

Appendix W – NOP Comment Letters.

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CENTRAL DELTA WATER AGENCY

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*George Biagi, Jr.
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COUNSEL

*Dante John Nomellini
Dante John Nomellini, Jr.*

April 22, 2019

Via Email Only to FRPA@water.ca.gov

Attn: Heather Green
Lookout Slough NOP
3500 Industrial Blvd
West Sacramento, CA 95691

Re: CDWA Comments on the Notice of Preparation of an EIR for the Lookout Slough Restoration Project.

Dear Ms. Green:

On April 15, 2019, the CDWA provided the attached comments on a similar type of project, i.e., the “Partial Recirculation of the Draft EIR for the Prospect Island Tidal Habitat Restoration Project.” Those comments raise issues and concerns that the upcoming EIR for the Lookout Slough Restoration Project should thoroughly and properly address.

As more fully discussed in those attached comments, and in summary fashion, the upcoming EIR for the Lookout Slough Restoration Project, should thoroughly and properly address the following issues:

- **Piecemealing.** The justification for performing piecemealed analysis of the various individual pieces of the broader California EcoRestore project and, especially, the broader 8,000 to 9,000 acre tidal/sub-tidal component of that project must be thoroughly discussed and explained.
- **Cumulative Impacts.** Since DWR appears committed to performing a piecemealed analysis of this Project, it is imperative that DWR thoroughly and meaningfully address the cumulative impacts of this project together with the broader EcoRestore project and the broader 8,000 to 9,000 acre tidal/sub-tidal component of that project.
- **Salinity Impacts.** The EIR must thoroughly and properly address the project’s potential individual and cumulative impacts on salinity within the Delta as a result of the project’s increase in the tidal prism, increase in freshwater

evapotranspiration and other effects.

(a) **Relying on the SWP & CVP's Compliance with D-1641 is Insufficient.**

It is insufficient for the EIR to merely analyze whether the SWP and CVP will be able to offset the project's salinity (or other water quality or flow) impacts through their compliance with the SWRCB's D-1641 standards. Instead, the analysis must evaluate the project's potential individual and cumulative impacts on salinity (and on other water quality and flow parameters), and then, importantly, analyze where the water will come from in order to offset those impacts and investigate and analyze the entire host of potentially significant impacts that may result from redirecting that water from where it would have been used in the absence of the project. For example, to the extent such offsetting will foreseeably come from the SWP and/or CVP Projects' reservoir releases, impacts to cold water pool storage, carryover storage, river flows, water quality, the places of use of SWP and CVP's water contractors, etc., must be thoroughly investigated and analyzed (and any and all potentially significant impacts must be reduced or avoided to the extent feasible).

(b) **Term 91.** As explained more fully in the attached comments, the EIR must also analyze the extent to which the project, individually or cumulatively, will result in the triggering of "Term 91." When Term 91 is triggered, hundreds of water diverters within the Delta Watershed are forced to cease diverting water under their post-1914 appropriative permits or licenses that contain Term 91. The EIR must accordingly analyze the entire host of environmental resources impacted by such widespread curtailments of such diversions and propose mitigation measures and alternatives that will reduce or avoid any potentially significant impacts to the extent feasible.

- **Scope of Modeling Salinity and Other Water Quality and Flow Impacts.** The upcoming EIR must analyze the project's individual and cumulative impacts on salinity, and other water quality and flow parameters, under all reasonably foreseeable conditions, including historical multi-year drought conditions. Extensive hydrological data is readily available to feasibly perform such analysis. With regard to historical multi-year droughts, it is during those conditions when the project's individual and cumulative impacts on salinity, and on other water quality and flow parameters, will likely be the most significant and when mitigation of those impacts will be the most critical.

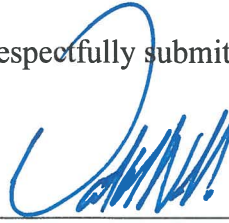
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Thank you for considering these comments and concerns.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Dante J. Nomellini, Jr.", is positioned above a horizontal line.

Dante J. Nomellini, Jr.
Attorney for the CDWA

Enclosure: CDWA's April 15, 2019 Comments on the "Partial Recirculation of the Draft EIR
for the Prospect Island Tidal Habitat Restoration Project."

Enclosure



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April 15, 2019

Via Email to Dan.Riordan@water.ca.gov
and U.S. First Class Mail to:

Attn: Dan Riordan
Department of Water Resources
Fish Restoration Program
3500 Industrial Blvd, 2nd Floor
West Sacramento, CA 95691

Re: CDWA Comments on the Partial Recirculation of the Draft EIR for the Prospect
Island Tidal Habitat Restoration Project.

Dear Mr. Riordan:

The CDWA raised numerous concerns over this Project in its comments on the Draft EIR dated October 7, 2016. The CDWA hereby supplements those comments with the following comments on the partially recirculated portions of the Draft EIR.

1. Improper Piecemealing.

The partially recirculated portions of the Draft EIR continue to improperly piecemeal this Project under CEQA. While the significance of the impacts of this Project are effectively assessed in isolation from the larger 30,000+ acre EcoRestore project of which it is a part, even more troubling is the fact that such impacts are assessed in isolation from the “Tidal & Sub-tidal Habitat Restoration” component of EcoRestore, which according to DWR’s website is 9,000 acres. (See <http://resources.ca.gov/ecorestore/> .)

Because the Project constitutes approximately 1,600 of those 9,000 acres (~18%), and 1,600 of the larger 30,000 acre project (~5%), CEQA prohibits DWR from assessing the significance of the Project’s impacts on the entire gamut of environmental resources in isolation of the impacts from the broader tidal and sub-tidal component of EcoRestore, as well as the broader EcoRestore project itself. (See e.g., Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora (2007) 155 Cal.App.4th 1214, 1223 [“the requirements of CEQA cannot be avoided by chopping up proposed projects into bite-size pieces which, when taken individually, may have no significant adverse effect on the environment”].)

The Draft EIR's conclusion, for example, that the modeling "shows a potential maximum salinity increase up to 7.8% during a dry-year hydrology" in the central Delta (at measuring station C-4 on the San Joaquin River) is the result of the conversion of a mere 1,600 acres out of the total 9,000 acres of land that is planned to be converted into tidal/sub-tidal land under EcoRestore. (Draft EIR, p. 5-129.) If every 1,600 acres, for example, had the potential to result in a 7.8% increase in salinity, then the entire 9,000 acre project would have the potential to cumulatively result in an undisputedly significant 44% increase in salinity.

One of the fundamental purposes of CEQA is to force lead agencies to properly take such cumulative effects into consideration. Thus far, DWR has failed to do so with respect to impacts on salinity, as well as impacts on all other environmental resources.

Furthermore, with regard to the Project's cumulative effects on salinity, the Draft EIR fails to explain why it would not be feasible to perform various modeling and other analysis of the potential effects that this Project, in conjunction with the other 7,400 acres of tidal and/or sub-tidal land, would have on salinity within the Delta. Various reasonable assumptions could be made in such modeling and analysis to make that modeling and analysis meaningful and to avoid analyzing this Project in isolation of the impacts from those additional 7,400 acres. Moreover, CEQA analysis has already been performed on a large number of those other tidal/sub-tidal projects; hence, such analysis could be easily and feasibly incorporated into a meaningful cumulative analysis of the entire 9,000 acre tidal/sub-tidal component of EcoRestore. (Draft EIR, pp. 3-355 & 3-356.)

2. Mishandling of Salinity Impacts.

Without supporting modeling or other detailed analysis, the Draft EIR makes the conclusory observation that "[a]t lower outflows, the combined effect of the Proposed Project in combination with other planned tidal habitat restoration projects on salinity in the Delta would [indeed] be potentially significant." (Draft EIR, p. 3-362.) Such a conclusory observation is inadequate under CEQA. Findings of significance (or non-significance) must be supported with facts and analysis. (See e.g., Ass'n of Irrigated Residents v. City of Madera (2003) 107 Cal.App.4th 1383, 1390 ["The EIR must contain facts and analysis, not just the bare conclusions of the agency"].) For example, how significant will impacts on salinity be? What time of year, and under what type of hydrological conditions, will such impacts likely occur? What environmental resources will be impacted from such impacts? Etc.

The Draft EIR further states: "However, D-1641 compliance would still be required in lower outflow years, minimizing the potential significance of this impact." (Draft EIR, p. 3-362.) As the CDWA explained in its prior October 7, 2016 comments, the Draft EIR's reliance on the Projects' compliance with D-1641 is misplaced. Water will have to come from some source and, hence, be taken away from some other use, to offset the salinity degradation from this Project (and from the larger 9,000 acre project) in order to maintain compliance with D-1641. DWR's obligation under CEQA is to thoroughly analyze the potential environmental impacts from actions, such as these, taken to offset that degradation. Thus far, DWR has made no attempt to do so.

A further complication to the Draft EIR's reliance on the Projects' compliance with D-1641 to reduce the individual (or cumulative) impacts from the Project is the fact that whenever the Projects release storage water to maintain the D-1641 standards, the State Water Board curtails all post-1914 appropriative water right holders within the Delta watershed that have "Term 91" in their water permits or licenses. Thus, to the extent this Project, individually or cumulatively, triggers the need for the Projects to release storage water to maintain one or more of D-1641's salinity or other standards, a vast number of diverters within the Delta watershed, including the Delta itself, must cease diverting under their post-1914 appropriative water rights. Such cessation of diversions has the potential to cause substantial and widespread effects on numerous environmental resources including terrestrial species, air quality, groundwater recharge, etc. (Information on Term 91 is readily available on the State Water Board's website at: https://www.waterboards.ca.gov/water_issues/programs/delta_watermaster/term91.html)

Accordingly, to the extent the Draft EIR relies on the Projects' compliance with the various D-1641 standards to mitigate the impacts from the individual or cumulative impacts of the Project, the Draft EIR must analyze the extent, and under what hydrological and other conditions, those impacts will trigger the need for the Projects to release storage water to bring those standards into compliance and analyze the entire host of environmental resources impacted by such releases, including the impacts on those resources from the widespread curtailment of post-1914 appropriative rights which contain Term 91.

If on the other hand DWR determines that it is not reasonably feasible that the Project, individually or cumulatively, will ever trigger the need for the Projects to release storage water to offset impacts on any D-1641 standard under any reasonably foreseeable drought or other hydrological condition, then DWR must provide sufficient facts and analysis to support such a determination. As it stands, and as noted above, the Draft EIR seeming concedes that the Project, may, at least cumulatively, trigger the need for such releases, and there are no facts or analysis in the Draft EIR that CDWA is aware of to suggest otherwise.

Lastly, the recirculated portions of the Draft EIR continue to limit the salinity analysis to the results of modeling performed under the hydrological conditions in years 2009 and 2010. With so much hydrological data conveniently available for other years, the Draft EIR provides no explanation why the analysis was limited to just those two years. Moreover, what is most important is an analysis of how this Project, along with the larger 9,000 acre project (not to mention the even larger 30,000 acre EcoRestore project), will impact salinity (and all other environmental resources) during foreseeable droughts like the state has experienced numerous times in the past, including the very recent past. It is during times when hydrological conditions are the driest that projects, such as the instant Project, will likely have the most adverse impacts on salinity and when mitigation of those impacts is most critical.

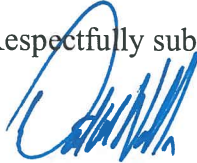
The Draft EIR, for unexplained reasons, improperly avoids analyzing the Project's individual and cumulative impacts on salinity (and all other environmental resources) under such reasonably foreseeable conditions.

