The San Joaquin River
OVERVIEW OF THE
CALIFORNIA STATE LANDS COMMISSION
PRESENTATION

- California State Lands Commission (CSLC)
- Sovereign Lands and the Public Trust
- CSLC involvement in the SJRRP
- Character of the Land and Ownership along the San Joaquin River
- Natural v. Artificial v. Avulsion relationship to property boundaries
- Compilation Plats produced by CSLC
- Next Step

DISCUSSION PURPOSES ONLY
CALIFORNIA STATE LANDS COMMISSION

- CSLC created in 1938
- The California State Lands Commission has three members:
  - Lieutenant Governor
    Gavin Newsom
  - State Controller
    John Chiang
  - Director of Finance
    Ana J. Matosantos
JURISDICTION AND OWNERSHIP

- Sovereign Lands
- School Lands
- Civil Code 830 defines State and private ownership
- CSLC leases lands to the public and government agencies
- CSLC does not regulate water rights
- CSLC is a landowner on behalf of the State

DISCUSSION PURPOSES ONLY
PUBLIC TRUST AND SOVEREIGN OWNERSHIP

HISTORY

■ Roman Civil Law
The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.
--Institutes of Justinian, 534 CE

■ English Common Law
The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm.
--Magna Carta, 1215

California received title to sovereign lands at statehood under the Equal-Footing Doctrine.

DISCUSSION PURPOSES ONLY
SOVEREIGN LANDS (fee owned)

- Non-tidal navigable rivers and lakes—lands below low water
- All lands subject to the tides below mean high water
- Illinois Central Railroad Co. v. Illinois (1892) U.S. Supreme Court ruled the State cannot convey State sovereign lands into private ownership
PUBLIC TRUST LANDS (easement)

- Non-tidal navigable rivers and lakes—lands between high and low water

- Confirmed in 1981 by The State Supreme Court
  - State of California v. Superior Court (Lyon) 29 Cal. 3d 210
  - State of California v. Supreme Court (Fogerty) 29 Cal. 3d 240

DISCUSSION PURPOSES ONLY
CSLC AND THE SJRRP

- CSLC is NOT a party to the settlement
- CSLC has an ownership in the bed of the San Joaquin River up to the head of navigation, near Friant
- USBR and DWR requested CSLC to determine State interest within the San Joaquin River
CHARACTER OF LAND AND OWNERSHIP ALONG THE SAN JOAQUIN RIVER

- Sovereign Land below Low Water
- Public Trust land between Low Water and High Water
- Swamp and Overflowed Lands
- Public Land – Sectionalized Land
- Rancho Land – Mexican Land Grant
HIGH WATER LINE

- **Not** a line reached by floods
- A line where erosion occurs; change in or lack of vegetation
- May relate to bank full level on many rivers
- Best evidence and application of case law
HIGH WATER FLOW ANALYSIS
PLAN VIEW OF BANK FULL CROSS SECTION
BANK FULL CROSS SECTION AT XS29

DISCUSSION PURPOSES ONLY
HIGH WATER
PHYSICAL FEATURES
GEOMORPHOLOGY

SEE DETAIL

DETAIL

DISCUSSION PURPOSES ONLY
LOW WATER LINE

- Covered by water most the year
- Low Water occurs during the Fall season
- Low Water should be determined during a normal water year
- Low Water determination should exclude years of droughts or floods
- Difficult to use physical or geomorphic features
LOW WATER -- NORMAL LOW WATER YEAR
WATER SURFACE DURING THE FALL SEASON

DISCUSSION PURPOSES ONLY
- Lands above high water
- Patented to the State by the Federal government
- Surveyed by County Surveyors and sold by the State
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER IN A NATURAL STATE

- Boundaries between the upland owner and State are ambulatory and will move as the river moves
- Can have limited artificial influences
- Artificial influences cannot be primary or proximate
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER IN AN ARTIFICIAL STATE

- Boundaries may remain fixed at the last natural location
- Artificial influences must be primary or proximate
- Dredging new river channel
- Filling of river bed
- Damming and significant removal of water from the natural channel
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER IN AN ARTIFICIAL STATE
Colorado River

1947 1953
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER IN AN ARTIFICIAL STATE
Dam construction and major water diversion

Friant Dam, San Joaquin River

DISCUSSION PURPOSES ONLY
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER IN AN ARTIFICIAL STATE

Dam construction and major water diversion

- Up to 90% of water diverted from the river
- State would not be deprived of its sovereign ownership
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
AVULSIVE RIVER CHANGES

- Sudden and perceptible change in a water course
- May add or remove land
- May fix riparian boundaries
NATURAL v. ARTIFICIAL v. AVULSION
RELATIONSHIP TO PROPERTY BOUNDARIES
RIVER POSSIBLY AFFECTED BY AVULSION

