

APPENDIX XI - "ENLARGEMENT OF RESERVATIONS" AND "OMISSION" OF IRRIGABLE ACREAGE

Chemehuevi Indian Reservation

1101 - Secretary of the Interior's Withdrawal Order, February 2, 1907

1102 - Act of July 8, 1940, 54 Stat. 733

1103 - Act of October 28, 1942, 56 Stat. 1011

1104 - Secretarial Determination, August 15, 1974

1105 - Secretarial Order, November 1, 1974

Cocopah Indian Reservation

1106 - Act of August 17, 1961, 75 Stat. 387, Public Law 87-150

Colorado River Indian Reservation

1107 - Solicitor's Opinion, January 17, 1969

1108 - Secretarial Directive, January 17, 1969

Fort Mohave Indian Reservation

1109 - Executive Order, March 30, 1870

1110 - Executive Order, September 19, 1890

1111 - Executive Order, December 1, 1910

1112 - Solicitor's Opinion, June 3, 1974

1113 - Secretary's Directive, June 3, 1974

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1101

DEPARTMENT OF THE INTERIOR

WASHINGTON

APPENDIX A

February 2, 1907.

The Commissioner of
The General Land Office.

Sir:

I transmit herewith, a copy of a communication from the Acting Commissioner of Indian Affairs, dated the 31st ultimo, transmitting descriptions of certain lands in California, which he recommends be withdrawn from all form of settlement and entry, pending action by Congress authorizing the addition of the lands described to the various Mission Indian Reservations.

In view of the recommendation of the Indian Office, I have to direct that the lands referred to be withdrawn from all form of settlement or entry until further notice, also that the local land officers of the districts in which the said lands are located, be advised of such withdrawal.

In this connection you are advised that the Department on the 31st ultimo forwarded to Congress, with favorable recommendation, the draft of a bill to authorize the addition of certain lands to the Mission Indian Reservations.

Very respectfully,

(Sgd.) E. A. HITCHCOCK.
Secretary.

974 Ind. Div. 1907.
1 enclosure.

UPDATING THE HOOVER DAM DOCUMENTS

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
Washington

January 31, 1907.

IN REPLY PLEASE REFER TO
Land
5457 - 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Office letter of January 28, transmitting reports of Special Agent C. H. Kelsey on the condition of the Mission Indian Reservations in California, and the draft of a proposed bill for the betterment of their conditions, I have now the honor to transmit herewith certain descriptions of land which he recommends be withdrawn from all form of settlement and entry pending action by Congress whereby they may be added to the several reservations.

The proposed additions are as follows:

Twenty-nine Palms. - The SW¹/₄ of Sec. 33, T. 1 N., R. 9 N., S.B.B.

Inyaha. - The N¹/₂ of NW¹/₄ and SE¹/₄ of NW¹/₄, Sec. 33; the W¹/₂ of Sec. 26 and the W¹/₂ of NE¹/₄, Sec. 26, and if the same has not been already added, the S¹/₂ of SE¹/₄ and the NW¹/₄ of SE¹/₄, Sec. 26, all in T. 13 S., R. 3 E., S.B.M.

Santa Rose. - The N¹/₂ of Sec. 32, all of Sec. 33, and the W¹/₂ of Sec. 34, T. 7 S., R. 5 R., S.B.M.

Capitan Grande. - Secs. 21, 23, 25, 26, the E¹/₂ of Sec. 27 and the N¹/₂ of Sec. 34, T. 14 S., R. 2 E., S.B.M.; the N¹/₂ of Sec. 10 and the S¹/₂ of Secs. 1 and 2, T. 15 S., R. 2 E.; the W¹/₂ of Sec. 28, the N¹/₂ of the NE¹/₄ and the E¹/₂ of SE¹/₄, Sec. 28, the SW¹/₄ Sec. 33, the S¹/₂ of SE¹/₄, the NE¹/₄ of SE¹/₄, the SE¹/₄ of NE¹/₄, and the N¹/₂ of NE¹/₄, Sec. 33, all of T. 14 S., R. 3 E., the whole of Secs. 4, 7, and 8, and the SW¹/₄ of NW¹/₄, and the NW¹/₄ of SW¹/₄ of Sec. 9, all T. 15 S., R. 3 E., S.B.M.

Agua Caliente or Palm Springs. - Secs. 6, 7 if the same be exchanged with the S. P. R. R., Sec. 10, T. 4 S., R. 4 E., and Secs. 2, 10 and 11, T. 5 S., R. 4 E., S.B.M.

Martinez. - Secs. 16 and 36, T. 7 S., R. 8 E., S.B.M., if the same have not been added already.

Chimehuevi Valley. - Fractional townships 4 N., R. 25 N., R. 4 N., R. 26 E., T. 5 N., R. 25 E., T. 6 W., R. 25 R., the N¹/₂ of T. 5 N., R. 24 E., and Secs. 25, 26, 35 and 36, T. 6 N., R. 24 E., S.B.M.

Saboda or San Jacinto. - Fractional Sec. 5, T. 5 S., R. 1 N., and Lots 1, 2, 3, 4, and 5, and the NE¹/₄ of Sec. 29, and all of Sec. 31, T. 4 S., R. 1 E., S.B.M.

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Campe. - The NE¹/₄ of NW¹/₄ of Sec. 3; the NE¹/₄ of SW¹/₄, the W¹/₂ of NE¹/₄ Sec. 4, T. 18 S., R. 5 N., and the S¹/₂ of SE¹/₄ of Sec. 33, and the S¹/₂ of SW¹/₄ Sec. 34, T. 17 S., R. 5 E., S.B.M.

Laguna. - The S¹/₂ of SW¹/₄ Sec. 28, and the W¹/₂ of SW¹/₄ Sec. 33, T. 14 S., R. 5 E., S.B.M.

Onyapipe. - The S¹/₂ of Secs. 17 and 18, all of Sec. 19, excepting the E¹/₂ of NE¹/₄ and the E¹/₂ of SE¹/₄ already in the reservation, the E¹/₂ of NE¹/₄ and the E¹/₂ of SE¹/₄, Sec. 20, the W¹/₂ of NE¹/₄ Sec. 20, all of Secs. 21, 28, and 30; the SW¹/₄ of Sec. 29, the S¹/₂ of SE¹/₄ Sec. 29, the N¹/₂ Sec. 32, the N¹/₂ Sec. 33, the SE¹/₄, the E¹/₂ of SW¹/₄, and the SW¹/₄ of SW¹/₄ Sec. 33, T. 15 S., R. 6 E., S.B.M.