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3. **Conclusion.**

As it stands the Draft EIR remains in noncompliance with CEQA. The above and another deficiencies must first be duly corrected and addressed prior to approval of this Project.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Dante J. Nomellini, Jr.", is written over a horizontal line.

Dante J. Nomellini, Jr.
Attorney for the CDWA

APR 19 2019



GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

16 April 2019

Heather Green
Department of Water Resources
3500 Industrial Boulevard
West Sacramento, CA 95691

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COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, LOOKOUT SLOUGH RESTORATION PROJECT, SCH#2019039136, SOLANO COUNTY

Pursuant to the State Clearinghouse's 22 March 2019 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation for the Draft Environmental Impact Report* for the Lookout Slough Restoration Project, located in Solano County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Mercury

The Draft Initial Study indicates that potential impacts from methylmercury may be significant. The Delta, including the Lookout Slough Restoration project area, is subject to the Delta Mercury Control Program (also referred to as the Delta Methylmercury Total Maximum Daily Load). Some wetlands can be a source of methylmercury, thus posing a potential health risk for human and wildlife consumption of aquatic organisms within and beyond the wetland. Several entities have conducted studies to develop management practices to minimize the production and bioaccumulation of methylmercury. If viable and feasible management practices are identified in the future, the project proponents will need to consider incorporating those practices during construction and future operations of wetlands on the Lookout Slough Restoration project area.

The Lookout Slough Restoration project was included in Department of Water Resource's August 2018 Delta Regional Monitoring Program (RMP) Participation Plan, so at this time, no project specific methylmercury monitoring will be required in the 401 Water Quality Certification. Currently the Delta RMP is monitoring methylmercury in fish and water at

multiple locations within the Delta and future RMP monitoring efforts may focus on mercury monitoring near habitation restoration projects.

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: https://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/regulatory_information/for_growers/coalition_groups/ or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 11-100 acres are currently \$1,277 + \$8.53/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order.

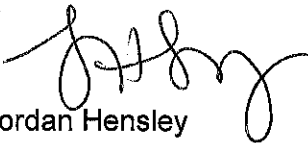
For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
<https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4812 or Jordan.Hensley@waterboards.ca.gov.


Jordan Hensley
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

DELTA PROTECTION COMMISSION

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Ex Officio Members

*Honorable Susan Talamantes
 Eggman*
 California State Assembly

Honorable Cathleen Galgiani
 California State Senate

April 17, 2019

Heather Green
 CA Department of Water Resources
 3500 Industrial Blvd.
 West Sacramento, CA 95691

Subject: Lookout Slough NOP (SCH# 2019039136)

Dear Ms. Green,

Thank you for providing the Delta Protection Commission (Commission) the opportunity to review and provide comments regarding the Lookout Slough (Project) Notice of Preparation for the Draft Environmental Impact Report (DEIR).

The Commission is a State agency charged with ensuring orderly, balanced conservation and development of Delta land resources and improved flood protection. Local governments must ensure that development projects within the Primary Zone of the Legal Delta are consistent with the Commission's Land Use and Resource Management Plan (LURMP) for the Primary Zone of the Delta. Proposed Department of Water Resources (DWR) actions are not subject to consistency requirements with the LURMP since the Project is sponsored by a State agency. However, the Commission reviewed the project for possible impacts on the resources of the Primary Zone.

The Commission requests that the following potential impacts are addressed in further depth in the DEIR:

1. Water quality: How will the proposed project affect water quality on nearby irrigated farmland? Will the project lead to greater salinity intrusion?
2. Surface water elevations and velocities: How will the proposed project modify water channel elevations, and thus impact the operation of nearby siphon pumps critical for irrigation water delivery?

DELTA PROTECTION COMMISSION

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3. Monitoring: Identify specific water quality monitoring stations to be installed prior to project implementation to measure impacts and determine adaptive mitigation measures.
4. Good Neighbor Checklist: DWR developed a Good Neighbor checklist for the Bay Delta Conservation Plan (BDCP) as a guide for restoration project managers to comprehensively consider and examine the impacts of their project on neighbors. Project proponents should include the "Good Neighbor" checklist to reduce project impacts on neighboring landowners and local agencies.
5. Aquatic Endangered Species: Ensure neighboring agricultural operations can continue to operate irrigation infrastructure given the presence of endangered aquatic species.

The Commission is supportive of projects that protect the natural resources of the Delta and preserve agriculture as a critical part of the region's economy.

We urge DWR to review the Project for consistency with LURMP policies, particularly those related to agriculture, flood protection, natural resources, recreation, water quality, and water seepage.

The Commission appreciates your consideration of these comments. Please contact Jeremy Terhune, Associate Environmental Planner, at (916) 375-4534 for any questions regarding the comments provided.

Sincerely,



Erik Vink
Executive Director

cc: Skip Thomson, Commission Member and Solano County Board of Supervisors



DELTA STEWARDSHIP COUNCIL

A California State Agency

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April 22, 2019

Chair
Susan Tatayon

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Skip Thomson
Oscar Villegas
Ken Weinberg

Executive Officer
Jessica R. Pearson

Sent via email: FRPA@water.ca.gov

RE: Comments on Notice of Preparation of an Environmental Impact Report and Scoping Meeting for the Lookout Slough Restoration Project, SCH# 2019039136

Dear Ms. Green:

Thank you for the opportunity to review and comment on the Lookout Slough Restoration Project Notice of Preparation (NOP) of an Environmental Impact Report (EIR). The Delta Stewardship Council (Council) recognizes the goal(s) of the Lookout Slough Restoration Project to restore approximately 3,000 acres of tidal marsh and create habitat for Delta Smelt and Giant Garter Snake as well as increase flood storage and flood conveyance capacity. The Council further understands that this project aims to help meet California Department of Water Resource (DWR) obligations under Reasonable and Prudent Alternative (RPA) 4 of the 2008 U.S. Fish and Wildlife Service Delta Smelt Biological Opinion (BiOp) and be consistent with RPA 1.6.1 of the 2009 U.S. National Marine Fisheries Service Salmonid BiOp for the coordinated operations of the State Water Project and Central Valley Project.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of achieving a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem, while protecting and enhancing the Delta's cultural, recreational, and agricultural values (Cal. Water Code §85054). These goals are to be achieved through implementation of the Delta Plan, regulatory portions of which became effective on September 1, 2013, and are set forth in Title 23 of the California Code of Regulations.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

Covered Action Determination and Certification of Consistency with the Delta Plan

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a legally enforceable management framework for the Delta and Suisun Marsh for achieving the coequal goals. The Delta Reform Act grants the Council specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh, referred to as “covered actions.” (Cal. Water Code §§ 85022(a) and 85057.5.) The Council exercises that authority through its regulatory policies (set forth in Title 23 of the California Code of Regulations, Sections 5001 through 5016) and recommendations incorporated into the Delta Plan. State and local agencies are required to demonstrate consistency with the Delta Plan when carrying out, approving, or funding a covered action. (Cal. Water Code §§ 85057.5 and 85225.) Water Code section 85057.5(a) provides a four-part test for meeting the definition of a covered action.

Based on the project location and scope, as provided in the NOP, the proposed project appears to meet the definition of a covered action set forth in Water Code section 85057.5(a) because it:

1. Would occur in whole or in part within the boundaries of the Legal Delta (Water Code §12220) or Suisun Marsh (Public Resources Code §29101).
2. Would be carried out, approved, or funded by the State or a local public agency.
3. Would have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta. It appears that this project would have an impact on the coequal goal of ecosystem restoration, as well as flood control and risk to people, property, and State interests.
4. Is covered by one or more of the regulatory policies contained in the Delta Plan (23 CCR sections 5003-5015). Delta Plan regulatory policies that may apply to the proposed project are discussed below.

The Delta Reform Act requires the State or local agency that proposes to undertake a covered action to file a certification of consistency with the Delta Plan prior to initiation of implementation of the project. (Cal. Water Code § 85225.)

Comments Regarding Delta Plan Policies and Potential Consistency Certification

The following section describes regulatory Delta Plan policies that may apply to the proposed project based on the available information in the NOP. This information is offered to assist DWR to prepare certified environmental documents that can be used to support the project’s eventual certification of consistency. This information may also assist DWR to better describe the relationship between the proposed project and the Delta Plan in the EIR.

General Policy 1 (G P1): Detailed Findings to Establish Consistency with the Delta Plan
Delta Plan Policy **G P1** (23 Cal. Code Regs. section 5002) specifies what must be addressed in a certification of consistency by a project proponent for a covered action. The following is a subset of G P1 requirements that a project must fulfill to demonstrate consistency with the Delta Plan:

Mitigation Measures

Delta Plan Policy **G P1, subsection (b)(2)**, (23 CCR Section 5002(b)(2)) requires that actions not exempt from the California Environmental Quality Act (CEQA) and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan Program EIR or substitute mitigation measures that are equally or more effective. Mitigation measures in the Delta Plan's Mitigation and Monitoring Reporting Program (Delta Plan MMRP) are available at:

http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attachment%202.pdf

If the Lookout Slough Restoration Project EIR identifies significant impacts that require mitigation, Council staff recommends that DWR review the Delta Plan MMRP and, when applicable and feasible, apply the mitigation measures identified in the Delta Plan or ensure that proposed project mitigation is equally or more effective than applicable Delta Plan measures.

Best Available Science

Delta Plan Policy **G P1, subsection (b)(3)**, (23 CCR Section 5002(b)(3)) requires covered actions to document use of best available science as relevant to the purpose and nature of the project.

Best available science is defined in the Delta Plan as the best scientific information and data for informing management and policy decisions, which must be consistent with the guidelines and criteria found in Appendix 1A of the Delta Plan, available at <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%201A.pdf>. (Cal. Code Regs, tit. 23, § 5001, subd. (f).). Six criteria are used to define best available science: relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review. This policy generally requires that the lead agency clearly document and communicate the process for analyzing project alternatives, impacts, and mitigation measures of proposed projects, in order to foster improved understanding and decision making. Council staff recommends that DWR document the use of best available science in the EIR, including peer-reviewed publications and planning documents used in the planning and design of the proposed project. Further, DWR should consider including a description of any technical review forums that are undertaken during project planning and design, for example the Fishery Agency Strategy Team (FAST).

Adaptive Management

Delta Plan Policy **G P1, subsection (b)(4)**, (23 CCR Regs. section 5002(b)(4)) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through: a) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B of the Delta Plan (available at <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%201B.pdf>); and b) documentation of adequate resources to implement the proposed adaptive management plan.

Ecosystem Restoration Policy 2 (ER P2): Restore Habitats at Appropriate Elevations

Delta Plan Policy **ER P2** (23 Cal. Code Regs. section 5006) requires habitat restoration to be consistent with Delta Plan Appendix 3 (<http://deltacouncil.ca.gov/docs/appendix-3>), which describes the many ecosystem benefits related to restoring floodplains and provides guidance on the types of appropriate habitats given a restoration project site's location and elevation. The elevation map included in the Delta Plan as Figure 4-6 and Appendix 4 (available at http://deltacouncil.ca.gov/sites/default/files/documents/files/Fig4-6_DP_205_Elevation_Habitat%5B1%5D.pdf) should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation.

The NOP identifies appropriate elevation and adaptation to future climate change as an important project objective (Goal 1, Objective E). The Biological Resources section of the EIR for the project should provide support for this objective by analyzing the elevation of the project site in detail in relation to current water levels and best available science for projected sea level rise. This analysis should document how the proposed ecosystem restoration project is planned at an appropriate elevation.