- Sudden and perceptible change in the water course
- OR
- Manmade dredger cut

DISCUSSION PURPOSES ONLY
CSLC
THE SAN JOAQUIN RIVER RESTORATION PROJECT
Contract with DWR began on April 15, 2010

- RESEARCH INCLUDED:
  - U.S. Army Corps of Engineers
  - U.S. National Archives
  - U.S. Bureau of Reclamation
  - U.S. Bureau of Land Management (General Land Office)
  - California State Archives
  - California Department of Water Resources
  - County Surveyor Offices, Fresno and Madera Counties
  - County Recorder’s Offices, Fresno and Madera Counties
  - Local water and irrigation districts
  - Records of the CSLC
  - Miller Lux Museum
  - Historical Societies and Libraries

DISCUSSION PURPOSES ONLY
CSLC
THE SAN JOAQUIN RIVER RESTORATION PROJECT

- FIELD SURVEYS:
- Reach 4B1, February – April 2011
- Other Reaches are ongoing
LAND TITLE AND MAPPING ADJACENT TO THE SAN JOAQUIN RIVER REACH 4B1

DISCUSSION PURPOSES ONLY

REACH 4B1
SAN JOAQUIN RIVER RESTORATION PROJECT, REACH 4B1
MARIPOSA DROP STRUCTURE TO SAND SLOUGH CONNECTOR

DISCUSSION PURPOSES ONLY
Survey of Public Lands for sale by the U.S.
Surveyed in one mile square sections
1851 and 1855 GLO Manual of Instruction
Meander of Survey Bank of Navigable Rivers
Show all lands “Unfit for Cultivation” known as Swamp and Overflowed Lands
CSLC REACH 4B1 COMPILATION PLAT
MARIPOSA SLOUGH AREA
GENERAL LAND SURVEY

GENERAL LAND OFFICE SURVEYS, 1854 - 1861
SAN JOAQUIN RIVER RESTORATION PROJECT, REACH 4B1
MARIPOSA DROP STRUCTURE TO SAND SLOUGH CONNECTOR

DISCUSSION PURPOSES ONLY
The State Surveyor General’s instructions to the County Surveyor was to follow the instruction issued by the Government Land Office (GLO) when surveying S&O lands.
CSLC REACH 4B1 COMPILEDATION PLAT
MARIPOSA SLOUGH AREA
SWAMP AND OVERFLOWED LAND SURVEYS

DISCUSSION PURPOSES ONLY
STATE ENGINEER HAMMOND HALL MAP
OF THE
SAN JOAQUIN VALLEY 1886

DISCUSSION PURPOSES ONLY
CSLC REACH 4B1 COMPILATION PLAT
MARIPOSA SLOUGH AREA
1914 CDC MAPPING

DEBRIS COMMISSION SURVEYS, 1914 - 1915
SAN JOAQUIN RIVER RESTORATION PROJECT, REACH 4B1
MARIPOSA DROP STRUCTURE TO SAND SLOUGH CONNECTOR

DISCUSSION PURPOSES ONLY
MILLER LUX PLATS
1920s –1930s

4” x 4”
Redwood post
Original monument?
MILLER & LUX SURVEYS, 1920s, 1930s (?)  
SAN JOAQUIN RIVER RESTORATION PROJECT, REACH 4B1  
MARIPOSA DROP STRUCTURE TO SAND SLOUGH CONNECTOR
FAIRCHILD 1937 AERIAL PHOTOS
SAN JOAQUIN RIVER

DEBRIS COMMISSION LINES OVER 1937 AERIAL
SAN JOAQUIN RIVER RESTORATION PROJECT, REACH 4B1
MARIPOSA DROP STRUCTURE TO SAND SLOUGH CONNECTOR

DISCUSSION PURPOSES ONLY
NEXT STEP
ADMINISTRATIVE MAPS

- Will show lines of the high water mark and of the low water mark based on the best available evidence.
- Map form similar to a Record of Survey, per Land Surveyors Act (B&P Code §8765[a]).
- Maps will be filed with the County Surveyors of each county affected.
- Map content will be a continuation of Reach 2B Administrative Maps.
EFFECT AND USE OF LINES SHOWN ON THE ADMINISTRATIVE MAPS

- Basis of State claims of limits of sovereign ownership and Public Trust Easement
- Subject to change if better evidence is found by or presented to the CSLC
- Basis for Real Estate purchases, Exchanges and Boundary Line Agreements
- Basis for CSLC Leases
- CSLC may exercise the Public Trust Easement rights
- Commissioners must vote at a public meeting