

CENTRAL VALLEY FLOOD PROTECTION BOARD

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February 14, 2020

Governor's Office of Planning & Research

FEB 14 2020

Ms. Heather Green
California Department of Water Resources
3500 Industrial Boulevard
West Sacramento, California 95691

STATE CLEARINGHOUSE

Subject: Lookout Slough Tidal Habitat Restoration and Flood Improvement Project,
Draft Environmental Impact Report, State Clearinghouse No. 2019039136

Location: Solano and Yolo Counties

Dear Ms. Green,

Thank you for the opportunity to comment on the Lookout Slough Tidal Habitat Restoration and Flood Improvement Project Draft Environmental Impact Report (DEIR). The DEIR was prepared to disclose and address potential environmental impacts associated with the proposed Lookout Slough Project. The proposed project involves habitat restoration and flood control enhancement of an approximate 3,400-acre area into a self-sustaining tidal marsh and floodplain. This enhancement is required as part of U.S Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) issued Biological Opinions in 2008 and 2009, in which the California Department of Water Resources (DWR) must restore 8,000 acres of tidal marsh complex in the Delta to provide habitat for Delta Smelt and salmonids.

To restore and enhance upland, tidal, subtidal, and floodplain habitat designed to perform a range of habitat functions for targeted species, the project involves levee modifications, grading, fill placement, revegetation. The proposed project would construct a new setback levee along Duck Slough and Liberty Island Road (Duck Slough Setback Levee) to replace flood protection currently offered by the existing Shag Slough Levee, which would be breached at nine locations and degraded along two segments. The existing Cache/Hass Slough levee would be improved to reduce subsidence and prevent erosion and would function as a training levee to prevent increases in water surface elevations in Cache and Hass Sloughs. Proposed levee modifications would help meet regional flood protection objectives in a manner consistent with DWR's 2017 Sacramento Basin-wide Feasibility Study. This project is located within the Cache Slough Complex and is within the Central Valley Flood Protection Board's (Board) permitting authority, thereby requiring an encroachment permit.

The Board, as a Responsible Agency under the California Environmental Quality Act (CEQA), will review and consider the environmental effects of the proposed project identified in the Environmental Impact Report, and reach its own conclusions on whether and how to approve the project involved (14 CCR 15096, subd. (a)). Accordingly, the comments herein are intended to assist in the development of a robust CEQA document capable of supporting the Board's permitting process.

As a partner in the Yolo Bypass/Cache Slough Partnership, the Board supports this project. However, as a regulatory agency permitting this proposed project, the Board has the following concerns about the project. Page III-6 of the DEIR describes Cache Slough Complex levee maintenance responsibilities as shared among DWR, the U.S. Army Corps of Engineers (USACE), and local reclamation districts. While DWR and local reclamation districts are responsible for levee maintenance, it is the Board who has provided assurances to the USACE of operation and maintenance of State Plan of Flood Control (SPFC) levees. The USACE does not share any levee maintenance responsibilities.

Page III-20 of the DEIR states that Reclamation District (RD) 2098 would be responsible for maintaining the Duck Slough Setback Levee after project completion. Pages III-47 through III-49 of the DEIR describe the Post-Construction Operations and Maintenance of the proposed project. It states that RD 2098 would be responsible for implementing long-term operations and management of the Duck Slough Setback Levee and DWR would be responsible for implementing long-term management and monitoring activities of the remainder of the Proposed Project Site. The DEIR does not address whether it will be financially feasible for RD 2098 to provide long-term operation and maintenance for the Duck Slough Setback Levee. The Board is aware that the proposed project will create a reduction in revenue for RD 2098 to operate and maintain the Duck Slough Setback Levee in perpetuity. There is concern that RD 2098's lack of revenue would not allow the required operation and maintenance of the Duck Slough Setback Levee, potentially causing flood risk impacts to the surrounding property and flood facilities.

Page IV.D.53 of the DEIR describes Mitigation Measure BIO-2 which requires a Restoration Plan that will be provided to DWR prior to the start of construction, and that it may be included as part of the proposed project's Adaptive Management and Monitoring Plan or Long-Term Management Plan. The Board will require a Long-Term Management Plan be submitted as part of its permitting process. This plan should include information regarding how the proposed project site will be managed and maintained in perpetuity, once restoration is deemed complete. In addition, detailed information regarding how RD 2098 will generate revenue to operate and maintain the Duck Slough Setback Levee in perpetuity should be included.

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The EIR should include language describing that there is sufficient funding and executed agreements between DWR, RD 2098, and Ecosystem Investment Partners (the project proponent) to facilitate the transfer of property and maintenance responsibilities to DWR. The EIR should also reference that the proposed project will be maintained in perpetuity, in compliance with the Board's Operation, Maintenance, Repair, Replacement and Rehabilitation resolution. In addition, RD 2098 will need to update its maintenance responsibilities to the Board through the Board's adoption of an assurance agreement prior to encroachment permit issuance.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (916) 574-0332, or via email at Andrea.Buckley@CVFlood.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Andrea Buckley". The signature is fluid and cursive, with the first name "Andrea" written in a larger, more prominent script than the last name "Buckley".

Andrea Buckley, Chief
Environmental Services and Land Management Branch

cc: Office of Planning and Research
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