Ecosystem Restoration Policy 3 (ER P3): Protect Opportunities to Restore Habitat

Delta Plan Policy **ER P3** (23 Cal. Code Regs. section 5007) states that within priority habitat restoration areas (PHRAs) depicted in Appendix 5 (available at <http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%205.pdf>), significant adverse impacts to the opportunity to restore habitat at appropriate locations must be avoided or mitigated.

The project is located within the Cache Slough Priority Habitat Restoration Area. Based on the objectives listed in the NOP, and short description of how infrastructure would either be protected, relocated, or replaced, it appears the proposed project would support implementation of ER P3. The Biological Resources section of the EIR for the project should describe in detail how the proposed project would avoid or mitigate impacts to this priority habitat restoration area relative to completion and implementation of the Lookout Slough Restoration Project.

Ecosystem Restoration Policy 5 (ER P5): Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Delta Plan Policy **ER P5** (23 Cal. Code Regs. section 5009) calls for avoiding introduction of and habitat improvements for invasive, nonnative species or for mitigating these potential impacts in a manner that appropriately protects the ecosystem.

As described in the NOP, the project would address this requirement (Goal 1, Objective F). The Biological Resources section of the EIR for the project should describe how the Lookout Slough Restoration Project would address both nonnative wildlife species as well as terrestrial and aquatic weeds, and fully consider the potential for the project to introduce or improve habitat for such species. The EIR should describe specifically how the project would avoid or mitigate any conditions that would lead to establishment or expansion of habitat for nonnative invasive species. For example, given the narrow levee breaches proposed along the eastern edge of the project site, careful consideration of tidal dynamics relative to habitat conditions for invasive nonnative species on the project site is warranted.

In the event that mitigation is warranted, mitigation measures should be consistent with Delta Plan Mitigation Measure 4-1 available at http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf.

Delta as Place Policy 2 (DP P2): Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

Delta Plan Policy **DP P2** (23 Cal. Code Regs. section 5011) reflects one of the Delta Plan's charges to protect the Delta as an evolving place by siting project improvements/facilities to avoid or reduce conflicts with existing uses or planned future uses identified in the applicable city or county general plan when feasible. Policy DP P2 may also apply if mitigation habitat is required within the Delta.

The Initial Study for this project identifies a less-than-significant impact to Land Use and Planning due to the project's lack of potential to conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental impact, noting that conservation and seasonal wetland restoration are permitted land uses in the proposed project site. (IS, p. 69) As a result, the NOP does not identify Land Use and Planning as a CEQA resource area to be discussed in the EIR (NOP, p. 5).

A certification of consistency requires "detailed findings as to whether the covered action is consistent with the Delta Plan." (Cal. Water Code § 85225.) To provide detailed findings of consistency of the project with DP P2, the EIR should contain a Land Use and Planning section that includes additional analysis regarding the consideration of siting conflicts and resulting impacts as they relate to DP P2. The EIR should describe how the project would be sited to avoid or reduce conflicts with existing or planned future uses. This should include a description of measures employed by the project to mitigate conflicts with adjacent uses, and

discuss how any comments received from local agencies and the Delta Protection Commission were considered by DWR.

Risk Reduction Policy 1 (RR P1): Prioritization of State Investments in Delta Levees and Risk Reduction

Delta Plan Policy **RR P1** (23 Cal. Code Regs. section 5012) calls for the prioritization of State investments in Delta flood risk management, including levee operation, maintenance and improvements.

Goal 3 of the project includes two objectives that directly relate to RR P1. Namely, as described in the NOP, it appears that the project would help avoid adverse flood-related impacts, and would contribute to reduced risk by decreasing flood stages in the lower Yolo Bypass. The Hydrology and Water Quality section of the EIR should describe how these objectives would be achieved by the project. The EIR should also describe how the prioritization of State investments in Delta levees and risk reduction has been applied to the project.

Risk Reduction Policy 4 (RR P4): Floodplain Protection

Delta Plan Policy **RR P4** (23 Cal. Code Regs. section 5015) states that no encroachment shall be allowed or constructed in the floodplain of the Yolo Bypass within the Delta unless it can be demonstrated by appropriate analysis that the encroachment will not have a significant adverse impact on floodplain values and functions.

The Hydrology and Water Quality section of the EIR should describe if and how implementation of the project would encroach upon the Yolo Bypass, and how such encroachment would or would not affect floodplain values and functions.

CEQA Regulatory Setting

In addition to the specific comments above, the EIR's Regulatory Setting should include a discussion of the Delta Plan and the specific applicable regulatory policy or policies for each resource section to which a Delta Plan policy is applicable.

Closing Comments

As DWR proceeds with design, development, and environmental impact analysis of the project, the Council invites DWR to engage Council staff in early consultation (prior to submittal of a certification of consistency) to discuss project features and mitigation measures that would promote consistency with the Delta Plan. As part of the Council, the Delta Science Program's Adaptive Management Liaisons are also available to provide further consultation and guidance regarding appropriate application of best available science and adaptive management.

Heather Green
Lookout Slough Restoration Project
April 22, 2019
Page 7

More information on covered actions, early consultation, and the certification process can be found on the Council website, <http://deltacouncil.ca.gov/covered-actions>. The Council is available to discuss issues outlined in this letter as DWR proceeds in the next stages of the project and approval processes. Please contact Daniel Constable at (916) 332- 9338 (Daniel.Constable@deltacouncil.ca.gov) with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council



April 22, 2019

State Clearinghouse

State.Clearinghouse@opr.ca.gov

PO Box 3044

Sacramento, CA 95812-3044

CEQA Project: **SCH # 2019039136**
Lead Agency: **Department of Water Resources**
Project Title: **Lookout Slough Restoration Project**

The Division of Oil, Gas, and Geothermal Resources (Division) oversees the drilling, operation, maintenance, and plugging and abandonment of oil, natural gas, and geothermal wells. Our regulatory program emphasizes the wise development of oil, natural gas, and geothermal resources in the state through sound engineering practices that protect the environment, prevent pollution, and ensure public safety. Northern California is known for its rich gas fields. Division staff have reviewed the documents depicting the proposed project.

The Lookout Slough Restoration Project would restore approximately 3,000 acres of tidal marsh within the project area (Map 1) that would help satisfy the Department of Water Resources obligations under Reasonable and Prudent Alternative (RPA) 4 of the 2008 United States Fish and Wildlife Service Delta Smelt Biological Opinion and is consistent with RPA 1.6.1 of the 2009 National Marine Fisheries Service Salmonid Biological Opinion for the coordinated operations of the State Water Project and the Central Valley Project. The Proposed Project would create habitat that is beneficial to wildlife including delta smelt, giant garter snake, and other fish and wildlife species, and widen a portion of the Yolo Bypass to increase flood storage and conveyance, increase the resiliency of levees, and reduce flood risk.

Map 1 shows locations of thirty-seven (37) known abandoned wells located within the project area, and locations of three planned, but never installed, wells. Note that the Division has not verified the actual location of the wells nor does it make specific statements regarding the adequacy of abandonment procedures with respect to current standards. A summary of well details is included in Table 1 (attached). For future reference, you can review wells located on private and public land at the Division's website: <https://maps.conservation.ca.gov/doggr/wellfinder/#close>

Based on our review of available data, it is possible that the abandoned wellheads can impact or be impacted by work on this site, particularly in areas of planned excavations along the west side of the project and especially if excavation is to approach or exceed five (5) feet below grade. Please see Map 1 and Map 2 for locations of abandoned and idle wells on the project site and in the site vicinity. Records indicate that the abandoned well heads can be as shallow as four to five (4-5)

feet below ground surface. It would be advisable to verify the location and depth to the top of the wells prior to any work at the site in the areas where the work will involve any excavation, deeper soil movement, breaching or degrading existing or future levees, excavating tidal channels, relocating utility infrastructure, etc. Please consult with the Division and property owners prior to any removal of concrete well pads or uncovering of the well heads.

The local permitting agencies and property owner should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil and gas wells. These issues are non-exhaustively identified in the following comments and are provided by the Division for consideration by the local permitting agency, in conjunction with the property owner and/or developer, on a parcel-by-parcel or well-by-well basis. As stated above, the Division provides the above well review information solely to facilitate decisions made by the local permitting agency regarding potential development near a gas well.

1. It is recommended that access to a well located on the property be maintained in the event re-abandonment of the well becomes necessary in the future. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access. This includes, but is not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, and decking.
2. Nothing guarantees that a well abandoned to current standards will not start leaking oil, gas, and/or water in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges that wells abandoned to current standards have a lower probability of leaking oil, gas, and/or water in the future, but makes no guarantees as to the adequacy of this well's abandonment or the potential need for future re-abandonment.
3. Based on comments **1** and **2** above, the Division makes the following general recommendations:
 - a. Maintain physical access to any gas well encountered.
 - b. Ensure that the abandonment of gas wells is to current standards.

If the local permitting agency, property owner, and/or developer chooses not to follow recommendation "**b**" for a well located on the development site property, the Division believes that the importance of following recommendation "**a**" for the well located on the subject property increases. If recommendation "**a**" cannot be followed for the well located on the subject property, then the Division advises the local permitting agency, property owner, and/or developer to consider any and all alternatives to proposed construction or development on the site (see comment **4** below).

4. Sections 3208 and 3255(a)(3) of the Public Resources Code give the Division the authority to order the re-abandonment of any well that is hazardous, or that poses a danger to life, health, or natural resources. Responsibility for re-abandonment costs for any well may be affected by the choices made by the

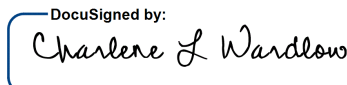
April 22, 2019

local permitting agency, property owner, and/or developer in considering the general recommendations set forth in this letter. (Cal. Public Res. Code, § 3208.1.)

5. Maintaining sufficient access to a gas well may be generally described as maintaining "rig access" to the well. Rig access allows a well servicing rig and associated necessary equipment to reach the well from a public street or access way, solely over the parcel on which the well is located. A well servicing rig, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.
6. If, during the course of development of this proposed project, any unknown well(s) is/are discovered, the Division should be notified immediately so that the newly-discovered well(s) can be incorporated into the records and investigated. The Division recommends that any wells found in the course of this project, and any pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property. This is to ensure that present and future property owners are aware of (1) the wells located on the property, and (2) potentially significant issues associated with any improvements near oil or gas wells.

No well work may be performed on any oil or gas well without written approval from the Division in the form of an appropriate permit. This includes, but is not limited to, mitigating leaking fluids or gas from abandoned wells, modifications to well casings, and/or any other re-abandonment work. (NOTE: The Division regulates the depth of any well below final grade (depth below the surface of the ground). Title 14, Section 1723.5 of the California Code of Regulations states that all well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this grade regulation, a permit from the Division is required before work can start.)

