

1.0 PROJECT AND AGENCY INFORMATION

1.1 PROJECT TITLE

Mohave Valley Conservation Area Backwater Project (Project)

1.2 LEAD AGENCIES AND PROJECT SPONSOR

Lead Agencies

NEPA

Bureau of Reclamation, Lower Colorado Region (Reclamation)
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CEQA

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Applicant

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1 **1.3 ORGANIZATION/HOW TO USE THIS DOCUMENT**

2 This Environmental Assessment/Mitigated Negative Declaration (EA/MND) is intended
 3 to provide the Bureau of Reclamation (Reclamation), as the Federal lead agency under
 4 the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), and the
 5 California State Lands Commission (CSLC), as the State lead agency under the
 6 California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.),
 7 and other responsible agencies with the information required to exercise their
 8 discretionary responsibilities with respect to the Project. An EA is prepared in
 9 accordance with NEPA to analyze impacts of the Project and is used to issue a Finding of
 10 No Significant Impacts, if applicable. An MND is prepared in accordance with CEQA
 11 when Project revisions and/or mitigation measures (MM) are made or agreed to by the
 12 Applicant that ensure no significant effect on the environment would occur.

13 This EA/MND is a joint document intended to fulfill both NEPA and CEQA requirements
 14 for this Project analysis. Table 1.3-1 includes a list of terminology that is comparable in
 15 NEPA and CEQA throughout the EA/MND.

16 **Table 1.3-1. Equivalent NEPA and CEQA Terminology**

NEPA Terminology	CEQA Terminology
Environmental Assessment (EA)	Mitigated Negative Declaration (MND)
<ul style="list-style-type: none"> • State Action • Federal Action • Proposed Action 	<ul style="list-style-type: none"> • Project • Proposed Project
Purpose and Need	Project Objectives
Affected Environment	Environmental Setting
Environmental Consequences	Checklist and Impact Analysis

17 The document is organized as follows:

- 18 • Section 1 provides the Lead Agency and Applicant information, organization/how
 19 to use this document, Project location, Project background, State and Federal
 20 lead agency actions, summary of the public review and comment process, and
 21 applicable regulatory requirements and anticipated agency approvals.
- 22 • Section 2 describes the proposed Project including its purpose and need/Project
 23 objectives, location, layout, equipment use, personnel, and Project design. This
 24 Section provides an overview of the Project’s operations and schedule. It also
 25 provides a description of a No Action alternative to the Project. A No Action
 26 Alternative is included “because it provides an appropriate basis by which all
 27 other alternatives are compared,” including the Proposed Action (Reclamation
 28 NEPA Handbook Section 6.4.2.1, 2012). Lastly, it includes past, present, and
 29 reasonably foreseeable future projects.
- 30 • Section 3 provides the Initial Study (IS) for the Project, including the
 31 environmental setting, regulatory setting, identification and analysis of potential
 32 impacts, and discussion of various Project changes and other measures that, if
 33 incorporated into the Project, would mitigate or avoid those impacts, such that no

1 significant effect on the environment would occur. The IS was conducted by
2 Reclamation and CSLC pursuant to State CEQA Guidelines section 15063.¹ In
3 addition, each environmental resource area summarizes and describes the
4 potential environmental impacts in accordance with NEPA for each alternative
5 described in Section 2 (NEPA Handbook Section 6.4.2.2). The summary includes
6 a description of cumulative impacts for each resource area that considers past,
7 present and future actions taken by all Federal, State, and local agencies and
8 how they relate to the action being considered (NEPA Handbook Section 6.4.4).

- 9 • Section 4 includes an analysis and discussion on Environmental Justice
10 (Executive Order [EO] 12898, 59 FR 7629, 1994) and Indian Trust Assets [ITA]
11 or Tribal Lands (Secretarial Order No. 3175).
- 12 • Section 5 presents the Mitigation Monitoring Program (MMP).
- 13 • Section 6 presents information on document preparation and references.
- 14 • Appendices. The appendices include specifications, technical data, and other
15 information supporting the analysis presented in this EA/MND.
 - 16 ○ Appendix A. LCR Park Moabi Backwater Channel Restoration Design
17 Report 60% Draft
 - 18 ○ Appendix B. Mohave Valley Backwater Restoration Development and
19 Monitoring Plan, September, 2015
 - 20 ○ Appendix C. Estimated Quantities for Emissions Calculation Sheet
 - 21 ○ Appendix D. Emission Factors for Criteria Pollutants - Selected WebFire
22 Factors
 - 23 ○ Appendix E. Biological Resources Clearance Surveys for Soil Sampling at
24 Test Pit Locations Within the Proposed Park Moabi Backwater in
25 Accordance With the Non-Exclusive Geological Sampling Permit PRC
26 9283
 - 27 ○ Appendix F. U.S. Fish and Wildlife Endangered Species Section 7
28 Consultation Letter, January 28, 2015
 - 29 ○ Appendix G. Incidental Take Permit issued by California Department of
30 Fish and Wildlife (Incidental Take Permit File No. 2081-2005-008-06)
 - 31 ○ Appendix H. Phase I Cultural Resources Investigation for the Proposed
32 OHV Area-Park Moabi Regional Park Trail Improvements San Bernardino
33 County California, June 3, 2011
 - 34 ○ Appendix I. Mohave Valley Conservation Area Test Pits: State Historic
35 Preservation Office Consultation Response Letter (May 21, 2015).
 - 36 ○ Appendix J. Native American Heritage Commission Response Letter,
37 March 28, 2014