La Posta. - The SW¹/₄ of SW¹/₄, the NE¹/₄ of SW¹/₄, the SE¹/₄ of NW¹/₄, the N¹/₂ of SE¹/₄, and the NE¹/₄, all of Sec. 31, and all of Secs. 32 and 33, T. 16 S., R. 6 E., and all of Secs. 4 and 5, and the SW¹/₄, the SE¹/₄, the S¹/₂ of NW¹/₄, the S¹/₂ of NE¹/₄, and the NW¹/₄ of NE¹/₄ of Sec. 6, T. 17 S., R. 6 E., S.B.M.

Manzanita. - Sec. 22, Sec. 23 (should McCain convey the SW¹/₄ to the United States), the W¹/₂ Sec. 24, the W¹/₂ Sec. 25, and all of Secs. 27, 34 and 35, T. 16 S., R. 6 E., S.B.M.

Campo. - Secs. 1, 2, 3, 10, the N¹/₂ of Sec. 11, the W¹/₂ of SW¹/₄, the N¹/₂ of SE¹/₄, and the SE¹/₄ of SE¹/₄ Sec. 11; all of Sec. 12, and the N¹/₂ Sec. 13, the N¹/₂ Sec. 14, excepting the NW¹/₄ of NE¹/₄, Secs. 15, 21, the NW¹/₄, the NE¹/₄, the N¹/₂ of SW¹/₄, the N¹/₂ of SE¹/₄, and the SE¹/₄ of SE¹/₄, Sec. 22, the N¹/₂ Sec. 20, Sec. 27 (excepting the NW¹/₄ of NE¹/₄) the N¹/₂ of NE¹/₄, the E¹/₂ of SE¹/₄, and the W¹/₄ Sec. 28; the E¹/₂ Sec. 29; the NE¹/₄ and the W¹/₂ of SE¹/₄ Sec. 32; the NW¹/₄ and the W¹/₂ of N¹/₂ Sec. 33; the N¹/₂ and the NW¹/₄ of SE¹/₄ and the NE¹/₄ of SW¹/₄ Sec. 34; all in T. 17 S., R. 6 E., the E¹/₂ of Secs. 5, 8 and 17, and all of Secs. 3, 4, 9, 10, 15 and 16 (school section), the E¹/₂ of fractional Sec. 20 and fractional Sec. 21, all in T. 18 S., R. 6 E., S.B.M.

I have the honor to recommend that the Commissioner of the General Land Office be instructed to note the withdrawal of these lands from all forms of settlement and entry, and directed to advise the officers of the local land offices for the districts in which the lands are situated, of such withdrawal.

Very respectfully,

C. F. Farrabee,
Acting Commissioner.

6-23 glb.

[CHAPTER 552]

AN ACT

July 8, 1940
(S. 3931]

[Public, No. 730]

For the acquisition of Indian lands for the Parker Dam and Reservoir project,
and for other purposes.

Parker Dam proj-
ect.
Acquisition of In-
dian lands for.
49 Stat. 1039.

Determination of
amount to be paid to
Indians.

Payment by Metro-
politan Water District
of Southern Califor-
nia.

Deposit of amounts
due tribes.

25 U.S.C. §155.

Deposit of amounts
due allottees.

Use of allottee
funds.

Regulations, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in aid of the construction of the Parker Dam project, authorized by the Act of August 30, 1935 (49 Stat. 1028), there is hereby granted to the United States, its successors and assigns, subject to the provisions of this Act, all the right, title, and interest of the Indians in and to the tribal and allotted lands of the Fort Mohave Indian Reservation in Arizona and the Chemehuevi Reservation in California as may be designated by the Secretary of the Interior.

SEC. 2. The Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation for the rights granted under section 1 hereof. Such amount of money shall be paid to the Secretary of the Interior by the Metropolitan Water District of Southern California, a public corporation of the State of California, in accordance with the terms of the contract made and entered into on February 10, 1933, between the United States of America, acting through the Secretary of the Interior, and the Metropolitan Water District of Southern California. In the case of tribal lands, the amount due to the appropriate tribe shall be deposited by the said Secretary in the Treasury of the United States, pursuant to the provisions of the Act of May 17, 1926 (44 Stat. 560), as amended. The amounts due individual allottees, their heirs, or devisees shall be deposited by the said Secretary to the credit of the Superintendent of the Colorado River Indian Agency, or such other officer as shall be designated by the Secretary, for the credit on the books of the said agency to the accounts of the individual Indians concerned.

SEC. 3. Funds deposited to the credit of the allottees, their heirs, or devisees may be used, in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements now in Indian ownership, or the construction of improvements for the allottees, their heirs, or devisees, whose lands and improvements are acquired under the provisions of this Act. Lands so acquired shall be held in the same status as those from which the funds were derived.

SEC. 4. The Secretary of the Interior is hereby authorized to perform any and all acts and to prescribe such regulations as may be deemed appropriate to carry out the provisions of this Act.

Approved, July 8, 1940.

56 STAT.]

77TH CONG., 2D SESS.—CHS. 630, 631—OCT. 28, 29, 1942

1103

[CHAPTER 630]

AN ACT

For the acquisition of Indian lands required in connection with the construction, operation, and maintenance of electric transmission lines and other works, Parker Dam power project, Arizona-California.

October 28, 1942
[S. 2369]
[Public Law 764]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in aid of the construction of the Parker Dam power project, there is hereby granted to the United States, subject to the provisions of this Act, such right, title, and interest of the Indians as may be required in and to such tribal and allotted lands as may be designated by the Secretary of the Interior from time to time for the construction, operation, and maintenance of electric transmission lines and other works of the project or for the relocation or reconstruction of properties made necessary by the construction of the project.

Parker Dam power
project.
Acquisition of In-
dian lands.

SEC. 2. As lands or interests in lands are designated from time to time under this Act, the Secretary of the Interior shall determine the amount of money to be paid to the Indians as just and equitable compensation therefor. The amounts due the tribe and the individual allottees or their heirs or devisees shall be paid from funds now or hereafter made available for the Parker Dam power project to the superintendent of the appropriate Indian agency, or such other officer as may be designated by the Secretary of the Interior, for credit on the books of such agency to the accounts of the tribe and the individuals concerned.

Compensation.

SEC. 3. Funds deposited to the credit of allottees, their heirs, or devisees, may be used, in the discretion of the Secretary of the Interior, for the acquisition of other lands and improvements, or the relocation of existing improvements or construction of new improvements on the lands so acquired for the allottees or heirs whose lands and improvements are acquired under the provisions of this Act. Lands so acquired shall be held in the same status as those from which the funds were derived, and shall be nontaxable until otherwise provided by Congress.

Use of designated
funds.

SEC. 4. The Secretary of the Interior is hereby authorized to perform any and all acts and to prescribe such regulations as he may deem appropriate to carry out the provisions of this Act.