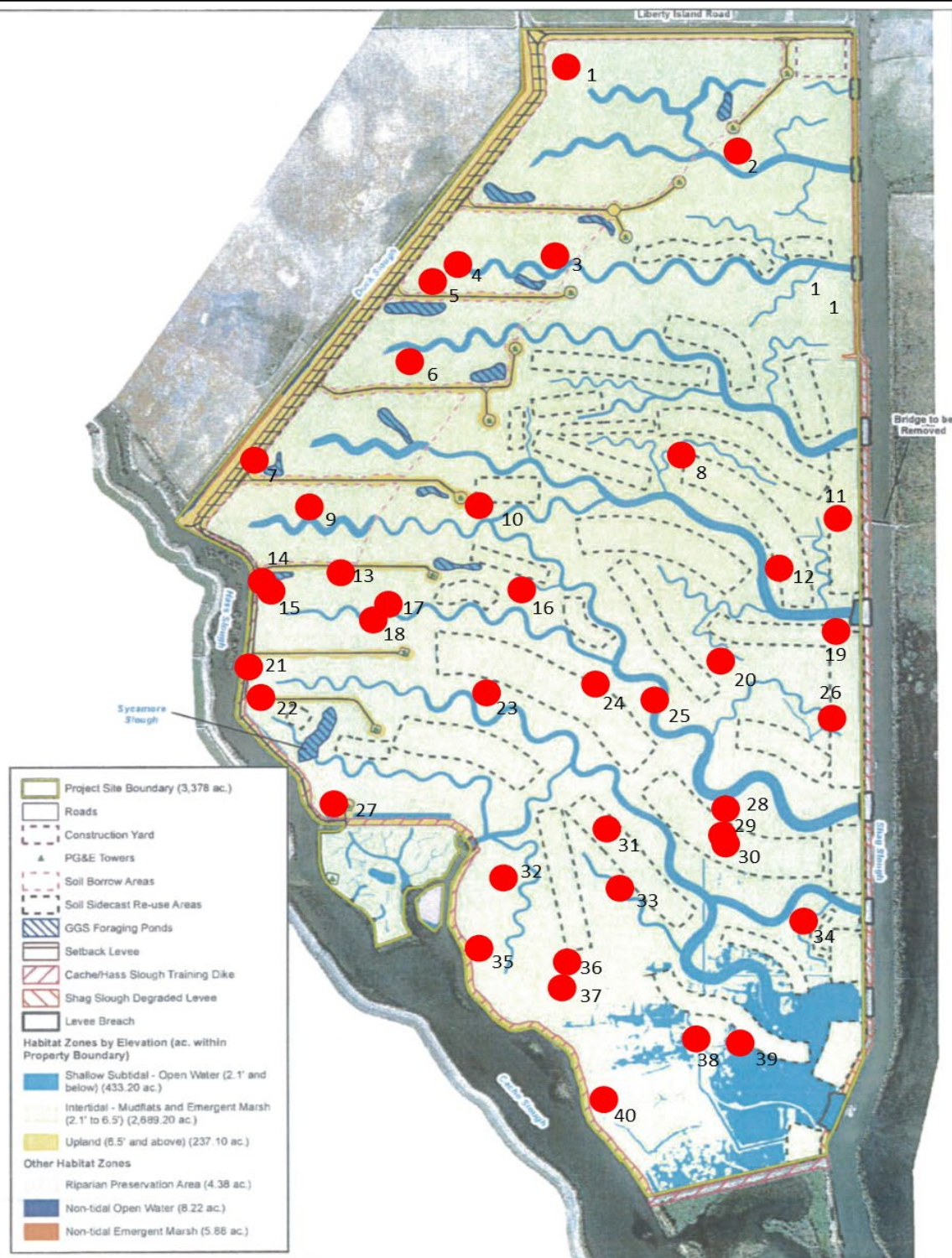
Sincerely,

DocuSigned by:

06757BD5EA114A7
Charlene L Wardlow
Northern District Deputy

Attachments: Maps (2)

Cc: Heather Green

Heather.Green@water.ca.gov



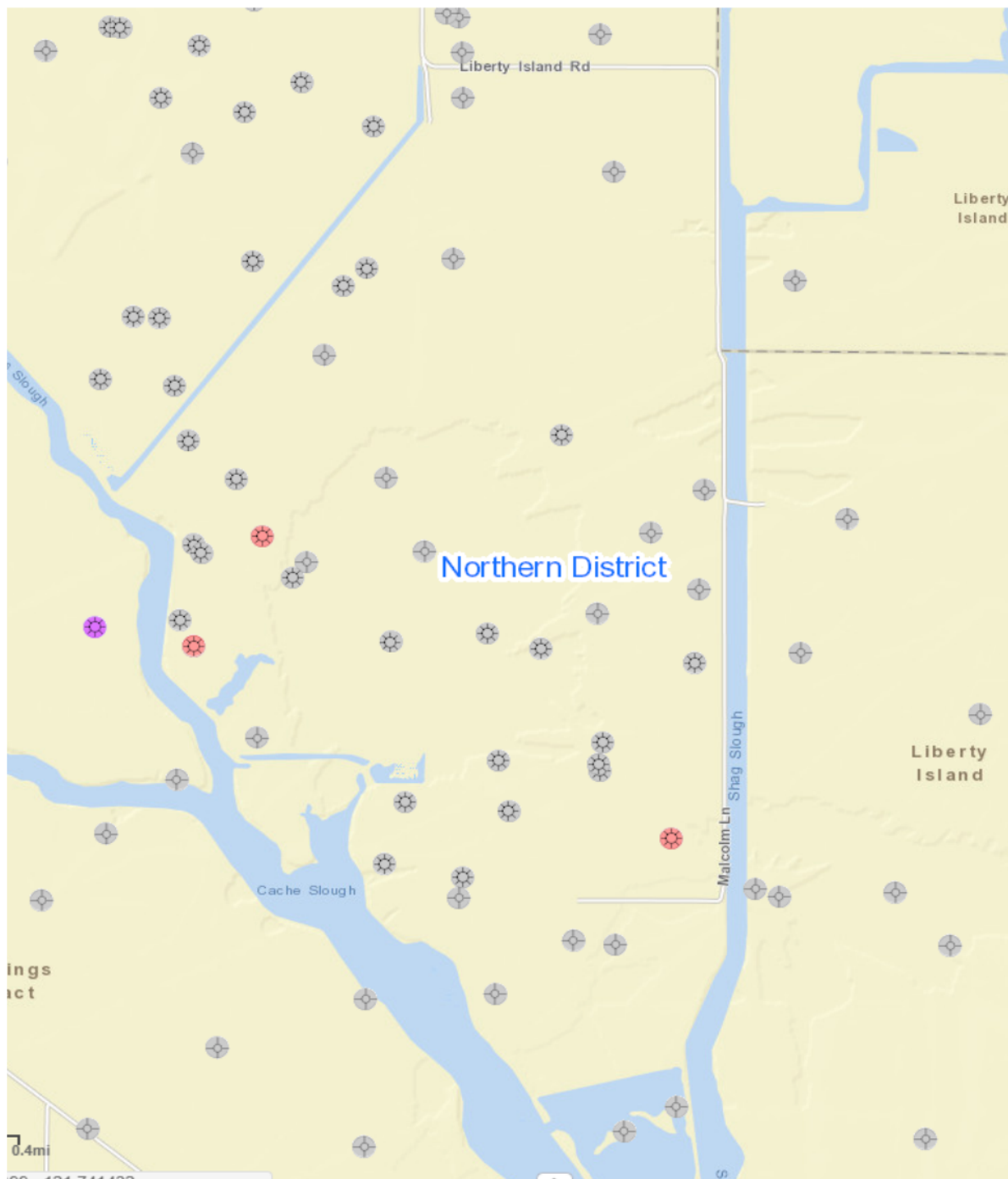
Map 1



FORMER GAS WELLS
 40 Reference Well Number in Attached Spreadsheet

1 Mile

LOCATIONS OF AFFECTED WELLS
Lookout Slough Restoration Project
Solano County California
SCH 2019039136



~ 1 Mile

● Idle Well Location ● Approximate Abandoned Well Locations

● Canceled Well Location



MAP 2
WELL LOCATION MAP
Lookout Slough Restoration Project
SCH 2019039136
Solano County, California

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department

1550 Harbor Blvd., Suite 100

West Sacramento, CA 95691 Phone (916) 373-3710

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Twitter: @CA_NAHC



April 2, 2019

Heather Green
Department of Water Resources
3500 Industrial Blvd.
West Sacramento, CA 95691

RE: SCH# 2019039136 Lookout Slough Restoration Project, Solano County

Dear Ms. Green:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email
address: Steven.Quinn@nahc.ca.gov.

Sincerely,



for
Steven Quinn
Associate Governmental Program Analyst

cc: State Clearinghouse



Chairman	Steve Mello
Vice-Chairman	Jack Kuechler
Secretary/Treasurer	Tom Slater
Director	Justin van Loben Sels
Director	Ryan Mahoney
Manager	Melinda Terry

April 15, 2019

Sent Via Email: FRPA@water.ca.gov
Attention: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

SUBJECT: Comments on Lookout Slough Restoration Project NOP

Dear Ms. Green:

The North Delta Water Agency (NDWA/Agency) submits these comments on the Notice of Preparation for the proposed Lookout Slough Project (Proposed Project), a tidal restoration project being developed in Solano County in the Lower Yolo Bypass, west of Liberty Island and north of Cache Slough.

NDWA has a clear statutory mandate to assure that the lands within the North Delta have a dependable supply of water of suitable quality sufficient to meet present and future beneficial uses.¹ In accordance with its statutory responsibilities, in 1981 the NDWA and the Department of Water Resources (DWR/Department) executed the *Contract for the Assurance of a Dependable Water Supply of Suitable Quality* (1981 Contract or Contract).

The 1981 Contract contains certain water quality criteria to be maintained year-round at seven monitoring locations. The Contract water quality criteria varies from month to month, and from year to year, based on the Four River Basin Index; with the criteria at each location based on the 14-day running average of mean daily electrical conductivity (EC). The Contract also contains provisions pertaining to physical changes that obligate DWR to avoid or repair damages from hydrodynamic changes, and if necessary, require limitations on the operations of the SWP pumps and reservoirs in order to maintain water quality compliance.

The Agency is concerned that the creation of tidal habitat through modification or breaching of levees as proposed by DWR in the Lookout Slough restoration project will affect water quality, surface water elevations and velocities, and individual water rights. Comments herein are intended to facilitate DWR's compliance with the 1981 Contract and to ensure that any significant adverse impacts to water users and Delta channels associated with the proposed project are properly described, analyzed, and mitigated in accordance with applicable law.

¹ North Delta Water Agency Act, Chapter 283, Special Statutes of 1973.

Any projects affecting existing water quality, water surface levels, local diversions, and flood flow velocities that can erode levees should involve early and meaningful consultation with responsible, trustee, or otherwise affected agencies and water users, including NDWA and Reclamation Districts in the vicinity.

If the Proposed Project is intended to provide ecosystem credits as part of the DWR's goal to meet habitat restoration goals to address specific habitat restoration requirements in the U.S. Fish and Wildlife Service biological opinion Reasonable and Prudent Alternative 4 to restore 8,000 acres of tidal habitat to benefit Delta smelt for the coordinated operation of the SWP/CVP and compliance with the Fish Restoration Program, then this fact should be disclosed to the public.

Proposed Project

The overarching goal of the Proposed Project is to increase tidal action and inundation of more than 3,000 acres within RD 2098 by modifying existing levees in order to support recovery of endangered fish species by enhancing the productivity and food availability for Delta smelt; and creating juvenile salmonid rearing habitat.

According to a CVFPB July 2018 staff report, the project as currently proposed entails constructing a setback levee along Duck Slough and Liberty Island Road and the existing Yolo Bypass west levee at Shag Slough would be breached and degraded to provide connectivity between Lookout and Shag Sloughs.

These proposed activities would alter hydrology, resulting in an increase of the tidal prism in the Cache Slough Complex, and, in turn, reduce tidal range, which could lower water elevations and reduce water quality due to greater salinity incursion. Large portions of the project site would become permanent, open water area with greater depths at high tides and winter high flow events. Therefore, channel banks would be subjected to more intensive wave-fetch forces leading to erosion of the levee slopes for reclamation districts in the vicinity, including, but not limited to RD 146, RD 501, RD 536, RD 1667, RD 2060, RD 2084, RD 2093, and RD 2104.

In addition, there are probably about 30-40 diverters in the area that could experience lowered surface water elevations as well as regulatory restrictions and increased costs associated with a greater presence of endangered fish species in the vicinity of these local diversion intakes, including intakes maintained by agencies such as RD 2060 and RD 2068.