¹ The State “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

- 1 ○ Appendix K. Mohave Valley Conservation Area Backwater Project State
2 Historic Preservation Office Consultation Letter (July 31, 2015) and
3 California SHPO Response Letter (September 1, 2015)
- 4 ○ Appendix L. U.S. Bureau of Reclamation Consultations with Fort Mohave
5 Indian Tribe, sent May 20, 2015
- 6 ○ Appendix M. Hopi Tribe of Arizona Response Letter to Tribal Consultation,
7 received June 5, 2014
- 8 ○ Appendix N. Letter from the California State Lands Commission's
9 Executive Officer Notifying Native American Representatives of the
10 Mohave Valley Conservation Area Backwater Project (October 2, 2015)
- 11 ○ Appendix O. Mohave Valley Conservation Area Wetlands Investigation
12 Draft Report, San Bernardino County, California, May 2015
- 13 ○ Appendix P. Hydrology Report for North Peninsula Improvements for
14 Pirate Cove Resort and Marina, September 2012
- 15 ○ Appendix Q. Lake and Streambed Alteration Agreement Letter from
16 California Department of Fish and Wildlife, September 21, 2015.

17 **1.4 PROJECT LOCATION**

18 The proposed Project is located on a 149-acre State-owned parcel along the lower
19 Colorado River (River), 13 miles south of Needles, California, between River Miles 237
20 and 236 (Figure 1.4-1). Please see Section 2, Project Description, for further details on
21 the Project location. The proposed Project area is zoned for Open Space by San
22 Bernardino County (County).

23 **1.5 PROJECT BACKGROUND**

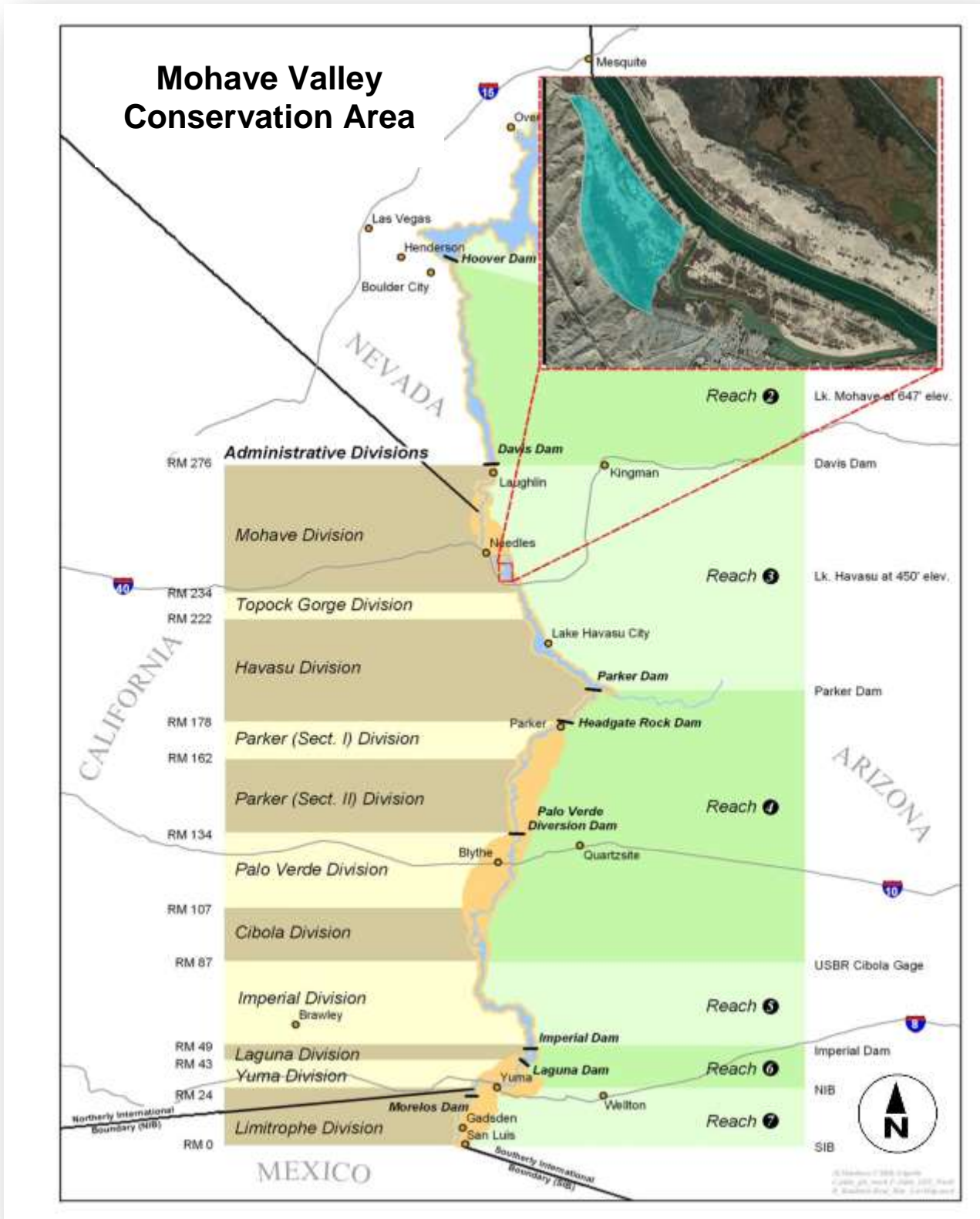
24 **1.5.1 Lower Colorado River Multi-Species Conservation Program**