Authority of Secre-
tary of Interior.

Approved, October 28, 1942.

UPDATING THE HOOVER DAM DOCUMENTS

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

1104

August 15, 1974

Order

To : Assistant Secretary for Fish and Wildlife
and Parks
Assistant Secretary—Land and Water Resources
Commissioner of Indian Affairs

From : Secretary of the Interior /s/ John C. Whitaker

Subject: Title of Certain lands Riparian to Lake
Havasu

I have today determined to correct the designation by Secretary Ickes of November 25, 1941 that certain lands of the Chemehuevi Indian Reservation should be taken for use in the construction of Parker Dam pursuant to the Act of June 8, 1940, 54 Stat. 744. The corrected designation determines, establishes and confirms that the Chemehuevi Tribe has full equitable title to all lands within the Chemehuevi Indian Reservation riparian to Lake Havasu designated by Secretary of the Interior Ickes on November 25, 1941, between north and south boundaries as follows:

North Boundary

From a point in Section 18 T5N R25E, located as follows: Beginning at the SE Corner of said Section 18 due west 711 ft; thence N00°21'E a distance of 1304 ft; thence N51°20'W a distance of 1967 ft; thence N01°16'E a distance of 1130 ft. from said point the North Boundary is established on a line of S74°08'E to the minimum pool elevation of the west bank of Lake Havasu.

South Boundary

From a point on the south line of Sec. 33, T4N, R26E which is 3156' N89°51'E a distance of 350' more or less to the minimum pool elevation of the west bank of Lake Havasu.

This corrected designation is subject to the reservation of certain rights in the United States as follows:

(a) The right to deposit spoil and snags from Lake Havasu on said lands at locations mutually agreeable to the United States and the Tribe, provided that the Tribe's consent should not be unreasonably withheld;

(b) the right to flood and seep said lands in connection with its operations under the Act of December 21, 1928 (49 Stat. 1057), the Act of August 30, 1935 (49 Stat. 1028), and the said Act of June 28, 1946, (60 Stat. 338), as amended;

(c) the right of free ingress to, passage over and egress from said lands for the purpose of exercising the above rights and for all lawful purposes in connection with (I) protection, maintenance and administration of the Havasu National Wildlife Refuge, (II) United States responsibilities relating to administration of the Chemehuevi Indian Reservation and (III) United States responsibilities relating to Lake Havasu and the Colorado River.

Additionally, the corrected designation is subject to the valid existing rights of private persons. There are two concession contracts and approximately seventy special use permits covering some of the lands in question. These expire at various dates between the present time and 1984. I direct that they be extended, to the extent necessary, until the following dates:

(1) *Residential permits*

(a) *Residents who use the permitted lands as a full time residence for a substantial portion of each year.* I am informed that at least ten permittees are substantially full-time residents.* The latest of these permits expires on July 31, 1979. I direct that each of these permits should be extended until August 15, 1980. In addition, I am advised that several other permittees claim that they are substantially permanent residents of the area. If any individual permittee wishes formally to claim such status, by a letter directed to me, within sixty days of this date, I direct the Office of Hearings and Appeals of this Department promptly to hold an informal hearing at Havasu Landing to determine the validity of all such claims.

*These are as follows:

<u>Lot No.</u>	<u>Permittee</u>	<u>Permit Number</u>
3	L.G. & Rose M. Pasley	23503
9	J.D. & Miriam Squires	23502
12	Aaron J. & Iona R. Laur	19774
18	John W. Goodgame	HAV-58
19	Dorothy Holley	12094
28	Dick & Eunice Parton	19745
31	Joseph, Jr. & Rosemary Benjamin	14800
40	Leo Rossler	19742
52	Leonard M. Vogt	HAV-52
56	Edward F. Patterson	HAV-73

The tribe may participate in that hearing. I reserve the right to, and will, extend any such permit until August 15, 1980 if the permittee is determined by the Office of Hearings and Appeals to be a substantially full-time resident.

(b) *Other residential permittees (including those who use the permitted lands for weekend and vacation homes).* All such individual residential permits are to be extended until August 15, 1977.

(2) *Non-residential permittees.* ** These permits shall be extended until August 15, 1976.

(3) The concession contracts expire in 1979 and 1984. They will not be extended, but until their expiration the Tribe will not interfere with the rights of the contractors or the general public to have access to the lands under contract as such reasonable locations as the Secretary shall determine.

UPDATING THE HOOVER DAM DOCUMENTS

Any of these permittees may obtain further extensions at the option and with the consent of the Tribe. All permit extensions here directed shall be subject to revision of the annual use fee, to be the fair market value of the land without improvements, at the date the present permit expires. I direct that all necessary appraisals be made at that time, and that all use fees shall be apportioned between the tribe and the United States from and after this date.

This corrected designation shall also be subject to all rights of the Metropolitan Water District of Southern California under that District's contract with the United States, captioned "Cooperative Contract for Construction and Operation of Parker Dam," dated February 10, 1933 (Designated 11r-712, as supplemented and amended by contracts between the same parties dated September 29, 1936, April 7, 1939 and December 16, 1952).

••These are:

<u>Lot No.</u>	<u>Permittee</u>	<u>Permit Number</u>
34	Rialto Fish & Game Club	14821
58&59	California Division of Fish & Game	14834
66	The Plunkers Club	19747
100	Needles Rod, Boat & Gun Club	12081

Finally, the corrected designation provides that the tribe shall not construct any permanent improvements within 300 feet of the minimum pool level of Lake Havasu.

I direct that all necessary steps shall be taken to implement this decision, including modification of the boundaries of Havasu National Wildlife Refuge as established by Executive Order of President Roosevelt on January 22, 1941.

SECRETARIAL ORDER

Pursuant to the determination made by the Acting Secretary on August 15, 1974, this order corrects the designation by Secretary Ickes of November 25, 1941, that certain lands of the Chemehuevi Indian Reservation should be taken for use in the construction of Parker Dam pursuant to the Act of July 8, 1940, 54 Stat. 744. The Chemehuevi Tribe has full equitable title to all those lands within the Chemehuevi Indian Reservation designated to be taken by Secretary Ickes in 1941 between the operating pool level of Lake Havasu on the east (elevation 450 feet m.s.l.) and the following north and south boundaries:

North Boundary

From a point in Section 18 T5N R25E, located as follows: Beginning at the SE Corner of said section-18 S89°22'W 711 ft; thence N00°21'E a distance of 1304 ft; thence N51°20'W a distance of 1697 ft; thence N01°16'E a distance of 1130 ft. From said point the North Boundary is established on a line S74°08'E to the operating pool level of the west bank of Lake Havasu (elevation 450 feet m.s.l.).