Reclamation District 2060 was formed in 1922 to protect Hastings Tract's 5,350 farmable acres from flooding. The district maintains 16.02 miles of Project Levees, and has an appropriative water right to divert water from Barker Slough, Cache Slough, Lindsay Slough, Ulatis Creek and Hastings Cut.

RD 2068, consisting of approximately 13,200 farmable acres, was formed in 1924 with the intent to provide agricultural water, drainage, and levee maintenance services. The district is located in the Delta Uplands area of Yolo and Solano counties, in an area also known as the Cache Slough Complex. RD 2068 provides flood protection by maintaining 50 miles of drainage channels and a drainage pump, and 8.23 miles of Project Levee for the CVFPB that serves as the western border of the SRFCP in the Yolo Bypass, which is designed to safely convey floodwaters from the Sacramento River down to an outlet at Rio Vista. RD 2068 also operates an open canal gravity distribution system supplied by a network of four primary pumping plants diverting water for irrigation from Haas Slough and the Dixon Drain. The district also collects and distributes agricultural runoff originating from deliveries within its boundaries.

Potential Water Supply and Water Quality Impacts

Water diversions within NDWA occur by two principal methods: siphons and electric pumps. The siphon systems within NDWA were designed with historic landside and water surface elevations in north Delta channels as a base line. If the elevation differential between these two elevations (referred to as "head") is not sufficient, the siphon will not work. When water surface elevations in Delta channels are lowered, longer durations are necessary to apply the same amount of water under existing conditions. If an electric pump is needed to replace a siphon, the costs are quite substantial. For example, if power lines are present at the landside base of the levee, the costs are \$25,000 for the utility to put a transformer and string power to the new electric pump. In addition, a new pump column, impellor and motor of sufficient size to replace a 12-inch siphon's water flow costs an additional \$25,000. The labor to install the pumping facility is an additional \$8,000. Permit costs and timelines need to be factored in as well.

On many islands, power lines are not present at the land side base of the levee and there is not enough voltage to supply the power needed for new power draws on the existing utility company system. The cost of stringing new wires and poles are approximately \$50,000 per quarter mile. New pumps would therefore necessitate improvements in the utility provider's electrical system, with those costs borne by the RD or landowner.

Freshwater flows from the Sacramento River that are conveyed through Miner and Sutter Sloughs and tidal action are the primary factors influencing water quality in the Cache Slough Complex, with local agricultural diversions having a greater effect during summer irrigation. In general, the river flow in Steamboat and Miner Sloughs is higher when the Delta Cross Channel (DCC) is closed, so tidal exchange varies with both Sacramento River flow and DCC operation. The altering or breaching of levees would alter the hydrodynamics in the vicinity, potentially resulting in greater salinity intrusion from increased tidal flux, amplitude, and range.

In addition to immediate damage to planted crops, salt loading of soils can occur when water with high concentrations of salt compounds is used for irrigation of crops, even over a short period of time, degrading the long-term productivity of the ground. Permanent crops such as pears and wine grapes are especially intolerant of salt loading, resulting in reduced yields and long-term health issues for the trees and vines. Once permanent crops are lost or damaged due to salt loading in the soils, it will take a long time for the land to fully regain its productivity (if ever), and growing permanent crops may no longer be possible in some areas.

Concluding Recommendations

In light of the aforementioned potential impacts to water users in Solano County, the NDWA encourages DWR to ensure the level of analysis and modeling provided in the associated environmental analysis required under CEQA provide the details necessary to determine the location, severity, duration, and seasonal differences of water quality and availability impacts and ultimate compliance with the NDWA 1981 Contract. Any significant local water supply impacts should be identified in a full EIR with detailed mitigation measures offered to reduce the severity of impacts on crops and soil conditions, efficient operation of local water diversions, and to comply with salinity criteria in the 1981 Contract.

Each habitat restoration project proposed in the Cache Slough Complex, including the proposed Lookout Slough Project, should disclose the severity of changes in EC levels resulting from the project. Increases in mean daily EC during the irrigation season or extreme salinity fluctuations occurring on an hourly basis, can be particularly harmful to crops under the altered tidal exchange created by proposed levee modifications and breaches. Additional impact to water users is longer diversion periods may be required due to reduced efficiency of irrigation siphons and pumps as a result of lowered surface water elevations from project implementation.

Velocities would generally be expected to increase in channels downstream of levee breach locations and decrease upstream of breaches, and flows may increase to accommodate the increased tidal prism. Changes in velocities may create scouring (erosion) of nearby levees that could exceed levee stability thresholds during high flow winter conditions and cause seepage on adjacent lands/crops. The EIR should identify locations where specific groundwater and surface water monitoring stations will be installed prior to implementation of the Proposed Project in order to determine baselines from which impacts can be measured, and to identify specific mitigation measures necessary to prevent and repair any seepage damage associated with altered hydrodynamics created by the project. Mitigation measures may also be necessary to screen or consolidate local intakes and provide incidental take coverage to local diversions if engendered species populations increase in the area.

The EIR should provide an analysis of how water quality under the altered hydrodynamic conditions would fluctuate during periods when the DCC gates are open for water exports and closed to prevent endangered fish from being pulled toward the SWP/CVP pumps in months that local irrigation is occurring. If daily and hourly salinity levels spike in the Cache Slough Complex due to the increased tidal prism created by the Proposed Project, water diversions at RD 2060 and RD 2068 as well as dozens of individual landowner diversions could be adversely affected.

Local landowners should not have to bear any costs associated with mitigating adverse water supply or quality impacts created by the Proposed Project. Since the Proposed Project's objectives include compliance with Biological Opinions on State Water Project and Central Valley Project and reduction of flood risks, the costs of impacts to local water users and reclamation districts should be fully covered by the State. Some of the levees located in the vicinity of the Proposed Project experienced erosion damage in the February 2017 storms and require repair and rehabilitation prior to any alteration of hydrodynamics in the area by the Lookout Slough restoration project.

Utilization of funding provided in the Delta Levees Special Projects Program with a 100% State cost share could be used to improve and reinforce levees in the project vicinity, to screen or consolidate local intakes, to ensure efficiency of existing siphons by maintaining adequate water elevations or provide new pumps and electricity infrastructure, to provide incidental take coverage to local diversions, and to comply with water quality criteria and other channel obligations in the 1981 Contract. These mitigation measures should be funded and implemented by the State prior to installation of this habitat restoration project.

Based on the potential impacts to water users and levee maintenance, a full EIR is necessary to analyze the location and severity of impacts and to identify how to avoid or fully mitigate adverse impacts that would affect the operation and maintenance of local water supply and flood control infrastructure in the project area.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Terry", with a stylized, flowing script.

Melinda Terry,
Manager

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1890

April 22, 2019

File Ref: SCH #2019039136

Heather Green
Department of Water Resources
3500 Industrial Blvd.
West Sacramento, CA 95691

VIA REGULAR & ELECTRONIC MAIL (Heather.Green@water.ca.gov)

**Subject: Notice of Preparation (NOP) for the Lookout Slough Restoration Project,
Solano County**

Dear Ms. Green:

The California State Lands Commission (Commission) staff has reviewed the subject NOP for the Lookout Slough Restoration Project (Project), which is being prepared by the California Department of Water Resources (DWR). DWR, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly, or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, if the Project involves work on State sovereign land, the Commission will act as a responsible agency.

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The state holds these lands for the benefit of all

people of the state for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

After reviewing the NOP, additional research is needed by Commission staff to determine the extent of the Project area that may have potential to occur on State sovereign land. Potential State sovereign land may include, but may not be limited to, Cache Slough and Hass Slough. Please contact Nicholas Lavoie for jurisdiction and potential leasing requirements for the Project (see contact information at end of letter).

Project Description

The Project intends to restore 3,000 acres of tidal wetlands at Lookout Slough in the Cache Slough region of the Delta, for fish habitat and flood protection by expanding flood conveyance and storage for the Yolo Bypass.

Environmental Review

Commission staff requests that DWR consider the following comments during preparation of the Draft Environmental Impact Report (EIR) to ensure that potential impacts to State sovereign land are adequately analyzed.

Methylmercury Contamination

1. Given the potential for known legacy pollutants, such as methylmercury and other toxins, and use of dredging spoils for proposed fill activities, sediment contaminant testing should be conducted now and evaluated in the Draft EIR, as sediment quality may further influence Project planning and proposed fill activities. Commission staff recommends the water quality section include this analysis.

Please be advised that on April 22, 2010, the Central Valley Regional Water Quality Control Board (CVRWQCB) identified the Commission as both a state agency that manages open water areas in the Sacramento-San Joaquin Delta Estuary and a nonpoint source discharger of methylmercury (Resolution No. R5-2010-0043), because subsurface lands under the Commission's jurisdiction are impacted by mercury from legacy mining activities dating back to California's Gold Rush. Pursuant to a CVRWQCB Total Maximum Daily Load (TMDL), the CVRWQCB is requiring the Commission to fund studies to identify potential mercury/methylmercury control methods in the Delta and to participate in an Exposure Reduction Program. The goal of the studies is to evaluate existing control methods and evaluate options to reduce methylmercury in open waters under the jurisdiction of the Commission. Any action taken that may result in mercury/methylmercury suspension within the Sacramento-San Joaquin Delta Estuary may affect the Commission's efforts to

comply with the CVRWQCB TMDL. Please include the above information in the water quality section of the Draft EIR to analyze potential Project impacts, and to disclose DWR's obligations to minimize or avoid releases of methylmercury from dredging and sedimentation impacts associated with the Project.

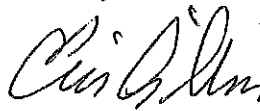
Biological Resources

2. One of the major stressors in California waterways is introduced species. For example, construction boats and barges brought in from stays at distant projects may transport new species to the Project area via hull biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. Possible mitigation could include contracting vessels and barges from nearby, or requiring a certain degree of hull-cleaning from contractors. The California Department of Fish and Wildlife's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <http://www.dfg.ca.gov/invasives/>). If barges and construction vessels will be used for Project construction, then the biological resources section of the Draft EIR should assess the potential for Project work vessels to spread and introduce non-native aquatic species.

Thank you for the opportunity to comment on the NOP. As a trustee and potential responsible agency, the Commission may need to rely on the certified EIR for the issuance of a lease as specified above.

Please send copies of future Project-related documents, including an electronic copy of the Draft EIR when it becomes available. Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or Jason.Ramos@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Nicholas Lavoie, Public Land Manager at (916) 574-0452 or Nicholas.Lavoie@slc.ca.gov.

Sincerely,



Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
N. Lavoie, Commission
J. Ramos, Commission



April 22, 2019

Lookout Slough NOP
Attn: Heather Green
3500 Industrial Blvd
West Sacramento CA 95691

Comments on Scope of EIR/EIS for Lookout Slough Tidal Restoration Project

Dear Ms. Green:

The California Waterfowl Association appreciates the opportunity to comment on the scope of the environmental documentation for the proposed Lookout Slough tidal restoration project.

Liberty Farms Wetlands Restoration Project

In 2005, California Waterfowl undertook a wetland restoration project on 1,634 acres that constitute the southwest portion of the property that is the subject of the proposed Lookout Slough tidal restoration project.

The wetland restoration project was carried out and funded in partnership with the landowner, the Wildlife Conservation Board, the National Resource Conservation Service, and the California Department of Fish & Wildlife (Department of Fish & Game at that time.) The purpose of the project was to restore approximately 975 acres of seasonal and semi-permanent wetlands, 575 acres of upland grasslands, and 84 acres of riparian habitat in accordance with a perpetual easement purchased by the NRCS and California Waterfowl.