25 The Lower Colorado River Multi-Species Conservation Program (LCR MSCP) is a 50-
26 year (2005 to 2055) multi-stakeholder Federal and non-Federal partnership which was
27 created to balance the use of lower Colorado River water resources with the
28 conservation of native species and their habitats. The LCR MSCP was initiated to bring
29 administrators and users of the River into compliance with the Federal and California
30 Endangered Species Acts (ESA and CESA, respectively). The 50-year program is
31 designed to conserve at least 26 species between Lake Mead and the southern
32 International Boundary with Mexico, and is implemented through the program's Habitat
33 Conservation Plan (HCP).

34 Water and power agencies in Arizona, California, and Nevada share the current
35 estimate of LCR MSCP costs equally with the United States on a 50/50 Federal/non-
36 Federal basis.

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Figure 1.4-1. Project Area Vicinity Map



1 The LCR MSCP's purpose and need/objectives are to conserve habitat and work
2 towards the recovery of listed and included species within the 100-year floodplain of the
3 lower Colorado River pursuant to the ESA to develop and implement a plan that will:

- 4 • Conserve habitat and work toward the recovery of threatened and endangered
5 species, as well as reduce the likelihood of additional species being listed;
- 6 • Accommodate current water diversions and power production and optimize
7 opportunities for future water and power development, to the extent consistent
8 with existing laws; and
- 9 • Provide the basis for incidental take authorizations.

10 Reclamation is responsible for implementing the LCR MSCP over the 50-year term of
11 the program. The LCR MSCP is governed by a Steering Committee, which is an
12 unincorporated association of more than 50 water and power users, State, Federal,
13 local entities, and tribes. The Steering Committee works with Reclamation to coordinate
14 the implementation of the LCR MSCP and its HCP requirements.

15 A major component of the LCR MSCP is creating and managing habitat to benefit 26
16 covered species. Cottonwood-willow, honey mesquite, marsh, and backwater are the
17 predominant land vegetation types to be created under the LCR MSCP HCP. Habitat
18 creation goals include the establishment of a total of 8,132 acres of habitat including:

- 19 • 5,940 acres of cottonwood-willow
- 20 • 1,320 acres of honey mesquite
- 21 • 512 acres of marsh
- 22 • 360 acres of backwater

23 The following documents provide the framework and implementation of the LCR MSCP
24 which can be accessed at <http://www.lcrmscp.gov/>:

- 25 • Lower Colorado River Multi-Species Conservation Program, Final Programmatic
26 Environmental Impact Statement/Environmental Impact Report (LCR MSCP
27 FEIS/EIR) (LCR MSCP 2004b);
- 28 • Record of Decision, Lower Colorado River Multi Species Conservation Plan;
- 29 • Final HCP;
- 30 • Final Biological Assessment, the Biological and Conference Opinion on the
31 Lower Colorado River Multi-Species Conservation Program, Arizona, California
32 and Nevada (LCR MSCP 2005a);
- 33 • Section 10 Endangered & Threatened Species – Federal Incidental Take Permit;
- 34 • Section 2081 Endangered & Threatened Species – State Incidental Take Permit;
- 35 • LCR MSCP Funding and Management Agreement; and
- 36 • LCR MSCP Implementing Agreement (LCR MSCP 2005b).