South Boundary

From point on the south line of Sec. 33, T4N, R26E which is 3156' N89°51'E a distance of 350' more or less to the operating pool level of the west bank of Lake Havasu (elevation 450 feet m.s.l.).

This corrected designation is subject to the reservation of the following rights in the United States: ~

(a) The United States, acting under the Act of June 28, 1946 (60 Stat. 338), retains the rights to deposit spoil and snags from Lake Havasu on said lands at locations mutually agreeable to the United States and the Tribe. Such agreement will not be unreasonably withheld by the Tribe.

(b) The United States retains the right to flood and seep said lands in connection with its operations under the Act of December 21, 1928 (45 Stat. 1057), the Act of August 30, 1935 (49 Stat. 1028), and the said Act of June 28, 1946, (60 Stat. 338), as amended, and the Tribe will not construct or install or permit the construction or installation of any buildings for human habitation on any lands included in this corrected designation that are located within three hundred (300) feet landward of Lake Havasu as measured along a line horizontal to a perpendicular rising from the elevation level of four hundred fifty (450) foot m.s.l.; provided, however, that nothing herein shall be construed as imposing any restriction not now in existence whatsoever with respect to any land not included in this corrected designation which is contiguous to the land so included and which is within three hundred (300) feet landward of Lake Havasu as so measured.

The Tribe shall have the exclusive right to use and occupancy of any lands below the operating pool level of the west bank of Lake Havasu (elevation 450 feet m.s.l.) located between the north and south boundaries of this corrected designation for hunting, fishing, recreational and other similar purposes, and may, with the prior approval of the Secretary of the Interior, construct or install or permit the construction or installation of improvements on such lands.

The United States agrees that, should the operating pool level of Lake Havasu be modified to be below the elevation 450 feet m.s.l., the Secretary of the Interior will correct this designation so as to confirm, determine and establish the tribe's full equitable title to all lands between the new operating pool level and the elevation 450 feet m.s.l.

UPDATING THE HOOVER DAM DOCUMENTS

(c) The United States, its officers, agents and employees shall, at all proper times and places, freely have ingress to, passage over and egress from said lands for the purpose of exercising the rights specified in this order and for all lawful purposes in connection with (i) protection, maintenance and administration of the Havasu National Wildlife Refuge, (ii) United States responsibilities relating to administration of the Chemehuevi Indian Reservation and (iii) United States responsibilities relating to Lake Havasu and the Colorado River. The right of ingress, passage, and egress provided for in this subparagraph (c) relate only to said lands and are not intended, nor do they create, any rights with respect to any other lands.

(d) The right of the United States to make irrevocable extensions of the permit of any person now entitled to use the aforesaid land until August 15, 1980, if such person shall be determined by the Department of the Interior Office of Hearings and Appeals to be a full-time resident of the permitted lands for a substantial portion of each year.

(e) The corrected designation is also subject to all valid existing rights, including specifically the following rights of private persons:

(i) The rights of all persons holding concession contracts and special use permits referred to in Attachment A hereto, during the time that such rights shall exist under the terms of the concession contracts and special use permits, including the right of contractors, concessioners and permittees under the contracts and permits referred to in Attachment A and their agents, employees and invitees, including the public in the case of concession agreements, to have access to the lands which are the subject of said contracts and permits at such reasonable locations as the Secretary of the Interior may determine.

(ii) The rights of the Metropolitan Water District of Southern California under that District's contract with the United States, captioned "Cooperative Contract for Construction and Operation of Parker Dam," dated February 10, 1933 (Designated 11r-712), as supplemented and amended by contracts between the same parties dated September 29, 1936, April 7, 1939 and December 16, 1952.

APPENDIX XI

XI-13

Public Law 87-150

1106

AN ACT

August 17, 1961
[S. 54]

To grant eighty-one acres of public domain to the Cocopah Indians in Arizona.

Cocopah Indians.
Land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the right, title, and interest in the following described public domain are hereby declared to be held by the United States in trust for the Cocopah Indians in Arizona, subject to any valid existing rights heretofore initiated under the public land laws: lots 14 and 15, section 30, township 9 south, range 24 west; and lots 3, 4, and 5, section 25, township 9 south, range 25 west, Gila and Salt River meridian, Arizona, containing 81.64 acres.

Approved August 17, 1961.

1107

Memorandum

To: Secretary of the Interior

From: Solicitor

Subject: Western boundary of the Colorado River Indian
Reservation from the top of Riverside Mountain,
California, through section 12, T. 5 S., R. 23 E.,
S.B.M., California

This is in response to your request that we review and define the location of the western boundary of the Colorado River Indian Reservation from the top of Riverside Mountain, California, to its intersection with the line between the second and third tiers of sections in T. 5 S., R. 23 E., S.B.M., California (hereinafter referred to as from the top of Riverside Mountain through section 12, T. 5 S., R. 23 E., S.B.M., California).

The Colorado River Indian Reservation was established by the Act of March 3, 1865, 13 Stat. 541, 559. Subsequently, its boundaries were modified by the Executive Orders of November 22, 1873, November 16, 1874, May 15, 1876, and November 22, 1915. The unallotted lands of the reservation are held by the United States in trust for the Colorado River Indian Tribes. Act of April 30, 1964, 78 Stat. 188.

The Colorado River Indian Tribes have requested that the western boundary of the reservation be finally determined. Until such determination is made the leasing provisions of the Act of April 30, 1964, *supra*, do not extend to lands south of section 25, T. 2 S., R. 23 E., S.B.M., California.

The Executive Order which describes the portion of the boundary considered in this memorandum is as follows:

EXECUTIVE MANSION, May 15, 1876.

Whereas an Executive Order was issued November 16, 1874, defining the limits of the Colorado River Indian Reservation, which purported to cover, but did not, all the lands theretofore set apart by act of Congress approved March 3, 1865, and Executive Order dated November 22, 1873; and whereas the order of November 16, 1874, did not revoke the order of November 22, 1873, it is hereby ordered that all lands withdrawn from sale by either of these orders are still set apart for Indian purposes; and the following are hereby declared to be the boundaries of the Colorado River Indian Reservation in Arizona and California, viz:

Beginning at a point where La Paz Arroyo enters the Colorado River, 4 miles above Ehrenberg; thence easterly with said arroyo to a point south of the crest of La Paz Mountain; thence with said mountain crest in a northerly direction to the top of Black Mountain; thence in a northwesterly direction over the Colorado River to the top of Monument Peak, in the State of California; thence southwesterly in a straight line to the top of Riverside Mountain, California; thence in a direct line toward the place of beginning to the west bank of the Colorado River; thence down said west bank to a point opposite the place of beginning; thence to the place of beginning.