On the 975 acres of seasonal and semi-permanent wetlands, the project provides managed wetland habitat for waterfowl migrating on the Pacific Flyway, as well as nesting and brood habitat for waterfowl. The 575 acres of upland habitat is restored to a mixture of native grasses and forbs that provide suitable nesting habitat for mallards, pheasants, gadwalls, cinnamon teal, northern harriers, doves, and American bitterns, and serve as winter cover for pheasants.

Efforts to Restore Waterfowl Habitat

California Waterfowl restores wetlands and maximizes the food and habitat value of existing wetlands for both local breeding populations and migratory waterfowl. California Waterfowl believes that hunters are the driving force for wetland conservation. CWA works to ensure that Californians have adequate access to hunting lands, and that regulations and laws don't stifle responsible, ethical hunting.

California Waterfowl is a member of the Central Valley Joint Venture (CVJV), a coalition of state and federal agencies and conservation organizations that have banded together to restore and conserve bird habitat in the Central Valley. The CVJV 2006 Implementation Plan sets goals for waterfowl habitat and populations in the Central Valley. The Liberty Farms wetlands restoration project was conducted in furtherance of the goals set forth in the Implementation Plan.

Impact of the proposed tidal restoration project on waterfowl habitat

California Waterfowl is concerned that the proposed tidal restoration project will impact or eliminate the habitat benefits for birds that were provided by the wetland restoration project. The tidal restoration project is designed to restore and enhance habitat for fish species, with no apparent intent to provide habitat for bird species. Finally, the tidal restoration project will impair or extinguish the easement purchased by California Waterfowl and NRCS.


At a minimum, the EIR/EIS must provide compensation or mitigation for the impacts on the wetlands restoration project, for its funding, for the loss of waterfowl habitat, and for the loss of public access to waterfowl hunting. Even better would be to design the tidal restoration project to provide waterfowl benefits as well as benefits to fish species.

Conclusion

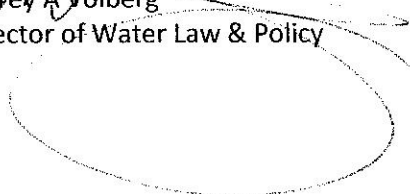
The Lookout Slough tidal restoration project must compensate California Waterfowl, NRCS, the Wildlife Conservation Board, and the California Department of Fish & Wildlife for the costs associated with the Liberty Farms Wetlands Restoration Project. The project must also mitigate for the loss of waterfowl habitat through the provision of alternative wetlands restoration opportunities. California Waterfowl believes that land on navigable waterways owned in fee by the Department of Water Resources and restored to tidal should be made available to public hunting access.

If you would like further information about California Waterfowl and its conservation programs, please contact Jeffrey Volberg at (916) 217-5117 or volberg@calwaterfowl.org.

Sincerely,



Jeffrey A. Volberg
Director of Water Law & Policy



D & R Livestock
1245 Hillview Drive
Dixon CA 95620
cliffdetar@sbcglobal.net

April 22, 2019

Lookout Slough NOP
Heather Green
3500 Industrial Blvd
West Sacramento CA 95691

RE: Lookout Slough

We are cattle ranchers located in the upper Hastings area. Per the proposed Lookout Slough Project, are concerns mainly consist of the effect this will have on our water supply. We are also concerned regarding the Drainage and Flood Protection.

We are also worried about the increase in waterfowl and mosquitoes, as this increase can negatively effect our pastures and livestock.

We feel these concerns should be addressed prior to the commencement of this project.

Thank you

Sincerely
D & R Livestock

Martin Ronayne
Partner

Handwritten signature of Martin Ronayne in black ink.

Cliff DeTar
Partner

Handwritten signature of Cliff DeTar in blue ink.

HASTINGS ISLAND LAND COMPANY

1143 CRANE STREET, SUITE 200
MENLO PARK, CALIFORNIA 94025-4341
PHONE: 650-328-0820 FACSIMILE: 650-323-5390
E-MAIL: JKUECHLER@HIHP.COM

HENRY N. KUECHLER IV
PRESIDENT

April 18, 2019

Via Electronic Transmittal

California Department of Water Resources
Attn: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

Subject: Hastings Island Land Company Comments on Notice of Preparation for Lookout
Slough Environmental Impact Report (EIR)

Dear Ms. Green:

Hastings Island Land Company (Hilco) is a privately-owned ranch encompassing 4,700 acres on Hastings Island. 800 acres of the ranch is dedicated solely to prime upland bird cover and provides approximately 16,000 individual recreational visits each year. This family farming operation provides a rich, balanced habitat of Delta irrigated alfalfa, corn, wheat, and safflower. Hastings Island is located across Cache Slough from Reclamation District (RD) 2098 and the proposed Lookout Slough Project.

The purpose of this letter is to provide input for the development of the Lookout Slough Project. The proposed project is in an agricultural landscape and should be developed in a manner that compliments agriculture and does not adversely affect the regional agricultural economy. From this perspective, we have three areas of concern that the EIR should address:

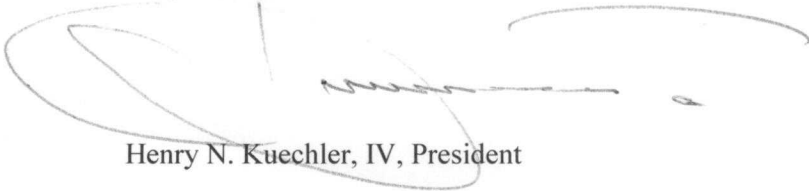
1. The project should not have adverse effects on the continued agricultural operations of the adjacent property owners.
 - a. The proposed project is intended to increase populations of endangered species in the project area. Hilco has three diversions on Cache Slough, the project must provide take coverage for these intakes so that the increased population of endangered fish species does not become a financial burden to Hilco.
 - b. The project intends to alter the existing levees in RD 2098 and create a new, large open body of water within that area. The project has the potential to create adverse impacts to neighboring levees and land due to increases in flood stage, velocities, wave fetch. In addition, the Project has the potential to increase seepage on the Cache Slough side of Hastings Island. The project must be designed to avoid or impacts.

c. The project proposes to create habitat suitable for waterfowl. Increased waterfowl will feed on, and therefore reduce, crop yield. The Project proponents should provide a program to remove waterfowl and pay for damages when they cause damage to the surrounding agriculture fields.

2. The project should not adversely affect the regional agricultural economy. The agricultural economy is dependent on a volume of activity to sustain the businesses that support agriculture. The reduction in agricultural acreage associated with the proposed project should be mitigated. Two forms of mitigation should be considered. The first is complying with the County's ordinance to purchase agricultural conservation easements at a 1.5 to 1 ratio. The second is to invest in the remaining agriculture to make it more productive. This could include features such as providing irrigation to lands that are not currently irrigated or other investments that will increase crop yield in the area.

As a large landowner in the region, Hilco has a significant interest in seeing this project implemented in manner that compliments agriculture, and ensures the critical flood control issues are addressed. We would like to be actively engaged in the development of the project and work with you on developing mitigation measures to address the issues we have raised.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Henry N. Kuechler, IV", is written over a large, faint, circular stamp or watermark.

Henry N. Kuechler, IV, President

RR/nl

2957-1 DRAFT NOTICE OF PREPARATION 2019-04-18

cc: Ric Reinhardt, MBK Engineers
Scott Shapiro, Downey Brand
Bill Edgar, CVFPB
Leslie Gallagher, CVFPB
Ryan Larsen, USACE
Roberta Goulart, Solano County
John Vasquez, Solano County
Skip Thompson, Solano County
Roland Sanford, SCWA

John Cronin
P.O. Box 884
Rio Vista CA, 94571

April 19, 2019

Via Electronic Transmittal

California Department of Water Resources
Attn: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

**Subject: John Cronin Comments on Notice of Preparation for Lookout Slough
Environmental Impact Report (EIR)**

Dear Ms. Green:

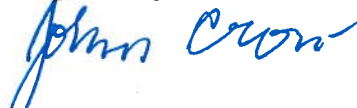
I own and operate a ranch encompassing 2,200 acres on Egbert Tract. The ranch is dedicated to pasture grazing (clover fields). Egbert Tract is located directly south of Hasting Tract, which is across Cache Slough from Reclamation District (RD) 2098 and the proposed Lookout Slough Project.

The purpose of this letter is to provide input for the development of the Lookout Slough Project. The proposed project is in an agricultural landscape and should be developed in a manner that compliments agriculture and does not adversely affect the regional agricultural economy. From this perspective, we have two areas of concern that the EIR should address:

1. The project should not have adverse effects on the continued agricultural operations of the adjacent property owners.
 - a. The proposed project is intended to increase populations of endangered species in the project area. Our diversions will likely be impacted by the project. The project must provide take coverage for diversions so that the increased population of endangered fish species does not become a financial burden on my ranch.
 - b. The project proposes to create habitat suitable for waterfowl. Increased waterfowl will feed on, and therefore reduce, crop yield. The Project proponents should provide a program to removal waterfowl and pay for damages when geese cause damage to local agriculture fields.
2. The project should not adversely affect the regional agricultural economy. The agricultural economy is dependent on a volume of activity to sustain the businesses that support agriculture. The reduction in agricultural acreage associated with the proposed project should be mitigated. Two forms of mitigation should be considered. The first is complying with the County's ordinance to purchase conservation easements at a 1.5 to 1 ratio. The second is to invest in the remaining agriculture to make it more productive. This could include features such as providing irrigation to lands that are not currently irrigated or other investments that will increase crop yield in the area.

As a large landowner in the region, I have a significant interest in seeing this project implemented in a manner that compliments agriculture and is not a detriment. I would like to be actively engaged in the development of the project and work with you on developing mitigation measures to address the issues we have raised.

Respectfully submitted,



John Cronin

PETERSEN ESTATE

183 MAIN STREET, SUITE B
RIO VISTA, CA 94571

April 22, 2019

California Department of Water Resources
Attn: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

Subject: Petersen Estate Comments on Notice of Preparation for Lookout Slough Environmental Impact Report (EIR)

Dear Ms. Green:

Petersen Estate is a privately-owned ranch encompassing approximately 3,000 acres on in Rio Vista California. This family farming and ranching operation provides a rich, balanced habitat of Delta irrigated crops and livestock. Petersen Estate is located in the purposed lookout slough area.

The purpose of this letter is to provide input for the development of the Lookout Slough Project. The proposed project is in an agricultural landscape and should be developed in a manner that compliments agriculture and does not adversely affect the regional agricultural economy. From this perspective, we have three areas of concern that the EIR should address:

1. The project should not have adverse effects on the continued agricultural operations of the adjacent property owners.

a. The proposed project is intended to increase populations of endangered species in the project area. Petersen Estate has three diversions on the Slough, the project must provide take coverage for these intakes so that the increased population of endangered fish species does not become a financial burden to either Petersen Estate or the community.

b. The project intends to alter the existing levees in RD 2098 and create a new, large open body of water within that area. -The project has the potential to create adverse impacts to neighboring levees and land due to increase in flood stage, velocities and wave fetch The project must be designed to avoid or mitigate these impacts.

c. The project proposes to create habitat suitable for waterfowl. Increased waterfowl will feed on, and therefore reduce, crop yield. The Project proponents should provide a program to remove waterfowl and pay for damages when they cause damage to the surrounding agriculture fields.

2. The project should not adversely affect the regional agricultural economy. The agricultural economy is dependent on a volume of activity to sustain the businesses that support agriculture. The reduction in agricultural acreage associated with the proposed project should be mitigated. Two forms of mitigation should be considered. The first is complying with the County's ordinance to purchase agricultural conservation easements at a 1.5 to 1 ratio. The second is to invest in the remaining agriculture to make it more productive. This could include features such as providing irrigation to lands that are not currently irrigated or other investments that will increase crop yield in the area.