1 **1.5.2 Park Moabi Channel and Moabi Regional Park**

2 The Park Moabi Channel was dredged in 1961 to create a deep water area to improve
3 boat launching and the sport fishery. Today, the LCR MSCP stocks and monitors native
4 razorback suckers within the Park Moabi Channel.

5 In recent years the concessionaire under contract with the County has significantly
6 developed the services available within the Park. Currently, the park provides a 7-lane
7 launch ramp, a marina, recreational vehicle (RV) and tent camping, waterfront cabins, a
8 convenience store, and the Pirate's Cove Restaurant & Bar. In 2012, the County
9 proposed plans to make the 149-acre parcel an Off-Highway Vehicle (OHV) recreational
10 area.

11 The OHV use area consists of land within a dredge spoil area located within the County
12 lease area and provides open riding and designated signed trails for OHV use. The
13 OHV area re-established inner-park limited speed OHV access trails adjacent to
14 existing internal roadways, designated roadway crossings, and OHV temporary parking
15 sites and staging areas.

16 The proposed Project area is the entire parcel including the inlet and outlet water
17 channels used to connect the main stem of the River to the backwater and the Park
18 Moabi Channel (Figure 1.4-1). The Project would develop 50 acres of the 149-acre
19 parcel into backwater habitat for fish and other riparian species.

20 **1.5.3 Water Accounting Agreement**

21 The LCR MSCP operates under the Water Accounting Agreement passed by Congress
22 as part of the Omnibus Public Land Management Act of 2009 (Public Law No. 111-11,
23 Title IX, Subtitle E, 123 Statute 991, 1327-29). The Omnibus Public Land Management
24 Act of 2009 permits Reclamation to create and manage conservation areas, which do
25 not contain any water entitlement from the Secretary of the Interior, by using Colorado
26 River water to meet the performance requirements of the LCR MSCP. Under the Water
27 Accounting Agreement, Reclamation shall not consider any resulting increase in
28 evaporation or percolation of lower Colorado River water to be a diversion or
29 consumptive use.

30 **1.6 PUBLIC REVIEW AND COMMENT**

31 Pursuant to State CEQA Guidelines sections 15072 and 15073, this proposed EA/MND
32 will be circulated for a minimum 30-day public review period. Local and State agencies
33 and the public will have the opportunity to review and comment on the document.
34 Responses to written comments received by the CSLC during the 30-day public review
35 period will be incorporated as appropriate into the proposed Final EA/MND. In
36 accordance with State CEQA Guidelines section 15074, subdivision (b), the CSLC will
37 review and consider the proposed Final EA/MND, together with any comments received
38 during the public review process, prior to taking action on the EA/MND and the Project.

1 **1.7 APPLICABLE REGULATORY REQUIREMENTS AND APPROVALS**

2 **1.7.1 Compliance with Environmental Statutes**

3 This EA/MND complies with all applicable environmental, natural resource, and cultural
4 resource statutes, regulations, and guidelines. These additional statutes, regulations,
5 and guidelines may require permits, approvals, consultations with outside agencies, or
6 implementation of mitigation measures. Federal, state, and local statutes and
7 regulations relevant to the Project are identified in Section 3 under each resource or
8 issue area titled Regulatory Setting.

9 **1.7.2 Tiering and Incorporation by Reference**

10 The NEPA implementing regulations encourage both tiering and incorporation by
11 reference. Tiering refers to following up on analysis contained in a broader EIS with an
12 EIS or EA of a narrower scope, incorporating by reference the general discussions and
13 concentrating solely on the issues specific to the narrower scope EIS or EA. An EA
14 tiered to a broad EIS need only analyze the changes to, or details of, the original
15 proposal not previously analyzed to determine if any of the changes or details result in
16 potentially significant impacts (40 Code of Federal Regulations [CFR] 1502.20).