U. S. Grant

This opinion deals only with that portion of the above-described boundary from the top of Riverside Mountain through section 12, T. 5 S., R. 23 E., S.B.M., California.

As established by the Act of March 3, 1865, *supra*, and enlarged by the Executive Order of November 22, 1873, the Colorado River Indian Reservation was located in the Territory of Arizona and bounded on the west by the Colorado River. Lands in California were first added to the reservation by the Executive Order of November 16, 1874. The record discloses that this latter Executive Order enlarging the reservation was designed to make possible control of access to the reservation from the west and to avoid loss (transfer of land) caused by changes in the channel of the Colorado River. That segment of the west boundary of the reservation germane to this memorandum, i.e., from the top of Riverside Mountain to the west bank of the Colorado River, was described in the Executive Order of November 16, 1874, as a line “• • • [from the top of Riverside Mountain] in a Southeasterly direction to the point of beginning • • • .”

When this segment of the boundary was surveyed in 1875 by Chandler Robbins, it was ascertained that this line severed a large tract of valuable land on the east side of the river which had been reserved for Indian use by the Act of March 3, 1865, *supra*, and the Executive Order of November 22, 1873. Because of this fact, the Indian Agent in charge of the reservation, by letter of January 31, 1876, requested the Commissioner of Indian Affairs to obtain an Executive Order changing the boundary line of the reservation between Riverside Mountain and the place of beginning, making the Colorado River the boundary line. Thereafter, by letter of May 10, 1876, from the Acting Commissioner to the Secretary of the Interior, it was recommended that the President be requested to issue an order changing this boundary line so that when it reached the west bank of the Colorado River it would follow said west bank down the river to a point opposite the point of beginning, thence to the place of beginning. Following a concurrence in the recommendation of the Commissioner of Indian Affairs by the Acting Secretary, the President issued the Executive Order of May 15, 1876. For many years the proper location of the west boundary of the reservation, as described in the Executive Order of May 15, 1876, has been in dispute.

During the trial of *Arizona v. California, et al.*, the United States claimed water rights for an extensive area of irrigable lands along the west side of the river. California resisted the claim of the United States for any lands south of section 25, T. 2 S., R. 23 E., on the grounds that there were no such lands within the boundary of the reservation. California's contention was based upon the fact that the west bank of the river, which was the call of the west boundary of the reservation in the Executive Order of May 15, 1876, established a boundary that would change with movements of the river. The United States contended, among other things, that this Executive Order established a permanent and unchanging boundary along the west bank of the river as it existed in 1876.

The Special Master ordered that the proper position of the boundary be litigated and, following trial, the Special Master made Findings of Act and Conclusions of Law which, in effect, held that the Executive Order of May 15, 1876, established a boundary which changes as the course of the Colorado River changes, except when such changes are due to an avulsion. He further held that two avulsive changes had severed lands from the reservation and placed these lands on the west side of the river. The effect of the Master's holding was to disallow any claim of the United States for water for lands south of section 25, T. 2 S., R. 23 E., which were located on the west side of the Colorado River except in the two areas the Master found to have been severed from the reservation and placed on the west side of the river by manmade avulsive changes in the river's course.

Before the Supreme Court, California excepted to the Findings of Fact and Conclusions of Law of the Special Master. In ruling thereon, the Supreme Court disagreed with the Special Master's decision to determine the disputed boundary of the Colorado River Indian Reservation. *Arizona v. California, et al.*,

UPDATING THE HOOVER DAM DOCUMENTS

373 U.S. 546, 601 (1963). The effect of the Supreme Court's decision was to leave the boundary question open for future determination.

Location of the Boundary Between Riverside Mountain and the West Bank of the Colorado River

The proper position of the first segment of the boundary from the top of Riverside Mountain to the west bank of the river presents little difficulty. The first question that arises is which of two peaks on Riverside Mountain is the top. Absent specific definition in the Executive Orders of November 16, 1874, and May 15, 1876, it is believed that the term "top of Riverside Mountain" should be given its commonly accepted meaning and, therefore, means the highest point of that mountain.

The "top of Riverside Mountain" was supposedly monumented during a survey in 1912 by R. A. Farmer; however, there is evidence that this corner was not placed on the highest point of the mountain and, therefore, does not represent the true corner of the reservation boundary. In these circumstances, the language of the Executive Orders of November 16, 1874, and May 15, 1876, must control and the erroneous Farmer survey should be suspended in the reach from Riverside Mountain to the Colorado River for reasons hereinafter stated.

It is concluded that the reservation boundary in this reach should follow a line from the highest point on Riverside Mountain on a direct bearing toward the place of beginning as described in the Executive Order of May 15, 1876, until it strikes the proper location of the west bank of the river as it existed in 1876. This line should terminate at the point it intersects the west bank. The Executive Order clearly stated the line should go to the west bank, not half-way down the bank, to the water's edge, or any other place. The bank of a river is the water-washed and relatively permanent elevation or acclivity at the outer line of the riverbed which separates the bed from the adjacent upland, whether hill or valley, and serves to confine the waters when they reach and wash the bank without overflowing it. *Oklahoma v. Texas*, 260 U.S. 606 (1923). It is, therefore, concluded that the call to the west bank must be taken to mean the line of ordinary high water as it existed in 1876.

In determining the location of a boundary, when the United States has not conveyed its title to the abutting lands, it may survey and resurvey what it owns and establish and reestablish boundaries. *United States v. State Investment Co.*, 264 U.S. 206 (1924). The record discloses that all the lands outside the reservation boundary in this reach are owned by the United States and are under the jurisdiction of the Department of the Interior. The lands inside the boundary are owned by the United States in trust for the Colorado River Indian Tribes. No private ownerships are involved. In 1879, W. F. Benson established a meander corner common to sections 25 and 36, T. 2 S., R. 23 E., S.B.M., at a point on the west bank of the Colorado River which also fell on the line between the highest point on Riverside Mountain and the place of beginning. In these circumstances, as a matter of administrative convenience, it may be determined that the reservation boundary can and should be reestablished as a line between the highest point of Riverside Mountain and the meander corner common to the aforesaid sections 25 and 36. This line is sustained by adequate evidence of the proper location of the boundary as described in the Executive Order of May 15, 1876.

Location of the Boundary from Section 25, T. 2 S., R. 23 E., through Section 12, T. 5 S., R. 23 E., S.B.M.