As a large landowner in the region, Petersen Estate has a significant interest in seeing this project implemented in manner that compliments agriculture, and ensures the critical flood control issues are addressed. We would like to be actively engaged in the development of the project and work with you on developing mitigation measures to address the issues we have raised.

Respectfully submitted,

Lisa E. Ivancich

LISA E. IVANCICH

PETERSEN BOARD

cc: Ric Reinhardt, MBK Engineers
Roland Sanford, SCWA

Willow Ranch Properties
P.O. Box 387
Rio Vista CA, 94571

April 19, 2019

Via Electronic Transmittal

California Department of Water Resources
Attn: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

**Subject: Willow Ranch Properties Comments on Notice of Preparation for
Lookout Slough Environmental Impact Report (EIR)**

Dear Ms. Green:

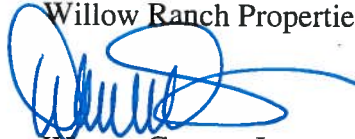
Willow Ranch Properties (WRP) is a privately-owned ranch encompassing 800 acres on Egbert Tract. The ranch is dedicated to pasture grazing (clover fields) and vineyard grapes. Egbert Tract is located directly south of Hasting Tract, which is across Cache Slough from Reclamation District (RD) 2098 and the proposed Lookout Slough Project.

The purpose of this letter is to provide input for the development of the Lookout Slough Project. The proposed project is in an agricultural landscape and should be developed in a manner that compliments agriculture and does not adversely affect the regional agricultural economy. From this perspective, we have two areas of concern that the EIR should address:

1. The project should not have adverse effects on the continued agricultural operations of the adjacent property owners.
 - a. The proposed project is intended to increase populations of endangered species in the project area. WRP has a large diversion on Watson Hollow. The project must provide take coverage for diversions so that the increased population of endangered fish species does not become a financial burden on WRP.
 - b. The project proposes to create habitat suitable for waterfowl. Increased waterfowl will feed on, and therefore reduce, crop yield. The Project proponents should provide a program to removal waterfowl and pay for damages when geese cause damage to local agriculture fields.
2. The project should not adversely affect the regional agricultural economy. The agricultural economy is dependent on a volume of activity to sustain the businesses that support agriculture. The reduction in agricultural acreage associated with the proposed project should be mitigated. Two forms of mitigation should be considered. The first is complying with the County's ordinance to purchase conservation easements at a 1.5 to 1 ratio. The second is to invest in the remaining agriculture to make it more productive. This could include features such as providing irrigation to lands that are not currently irrigated or other investments that will increase crop yield in the area.

As a large landowner in the region, WRP has a significant interest in seeing this project implemented in a manner that compliments agriculture and is not a detriment. We would like to be actively engaged in the development of the project and work with you on developing mitigation measures to address the issues we have raised.

Respectfully submitted,
Willow Ranch Properties



Warren Gomes, Jr.

mm
WILLOW RANCH COMMENTS_NOTICE OF PREPARATION 2019-04-19

cc: MBK Engineers

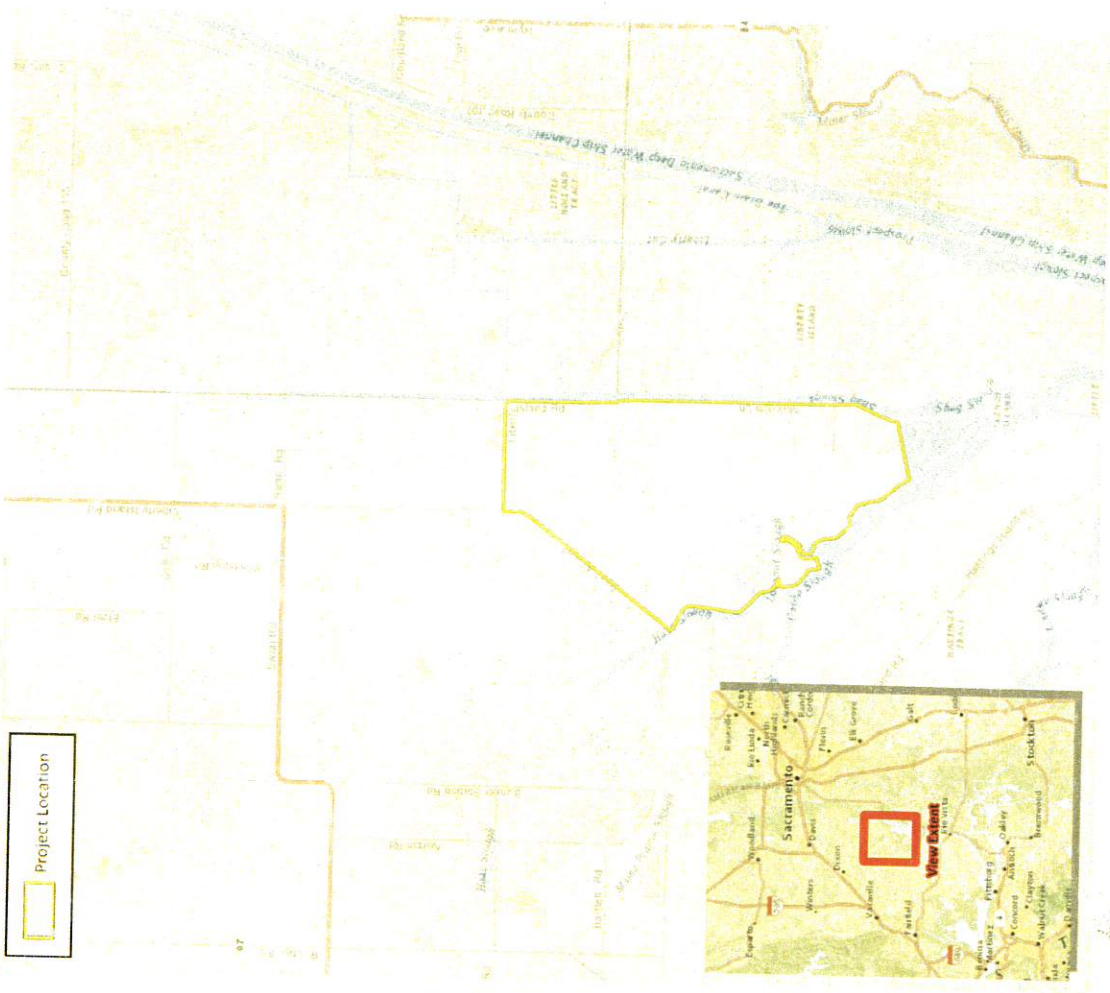


**Lookout Slough Tidal Habitat Restoration and
Flood Improvement Project**

Place First
Class
Stamp
Here

Attn: Heather Green
CA Department of Water Resources
3500 Industrial Blvd West
Sacramento CA 95691

Please fold, staple/tape, stamp and mail



Project Location

Lookout Slough Tidal Habitat Restoration and Flood Improvement Project
Scoping Meeting

COMMENT SHEET

Thank you for your comment. Comments may be submitted by:

- Turning in this form at the Scoping Meeting in the comment box provided
- Emailing your comments to FRPA@water.ca.gov with the subject line "Attn: Heather Green"
- Faxing this form to (916) 376-9688
- Mailing this form to CA Department of Water Resources (address on back)

Please submit your Scoping Comments on or before April 22, 2019.

You may use additional paper if necessary or provide comments on the map (on back).

Please print clearly. All comments become part of the public record.

Name: Bret Barner

Organization (if applicable): Solano County Mosquito Abatement District

Mailing Address (optional): 2950 Industrial Ct. Fairfield, CA 94533

Phone (optional): (707) - 437-1116

Email (optional): bbarnerSCMAD@gmail.com Date: 4/19/2019

Would you like to be added to the Lookout Slough Tidal Habitat Restoration and Flood Improvement Project email list to receive periodic updates?

(Please circle one) YES

NO

Comment: Please see attached letter.

Solano County Mosquito Abatement District

JOE ANDERSON, President - Dixon
JAMES G. McPHERSON, Vice President - Rio Vista
GLEN GRAVES, Secretary - Suisun
CHARLES TONNESEN, Fairfield
MIKE WHITE, Benicia
RONALD SCHOCK, Trustee-at-Large
ROBERT C. MEADOR, Vacaville
LARRY PETRIE - Vallejo

2950 Industrial Ct.
Fairfield, CA 94533-6500
Telephone (707) 437-1116
Fax (707) 437-1187

Meetings: Second Monday Every Month
7:30 P.M.

RICHARD SNYDER, Manager
IAN CALDWELL, Supervisor
WAITE COLBAUGH, Biologist
TAMI WRIGHT, Admin. Asst.

April 19, 2019

From: Solano County Mosquito Abatement District
Re: Lookout Slough Tidal Habitat Restoration and Flood Improvement Project

Attn: Heather Green
CA Department of Water Resources
3500 Industrial Blvd
West Sacramento, CA 95691

To Whom It May Concern,

Thank you for the opportunity to comment on the proposed Lookout Slough Tidal Habitat Restoration and Flood Improvement Project. The Solano County Mosquito Abatement District would like to take this opportunity to address some specific concerns about this restoration project. Tidal marshes have tremendous potential to produce very high numbers of both floodwater and standing water mosquito species. Nuisance floodwater mosquito species are all very aggressive biters of humans and domestic animals, while at least two (2) of the standing water mosquito species are known to vector potential deadly diseases to humans, wildlife and domestic animals. These diseases include West Nile virus, Western equine encephalitis and Saint Louis encephalitis.

Fish and Game Code §1506 encourages "implement[ing] best management practices for the purposes of decreasing mosquito production." In order to address the proper methods for implementing a Best Management Practice targeted specifically to decrease mosquito production, the Solano County Mosquito Abatement District has listed three (3) specific areas of concern that we highly suggest be considered during the planning, development and maintenance stages of the proposed Lookout Slough Tidal Habitat Restoration and Flood Improvement Project:

1. The proposed development site be engineered in such a way that water stands for no more than five (5) consecutive days.
2. The proposed development site will provide for the long-term, continuous maintenance of the tidal marsh area. For long-term maintenance considerations, one method of physical habitat modification recommended during the development stages of this proposed project consists of the construction of ditches to circulate tidal water into sloughs and bays to avoid

ponding. These recirculation ditches, or any other means of increasing the movement of water, will assist in the decrease of mosquito production.

3. Finally, mosquito abatement will be required. The owner of the proposed development site will be responsible for the cost of this mosquito abatement from the point of the initial flooding throughout the existence of the Lookout Slough Tidal Habitat Restoration and Flood Improvement Project. Health and Safety Code Chapter 1 added by Stats. 2002, Ch. 395, Sec. 6. Article 2061 (b) (2) states, "Direct the owner of the property to abate the nuisance within a specified time. (3) Direct the owner of the property to take any necessary action within a specified time to prevent the recurrence of the public nuisance. (4) Inform the owner of the property that the failure to comply with the requirements of the notice within the specified times may result in the district taking the necessary actions, and that the owner shall be liable for paying the costs of the district's actions."

These three (3) suggestions are based on the Solano County Mosquito Abatement District Integrated Pest Management Practices

Mosquito control in California has its origin in the San Francisco Bay Area where efforts were undertaken to control this pest by ditching to enhance drainage and water circulation. Removing or breaching the levee will subject the sites to tidal flow. The extent of tidal flow depends, of course, on the relative elevation of the site to tide. Tidal flushing itself does not create mosquito problems. Mosquito problems arise from the residual tidal and flood waters remaining in depressions and cracked ground.