17 To facilitate focusing on Project-specific issues, this EA/MND:

- 18 • is tiered to and incorporates by reference the LCR MSCP FEIS/EIR in order to
19 use the programmatic analysis in the FEIS/EIR;
- 20 • summarizes environmental impacts identified in the FEIS/EIR by focusing the
21 analysis in the EA/MND on only those impacts that were not described in the
22 FEIS/EIR to determine if any previously undescribed impacts would be
23 significant; and
- 24 • also incorporates information/analysis from the IS Checklist prepared in October
25 2012 by the County for a new lease of State Lands from the CSLC for portions
26 within the Park to encompass Pirate's Cove Master Plan and the re-opening of
27 the OHV area and trails (SBC 2012).

28 **1.7.3 State Action**

29 The CSLC is fee owner of 149 acres of land within the Park on the River near Needles,
30 California currently under lease to the County. The California Department of Fish and
31 Wildlife (CDFW or Applicant) proposes to enter into a lease with CSLC to partner with
32 Reclamation for the management and maintenance of 50 acres of open backwater,
33 wetland, and upland habitat to be constructed by Reclamation's LCR MSCP. The
34 remaining 99 acres would be used as a staging area during construction. The CSLC is
35 the State lead agency for this EA/MND under CEQA.

36 The CSLC's authority is set forth in Division 6 of the California Public Resources Code
37 and it is regulated by the California Code of Regulations, Title 2, sections 1900–2970.
38 The CSLC has authority to issue leases or permits for the use of sovereign lands held in
39 the public trust, including all ungranted tidelands, submerged lands, and the beds of

1 navigable lakes and waterways, as well as certain residual and review authority for
2 tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub.
3 Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or
4 ungranted, as well as navigable lakes and waterways, are subject to the protections of
5 the Common Law Public Trust. As general background, the State of California acquired
6 sovereign ownership of all tidelands and submerged lands and beds of navigable lakes
7 and waterways upon its admission to the U.S. in 1850. The State holds these lands for
8 the benefit of all people of the State for statewide Public Trust purposes, which include
9 but are not limited to waterborne commerce, navigation, fisheries, water-related
10 recreation, habitat preservation and open space. On tidal waterways, the State's
11 sovereign fee ownership extends landward to the mean high tide line, except for areas
12 of fill or artificial accretion. For the proposed Project, the CSLC has received an
13 application for backwater habitat.

14 The CSLC must comply with CEQA when it undertakes an activity defined by CEQA as
15 a "project" that must receive some discretionary approval (i.e., the CSLC has the
16 authority to deny the requested lease, permit, or other approval) which may cause either
17 a direct physical change in the environment or a reasonably foreseeable indirect change
18 in the environment. CEQA requires the CSLC to identify the significant environmental
19 impacts of its actions and to avoid or mitigate those impacts, if feasible.

20 **1.7.4 Federal Action**

21 Reclamation is the implementing agency for the LCR MSCP, in partnership with the
22 LCR MSCP Steering Committee. In its capacity as the LCR MSCP Federal
23 implementing agency, Reclamation proposes to enter into an agreement with CDFW to
24 design, create, operate, and maintain a backwater habitat on 50 acres within a 149-acre
25 parcel owned in fee by the CSLC that is currently part of the Park on the River near
26 Needles, California. The proposed design would include the development of 50 acres
27 into backwater habitat while using the remaining 99 acres as a staging area during
28 construction. Reclamation is the lead Federal agency for this EA/MND under NEPA.

29 **1.7.5 Other Agencies with Review/Approval over Project Activities**

30 Other agencies that may review and/or take action on elements of the Project are listed
31 below.

- 32 • U.S. Army Corps of Engineers: A Section 404 Clean Water Act (CWA) permit
33 and Section 10 Rivers and Harbors permit would be required for the placement of
34 fill and dredge materials directly adjacent to navigable waters.
- 35 • U.S. Fish and Wildlife Service: Formal Consultation Concurrence under the LCR
36 MSCP Biological Opinion is required for working within potential habitat for LCR
37 MSCP listed species.
- 38 • California Regional Water Quality Control Board, Colorado River Basin Region: A
39 Water Quality Certification is required in accordance with Section 401 of the
40 CWA.

- 1 • California State Historic Preservation Officer: A Section 106 consultation is
2 required to determine impacts to cultural resources.
- 3 • CDFW: The CDFW, in addition to being the proposed Lessee for the Project, has
4 jurisdiction for issuance of Lake and Streambed Alteration Agreements in
5 accordance with Fish and Game Code section 1602. However, a Lake and
6 Streambed Alteration Agreement would not be required for this Project as noted
7 in Appendix Q.