From the point where the line from Riverside Mountain intersects the bank of the river, as described above, the second segment of the boundary should follow downstream along the bank of the river at the line of ordinary high water as it existed at the time of the issuance of the Executive Order of May 15, 1876, to the south boundary of section 12, T. 5 S., R. 23 E., S.B.M., subject to the application of the doctrine of erosion and accretion and avulsion to any intervening changes. *Oklahoma v. Texas*, *supra*.

With regard to such intervening changes, when the banks of a river change gradually and imperceptibly, the process is called erosion and accretion and a riparian owner's boundary will remain the stream. In cases where a river suddenly abandons its old bed and seeks a new course, the change is termed an avulsion and a riparian owner's boundary will become fixed and permanent along the line of the former channel. *Nebraska v. Iowa*, 143 U.S. 359 (1892).

The Executive Order of May 15, 1876, which included lands located east of the west bank of the river, would operate as to all those lands not previously disposed of by the United States, as unquestionably the President had the power to reserve the lands by Executive Order. *Sioux Tribe of Indians v. United States*, 316 U.S. 317 (1942); *United States v. Midwest Oil Co.*, 236 U.S. 459 (1915). A portion of the west half of the riverbed, however, was owned at that time by the State of California because the Colorado River has been held to be a navigable stream in the reach here under consideration. *Arizona v. California. et al.*, 283 U.S. 423 (1931). The soil beneath navigable waters was not granted by the original states under the Constitution to the United States but was reserved to the States. *Pollard v. Hagen*, 44 U.S. (3 How.) 212 (1845). Upon the admission of a new State into the Union on an equal footing it acquires all the rights of the original States which, it has been held, includes title to the lands underlying navigable waters. *Mumford v. Wardwell*, 73 U.S. (6 Wall.) 423 (1867). The extent of the ownership acquired by the States upon admission is the soil below ordinary high-water mark. *Mobile Transp. Co. v. City of Mobile*, 187 U.S. 479 (1903). Thereafter, where a navigable stream is a boundary a riparian owner's title will extend to low or high-water mark or to the center of the stream according to the law of the State in which it is situated. *Packer v. Bird*, 137 U.S. 661 (1891). The United States like any other riparian owner takes such title to submerged lands as may be conferred by State action. *Donnelly v. United States*, 228 U.S. 243 (1913).

In 1873, California enacted a law, now codified as Civil Code § 830, which had the effect of granting to riparian owners on nontidal navigable waters ownership of the soil to low-water mark. It therefore follows that in those areas where the United States owned the uplands, it gained title under State law to the low-water mark. 43 Cal. Ops. Atty. Gen. 291 (1964); *Crews v. Johnson*, 21 Cal. Rptr. 37 (1962). It is concluded, therefore, that at the time of issuance of the Executive Order of May 15, 1876, the United States owned the area between ordinary high-water mark and low-water mark except in those areas where it may have previously disposed of lands abutting the ordinary high-water mark. The record discloses, however, that in 1876 the United States owned all the lands abutting the west bank of the Colorado River from the above-mentioned section 25, T. 2 S., R. 23 E., south through section 12, T. 5 S., R. 23 E.

In issuing the Executive Order of May 15, 1876, the United States effectively severed that portion of the lands between the high and low-water marks by including them in the reservation, thus, effectively segregating these lands from public lands lying to the west thereof. It must be concluded that the Executive Order was effective to reserve any lands within the river then owned by the United States as such order clearly intended that the river be included in the reservation.

Thereafter, accretions forming against this shoreline to the east thereof would be lands held in trust for the Colorado River Indian Tribes in those areas where the river has moved to the east by the normal process of erosion and accretion. Similarly, in those areas where the river has moved to the west by the normal process of erosion and accretion, any accretions forming on the east side of the river are owned by the United States in trust for the Colorado River Indian Tribes.

In possible conflict with the reservation boundary, as hereinabove set out, are three tracts of school lands, these being sections 36 in Tps. 2, 3, and 4 S., R. 23 E. While the Act of Congress which granted California its school lands was passed in 1853, 10 Stat. 244, 246, title to such lands does not pass until they are surveyed. *United States v. Morrison*, 240 U.S. 192 (1916). Moreover, title to the school lands thus granted was expressly subject to reservations created prior to survey. 10 Stat. 244, 246. These three

sections 36 were surveyed in 1879. All three were fractional sections abutting the meander line run as part of the survey.

It is the general rule that a meander line is not a line of boundary but one used to delineate the sinuosity of the bank or shore as a means of ascertaining the quantity of land in a fractional lot, the boundary line being the water itself. *St. Paul and Pacific R. Co. v. Schurmeier*, 74 U.S. (7 Wall.) 272 (1869). Thus, the Department has held on numerous occasions that grants by the United States of lands shown on plats of survey as adjoining navigable waters are not limited to the meander line but extend to the water line. *Harvey M. La Follette*, 26 L.D. 453 (1898). *John J. Serry*, 27 L.D. 330 (1898). *Gleason v. Pent*, 14 L.D. 375 (1892). *Louis W. Pierce*, 18 L.D. 328 (1894). While this rule has been applied in cases involving the issuance of a patent, the certification of lands (such as school lands) is equivalent to patent and divests the Department of all jurisdiction over the lands or title thereto. *Frasher v. O'Conner*, 115 U.S. 102 (1885). *Smith v. Portage Lake and Superior Ship Canal Co.*, 11 L.D. 475 (1890). *State of California v. Boddy*, 9 L.D. 636 (1889).

Against this background, it can be expected that the State or its successors in interest might claim title to accretions to these three school sections. However, as above noted, title to these lands was expressly subject to reservations created prior to the survey thereof. Inasmuch as the Executive Order of May 15, 1876, effectively segregated the shoreline from these fractional sections 36 by including it in the reservation, it is concluded that accretions to this shoreline are lands held in trust for the Colorado River Indian Tribes and that they did not attach to the three fractional sections 36 as surveyed in 1879. For these reasons, correction surveys approved in 1964 which apportioned accretion lands to sections 36, Tps. 3 and 4 S., R. 23 E., should be suspended and the accretion surveys of these townships approved in 1962 should be reinstated in their entirety.

There are also three parcels of School Indemnity Lands in sections 1 and 12, T. 5 S., R. 23 E., selection of which was approved in 1926. All three parcels abutted the meander line as surveyed by O. P. Calloway in 1874. Congress had previously authorized Lieu Selections in California. 14 Stat. 218, 220. However, such Lieu Selections are limited to other lands of equal acreage. 26 Stat. 796. It may also be anticipated that the State or its successors in interest would claim accretions to these Indemnity parcels. The record discloses that, at the time California made its selection of these fractional lots, substantial accretions had previously formed between the meander line abutting these parcels and the course of the river. Since California was in any event limited to lands of equal acreage in making its Lieu Selections, it cannot be said that approval of these School Indemnity Lands carried accretions which had previously formed. To hold otherwise would mean that California acquired lands in excess of that which was permitted by law. This then, is an additional reason why the accretions would not have passed with title to the fractional lots. Of course, the rationale with regard to accretions to the school sections hereinabove discussed is equally applicable to the School Indemnity Lands in that the inclusion of the shoreline in the reservation prior to disposal of the fractional lots effectively segregated such shoreline from the abutting lands which the State eventually selected.

