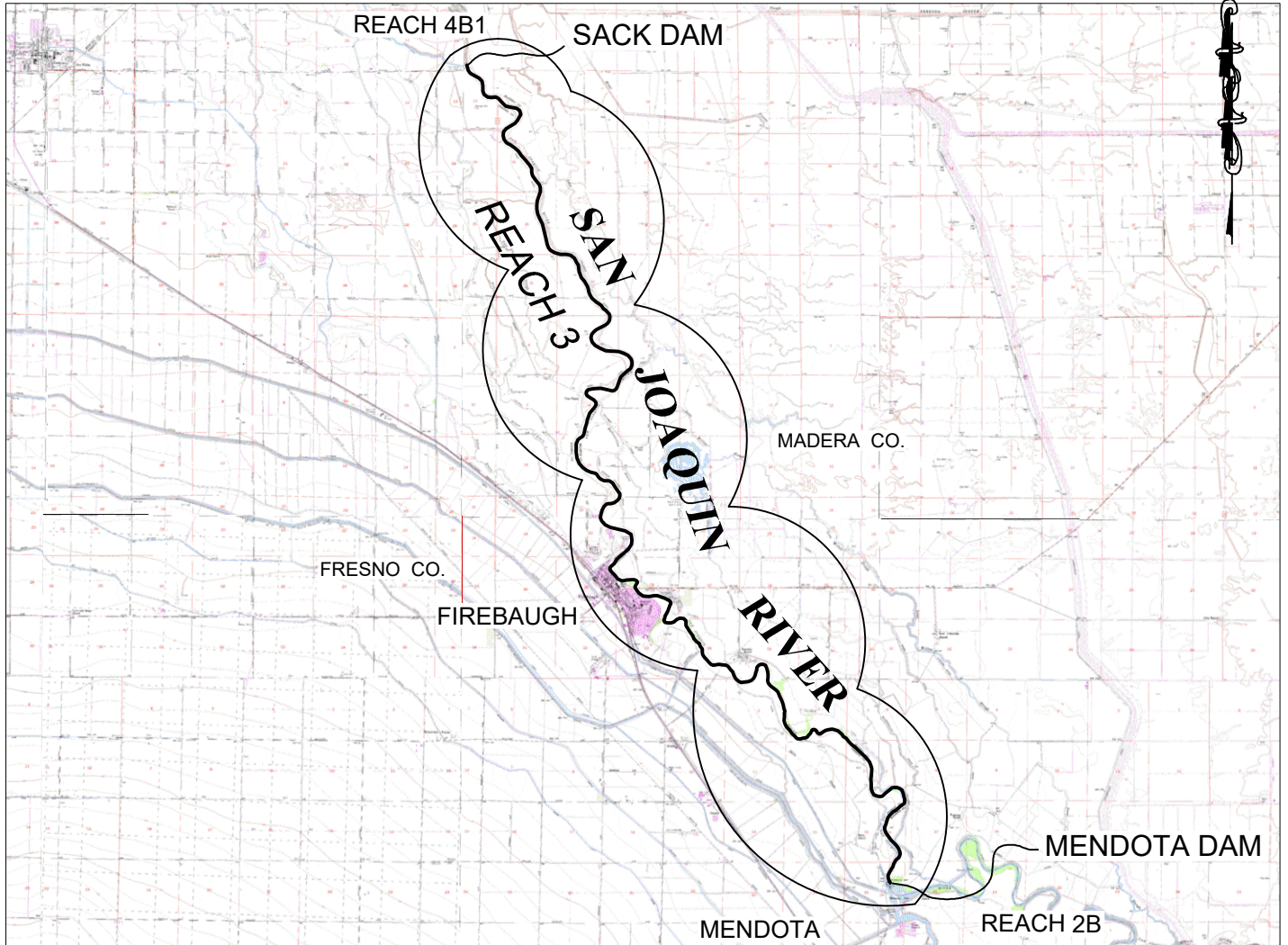
It is recommended that the Commission:

AUTHORIZATION:

Authorize staff to file the Record of Survey for the Reach 3 San Joaquin River Administrative Map.

NO SCALE

SITE



SAN JOAQUIN RIVER RESTORATION PROGRAM, REACH 3

NO SCALE

LOCATION

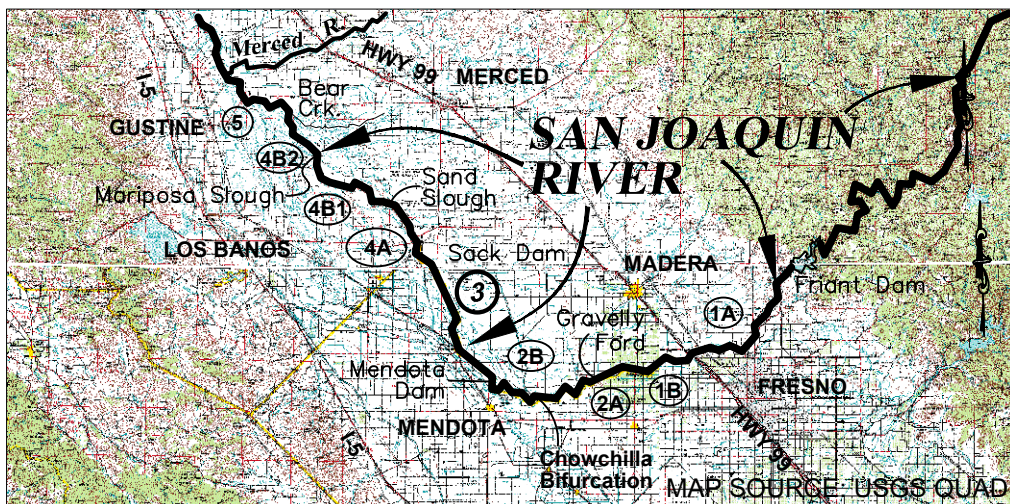


EXHIBIT A

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



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.

JAK 7/2021