As mentioned above, the proper location of the boundary in the reach from section 25, T. 2 S., R. 23 E., through section 12, T. 5 S., R. 23 E., is the line of ordinary high water along the west bank of the river at the time of issuance of the Executive Order of May 15, 1876, subject to application of the doctrine of erosion and accretion and avulsion. Absolute certainty as to the location of the bank in 1876 is probably not possible to achieve. However, in fixing the boundary, all that is required is such certainty as is reasonable as a practical matter, having regard to the circumstances. *Arkansas v. Tennessee*, 269 U.S. 152 (1925). The record discloses that the reach of the bank of the river from section 25, T. 2 S., R. 23 E., through T. 4 S., R. 23 E., was meandered in 1879 and that portion of the right bank in sections 1 and 12, T. 5 S., R. 23 E., was meandered in 1874. These meander lines were reestablished in a dependent resurvey made by the Bureau of Land Management in 1958.

As noted above, in 1876 the United States owned all the lands abutting the river on the west from the above-mentioned section 25, T. 2 S., R. 23 E., south through section 12, T. 5 S., R. 23 E. Also, the record indicates the present course of the river in this reach is now along or east of its position as surveyed in 1874 and 1879, except in two insignificant respects. The record also discloses that the lands presently lying between the meander lines of 1874 and 1879 and the right bank of the river were formed by accretion. Since the bulk of the lands abutting these meander lines on the west are presently owned by the United States and those lands in non-federal ownership located to the west of the meander lines are not entitled to accretions as against the United States in any event, these meander lines may be adopted as the boundary of the reservation as a matter of administrative convenience. Only lands of the United States under the jurisdiction of the Department of the Interior are involved. Considering the nature of surveys in isolated areas and the limits of accuracy which could be achieved with equipment available nearly 100 years ago, it is concluded that these lines are adequate evidence of the proper location of the reservation boundary as they are reasonable as a practical matter, having regard to the circumstances. *Arkansas v. Tennessee*, *supra*.

In summary, it is concluded that in those areas where the United States has not conveyed its title to the lands abutting the reservation, it may survey and resurvey what it owns and establish and reestablish boundaries. *United States v. State Investment Co.*, *supra*. The United States may make or correct its surveys and such are not assailable in the courts, except in a direct proceeding. *Cragin v. Powell*, 128 U.S. 691 (1888). Therefore, in the above-mentioned areas, it is concluded the determination of the reservation boundary as herein made is not subject to collateral attack. As to those areas where the lands abutting the reservation boundary are in non-federal ownership, it may be expected that litigation will be necessary to extinguish claims of others which are adverse to those of the Colorado River Indian Tribes.

cc:

Commissioner of Indian Affairs(2)

Regional Solicitor, Los Angeles

Director, Bureau of Land Management (2) (detached)

UPDATING THE HOOVER DAM DOCUMENTS

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

1108

JANUARY 17, 1969

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary, Public Land Management

From: Secretary of the Interior

Subject: Western boundary of the Colorado River Indian Reservation from the top of Riverside Mountain, California, through section 12, T. 5 S., R. 23 E., S.B.M., California

I have this date received a memorandum from the Solicitor regarding the proper location of the boundary of the Colorado River Indian Reservation in the subject reach. A copy of his memorandum is attached. Acting upon the conclusions expressed in the memorandum, I have determined that certain surveys of record in your Bureau should be suspended and other surveys reinstated so as to correctly show the interest of the Colorado River Indian Tribes in certain lands.

The presently monumented boundary of the reservation in the reach between Riverside Mountain and the Colorado River is shown on the plat of survey for T. 2 S., R. 23 E., S.B.M., approved November 20, 1913. I have concluded that this survey did not correctly locate the boundary line in this reach because it did not conform to the call of the Executive Order of May 15, 1876, that the boundary should be a direct line from the top of Riverside Mountain, California, toward the place of beginning to the west bank of the Colorado River. I have determined that the above-mentioned plat of survey should be suspended. The proper position of the reservation boundary should be a line from the highest point on Riverside Mountain to the meander corner common to fractional sections 25 and 36, T. 2 S., R. 23 E., S.B.M., as shown on the plat of survey of this township approved May 22, 1879, and reestablished by the dependent resurvey of the same township reflected on the plat of survey accepted July 22, 1958.

I have also determined that the proper location of the reservation boundary from section 25, T. 2 S., R. 23 E., S.B.M., through section 12, T. 5 S., R. 23 E., S.B.M., is along the meander lines shown on the plats of survey in Tps. 2, 3 and 4 S., R. 23 E., S.B.M., approved May 22, 1879, and T. 5 S., R. 23 E., S.B.M., approved December 28, 1874, all as reestablished by the dependent resurvey of these townships reflected on the plats of survey accepted July 22, 1958.

In 1961, accretion surveys of lands now lying between the aforementioned meander lines of 1874 and 1879 and the west bank of the Colorado River were undertaken in Tps. 3 and 4 S., R. 23 E., S.B.M., and T. 5 S., Rs. 23 and 24 E., S.B.M. Plats thereof were accepted on May 21, 1962. By your letter of January 27, 1964, to the State Director at Sacramento, California, you ordered that the plats of survey in Tps. 3 and 4 S., R. 23 E., S.B.M., be suspended as to the sections 36 in those townships. Thereafter, correction surveys of those sections 36 were undertaken which apportioned to them certain accretion lands. Plats of these correction surveys were accepted on October 28, 1964.

In light of the conclusion that the reservation boundary in the subject reach is along the meander lines established in 1874 and 1879, accretions to this boundary are lands of the United States held in trust for the Colorado River Indian Tribes. Thus the correction surveys, accepted October 28, 1964, apportioning

APPENDIX XI

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accretion lands to the sections 36 are incorrect and should be suspended. Also the 1962 accretion surveys in Tps. 3 and 4 S., R. 23 E., S.B.M., should be reinstated in their entirety.

Please take such action as may be appropriate to reflect the conclusions herein stated, including suspension and reinstatement of plats. Also please note the official records accordingly so that henceforth such records will indicate the proper location of the boundary of the Colorado River Indian Reservation in the subject area.

(Sgd) Stewart L. Udall

Attachment

1109

Mar. 30
1870 Camp Mohave Military Reservation, Mohave County, Arizona Territory, lying on the Colorado River, and containing 5,582 acres in the post reserve, and 9.114.81 acres* in the hay and wood reserves, established.

*Given as 904.18 acres in 1880 GLO 46; 1884 GLO 36 and 1885 GLO 148.

(1916 MR 484; 1880 GLO 46; 1884 GLO 36; 1885 GLO 148; 1886 GLO 243; 1890 GLO 167; 1891 GLO 139; 1892 GLO 229; 1893 GLO 148; 1894 GLO 247)

1110

Sept. 19
1890 [Acting War Secretary's recommendation of Sept. 18, 1890 that the Fort Mohave Military Reservation, Arizona Territory, be transferred to the Interior Department for Indian school purposes, under the act of July 31, 1882 (22 Stat. L. 181)] approved.

I IR 13

EXECUTIVE ORDER.

It is hereby ordered that the following described lands in Arizona, viz, Sections 4, 6, 8, 16, fractional 20, W/2 of 22, SW/4 of SW/4 of 26 and fractional Sections 28 and 34, T. 16 N., R. 21, fractional Section 12, T. 16 N., R. 22, Sections 6, 8, W/2 of 16, 18, 20, 28, 30, 32 and W/2 of 34, T. 17 N., R. 21, Sections 2, fractional 4, fractional 10, 12, 14, fractional 22, fractional 24 and fractional 36, T. 17 N., R. 22, W/2 of Section 18 and Section 30, T. 18 N., R. 21, Sections 2, 12, 14, 24, 26, fractional 28, fractional 34, 36, and all of Sections 10 and 22, not included within the present boundaries of the Fort Mojave Indian Reservation, T. 18 N., R. 22, and all of the S/2 of Section 34, not included within the present boundaries of the Fort Mojave Indian Reservation, T. 19 N., R. 22, all west of the Gila and Salt River Meridian, be, and the same are hereby, withdrawn from settlement and entry and set apart as an addition to the present Fort Mojave Indian Reservation in Arizona, for the use and occupation of the Fort Mojave and such other Indians as the Secretary of the Interior may see fit to settle thereon: Provided, That nothing herein shall affect any existing valid rights of any person to the lands described.

Wm H TAFT

The White House

December 1, 1910.

[No. 1267.]

UPDATING THE HOOVER DAM DOCUMENTS

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

1112

Memorandum

June 3, 1974

To: Secretary of the Interior

From: Solicitor

Subject: Location of the western boundary of the Hay
and Wood Reserve portion of the Fort Mojave
Indian Reservation.

On March 8, 1974, I met with a delegation from the Fort Mojave Tribe who brought to my attention a long standing dispute over the exact location of the western boundary of that portion of their reservation which had originally been the hay and wood reserve for the military post at Camp Mojave. The details of the dispute are set out fully in the attached memorandum to me from the Associate Solicitor for Indian Affairs.

Attorneys in the other divisions of my office have reviewed this dispute and the memorandum from the Associate Solicitor. I have also personally reviewed the matter and discussed it with all the attorneys involved. I am convinced that this Department as a matter of law should acknowledge and declare that the correct western boundary of the Hay and Wood Reserve portion of the Fort Mohave Reservation is most accurately reflected by the courses, distances and acreage descriptions contained in the plats and notes of survey which accompanied the Executive Order of March 30, 1870.

In order to finally resolve this dispute, it will be necessary to declare null and void a previous 1928 resurvey of this boundary by Sidney Blout of the General Land Office. This 1928 resurvey was approved by the General Land Office in 1931. In 1957, the Secretary approved a tribal constitution which stated that the Hay and Wood Reserve contained 9114.81 acres, which in turn conforms to the courses and distances and acreage description in the 1870 Executive Order.

It is likely that the Director, Bureau of Land Management, may also have to take some other actions to remove any cloud on the right of the Fort Mojave Tribe to use and occupy the area included within the area described by the courses and distances referred to above. In the event you concur, a memorandum to the Director, Bureau of Land Management which would accomplish those results is attached for your signature.

/S/KENT FRIZZELL

Solicitor

BIA, Area Director, Phoenix
Regional Solicitor, Sacramento
Field Solicitor, Phoenix

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

1113

Memorandum

June 3, 1974

To: Director, Bureau of Land Management
Through: Assistant Secretary, Land and Water Resources

From: Secretary of the Interior

Subject: Western Boundary of the Hay and Wood Reserve of the Fort Mojave Indian Reservation
Arizona, California and Nevada

I have this date received a memorandum from the Solicitor regarding the proper location of the western boundary of the Hay and Wood Reserve of the Fort Mojave Indian Reservation. A copy of his memorandum is attached.

Acting upon the conclusions expressed in the Solicitor's memorandum, I have determined that the 1928 resurvey conducted by Sidney Blout under direction of the General Land Office, and the plat representing that resurvey of the above-mentioned western boundary of the Hay and Wood Reserve, approved November 15, 1930, and accepted on January 23, 1931, should be declared null and void and to have no further force or effect.

The western boundary of the "Camp Mojave Reservation for Hay and Wood" is most accurately determined and established in accordance with the intent of the original survey by using the courses, distances and acreage as described in the plats and notes of survey accompanying the Executive Order of March 30, 1870. I reject as erroneous those portions of that description which make reference to posts "marked U.S. in a mound of earth near the left bank of the Colorado River" used in connection with Corner III and Corner IV appearing on the plat and in the notes of survey accompanying the above mentioned Executive Order of March 30, 1870.

Please take all such actions as may be appropriate to implement the conclusions herein stated, including declaring null and void the above-mentioned 1928 resurvey and the plat respecting that resurvey of the western boundary of the Hay and Wood Reserve accepted January 23, 1931, and resurveying the Reserve to conform to the acreage description of 9114.81 acres. Correct Corner III and Corner IV should be reestablished in accordance with the courses and distances described in the plats and notes of the survey accompanying Executive Order of March 30, 1870, to replace the erroneous and rejected Corner III and Corner IV established by the 1928 resurvey.

It is also requested that a determination be made as to what third-party interests may have been established and that appropriate action be taken to subrogate such interests to the Fort Mojave Tribe in those instances in which it is determined that such third-party interests affect the lands inside the now recognized western boundary of the reservation.

UPDATING THE HOOVER DAM DOCUMENTS

Please note the official records accordingly so that henceforth such records will indicate the proper location of the western boundary of the Hay and Wood Reserve of the Fort Mojave Indian Reservation in the subject area.

(sgd) Rogers C. B. Morton

BIA, Area Director, Phoenix
Regional Solicitor, Sacramento
Field Solicitor, Phoenix