The following District Practices should be considered prior to removal or breaching of any levee or water control structure.

1. Develop a management program for the control of mosquitoes. Such a plan should be developed in coordination with the Solano County Mosquito Abatement District (SCMAD).
2. If necessary, obtain an engineering survey to locate depressions that would retain tidal water, and to determine the location of ditches for water circulation and drainage.
3. Establish a water recirculation system by interconnecting depressions with ditches that will enhance water movement and provide access for predator fish.
4. Disk or harrow all cracked ground caused by shrinkage and subsidence.
5. Plan and fund a long-term maintenance program on the marsh. The maintenance should include: A) Dredging and cleaning of sloughs, spreader ditches and main ditches to provide. B) Disking of cracked ground as needed. C) Maintenance and repair of water control structures.

I applaud you for your efforts to provide habitat for both native and endangered marine and terrestrial species that will establish in this proposed restoration site. However, it is the mission of the Solano County Mosquito Abatement District to protect public health through the abatement of local mosquito populations in the effort to reduce the risk of mosquito-borne disease transmission to the residents and domestic animals within and around Solano County. The Lookout Slough Tidal Habitat Restoration and Flood Improvement Project has tremendous potential to produce both nuisance and disease vectoring mosquito species if proper management is not implemented. Thank you for this opportunity to express our concerns.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bret Barner". The signature is fluid and cursive, with the first name "Bret" and last name "Barner" clearly distinguishable.

Bret Barner
Biologist
Solano County Mosquito Abatement District
2950 Industrial Court
Fairfield, CA 94533
(707) 437-1116

April 19, 2019

VIA E-MAIL: FRPA@water.ca.gov

Lookout Slough NOP
Attn: Heather Green
3500 Industrial Blvd.
West Sacramento, CA 95691

Re: Reclamation District No. 2060 Comments on Notice of Preparation for Lookout Slough
Environmental Impact Report (EIR)

Dear Ms. Green:

Reclamation District No. 2060, on Hastings Tract, is located immediately opposite of the proposed project site, along Cache Slough. As a district serving adjacent landowners, the District seeks to ensure the Environmental Impact Report (EIR) addresses the primary and secondary impacts to our community. The stated purpose of the Lookout Slough project is to contribute towards achieving the obligations of the 2008 US Fish and Wildlife Service Biological Opinion on the ongoing operation of the State Water Project (SWP). The District understands the importance to DWR of meeting this obligation, which will allow for continued operation of the SWP; however, it does not believe it is reasonable for the surrounding landowners to incur impacts for beneficiaries that lie outside of the zone of impacts, primarily in Southern California. The project must be done in such a way that at a minimum makes the region whole, and ideally provides benefits to the surrounding community and landowners. From that perspective, the District asks that the following comments be addressed in the EIR:

1. The project should be designed to avoid hydraulic impacts on the surrounding levee systems. Hydraulic impacts should be limited to no more than 0.05 ft for the full range of flood events (2, 5, 10, 25, 50, 100, and 200-year water surface).
2. Breaches in the Reclamation District (RD) 2098 levee system should be designed to avoid increasing fetch lengths for nearby levee systems, so as not to induce wave energy on the remaining levee systems.
3. Degrading the RD 2098 Yolo Bypass levee needs to be considered in the context of modifying the Sacramento River Flood Control Project (SRFCP). The Yolo Bypass levee has geometry and freeboard requirements that are different from the levees along the sloughs. If the Yolo Bypass levee is degraded, the RD 2098 Cache and Hass Slough

levee will need to be improved and maintained to replace the function of the 2098 Yolo Bypass levee.

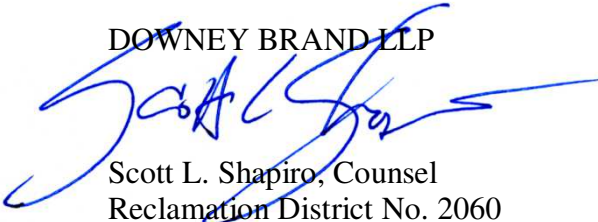
4. The RD 2098 Cache and Haas Slough levee should remain a feature of the SRFCP, and an entity with a dedicated funding source needs to be identified to perform the OMRR&R of this feature. It is not sufficient to say the state will perform OMRR&R without identifying a reliable source of funding.
5. Breaches in the RD 2098 Cache and Haas Slough levee should be designed to confine the opening by hardening the extents of the levee and base of the breach with appropriate revetment or structural components. Land-based access over the opening should be considered to allow OMRR&R of the Cache and Haas Slough levee using conventional equipment south of the breach location.
6. The proposed project is intended to increase populations of endangered species in the project area. We estimate that there are 28 water supply intakes in the Cache Slough Complex. It has been stated that if the project is successful, increased population of endangered species will result in less regulations of the surrounding property owners. While we understand this point of view, our experience has not been consistent with that thinking. We have only seen an increase in environmental regulation over time. To this end, the adjacent property owners need firm assurances that their agricultural operations will not be impacted by the proposed project. The primary concern is ensuring there are no restrictions placed on water supply diversions.
7. To address the impact the proposed project will have on the surrounding diversions, we propose that take coverage be provided or other actions be taken to mitigate this issue such as the actions identified in Conservation Measure 21 (CM 21) of the Bay Delta Conservation Plan (BDCP). The CM 21 actions included providing state funding to landowners to install fish screens, consolidate diversions, relocate diversions, voluntarily alter diversion operations, and remove diversions. Landowners who participated in the program would receive full funding to implement the selected actions and would be provided incidental take authorization associated with their ongoing water diversions.
8. A secondary impact we have already incurred as a result of Liberty and Little Holland Tract returning to open water/tidal wetland, is an increase in avian populations that feed on our crops. This has resulted in a decreased yield. Mitigation should be proposed to address this impact.

The property owners, RDs and Solano County, have been participating in the Lower Sacramento River/Delta North (LS/DN) Regional Flood Management Planning group that in turn is supporting the Central Valley Flood Protection Board and the California Department of Water Resources. The LS/DN has proposed a program of habitat project, rural levee repairs, and flood

protection for Rio Vista. Lookout Slough is the first project to be proposed from this program. While we believe that this program has the potential to be successful, the program needs to result in investments that will benefit the agricultural community in our region. This includes reinvesting in the remaining agriculture in order to make it more productive, and to off-set the impacts of the loss of agricultural land that will be converted to habitat. The rural levee repairs are an important element of this program and relies on State investment to repair damage that has occurred to the levee system from past high-water events so that the remaining agriculture is viable. We will continue to engage on all regulatory aspects associated with the development of the proposed project to ensure it can be implemented in a manner that does not transfer impacts to surrounding landowners.

Very truly yours,

DOWNEY BRAND LLP



Scott L. Shapiro, Counsel
Reclamation District No. 2060

SLS:nab

cc: Henry Kuechler IV, RD 2060 President
Ric Reinhardt, MBK Engineers

cc by email:

Bill Edgar and Leslie Gallagher at the CVFPB - bedgar@edgarandassociates.com Leslie
Leslie Gallagher, CVFPB - leslie.gallagher@cvflood.ca.gov
Ryan Larsen, USACE - Ryan.T.Larson2@usace.army.mil
Roberta Goulart, Solano County - RLGoulart@SolanoCounty.com
John Vasquez, Solano County - JMVasquez@SolanoCounty.com
Skip Thompson, Solano County - SThomson@SolanoCounty.com
Roland Sanford, Solano County Water Agency - rsanford@scwa2.com

IRRIGATION



DRAINAGE

RECLAMATION DISTRICT NO. 2068

April 19, 2019

Lookout Slough NOP
Attn: Heather Green
3500 Industrial Blvd
West Sacramento, CA 95691

Subject: Comments on the scope of the Environmental Impact Report for the Lookout Slough Restoration Project.

Dear Heather Green,

Reclamation District No. 2068 ("District") is a reclamation district formed under the laws of the State of California pursuant to Division 15 section 50000 et seq. of the California Water Code. The District provides irrigation, drainage, and flood control to over 13,200 acres. The District is adjacent to the northern boundary of the proposed Lookout Slough Project (Project), and the Project is fully within Reclamation District No. 2098 (RD 2098). The two reclamation districts make up Unit No. 109 (West Levee of Yolo Bypass and East Levee of Cache Slough) of the Sacramento River Flood Control Project; therefore, are intrinsically connected. The high value impacts to Reclamation District No. 2068 can be categorized as those affecting water supply, drainage, and flood protection; however, the Project has other local affects. Below is a summary of the District's concerns, which need to have early and meaningful consultation, and be addressed within the scope of the Project's Environmental Impact Report.

Concerns

Hydrology. The Proposed Project will modify existing State Plan of Flood Control levees in order to support recovery of endangered fish species by creating habitat, inundating land to produce food availability for fish, and using tidal action to move the food throughout the Cache Slough region. The Project activities would alter hydrology resulting in an increase of the tidal prism and reduced tidal range, resulting in lower water elevations during high tide. The District uses pumps to divert water near the Project and decreased high tide levels may reduce the efficiency of pumping causing both an increase in cost to pump water and a reduction in the pumping rate during peak demand. The District relies on gravity drainage adjacent to the Project and the reduction in tidal range during low tide would reduce the ability of the District to provide drainage, due to the higher water levels during low tides. Altering the tidal flux by breaching levees and changing tidal conditions has the potential to impair water quality near the District's point of diversion due to changes in Cache Slough salinities.

Hydraulics. The Project proposes to set back the Yolo Bypass Levee from the constructed segment of Shag Slough and breach a section of the Project Levee on Cache Slough. This proposed activity would alter the hydraulics in the Cache Slough region at high flow events causing increased water levels and flooding pressure on State Plan of Flood Control levees that have documented erosion, stability and freeboard deficiencies. The inundation of currently levee protected lands of RD 2098 would subject the remaining channel banks and levees to increased wave fetch and erosion.

Endangered Species. The main goal of the Project is to increase the population of endangered species including delta smelt and salmon. If the Project is successful the number of endangered fish species will increase in the vicinity of the District's diversion intakes and drainage outlets. An increased population of endangered species in the project area would cause increased regulatory restrictions and costs for the District to comply with environmental requirements. The Project provides open water space and emergent marsh which may allow non-native species like water hyacinth or water primrose to proliferate, increasing their presence in the region. The presence of non-native species would impair the ability of the Project to increase the population of native species and increase the cost of the District's maintenance activities.

RD 2098 Solvency. The Project will flood approximately two-thirds of RD 2098. Since Reclamation District are funded by landowner assessments and have to adhere to the Proposition 218 requirements, the operations and maintenance costs of the remaining RD 2098 levees will be spread over fewer acres. In addition, the planned breach will make maintaining the remnant levee south of the breach difficult and more expensive, since equipment will not have access from land and must be barged. Currently, RD 2098 has minimal funding due to the limited ability to generate adequate assessments from low profit land uses. Any reduction in the size of RD 2098 will make it more difficult to remain solvent. As a Reclamation District that shares levees with RD 2098 as part of a hydrologic basin, this is very concerning.

Agriculture. The project proposes to create habitat, which will be suitable for agriculture pests including waterfowl and mosquitos. The District's most abundant crop is irrigated pasture and increased populations of geese may decimate grass that is being grown for livestock if there is proper roosting habitat nearby, which the Project will be creating. Also, mosquitoes live and breed on the surface of standing water and the habitat created by the Project will increase the number of mosquitos. Mosquitoes are known carriers of viruses including West Nile, western equine encephalomyelitis, and St. Louis encephalitis virus, which can be transmitted to human and other animals.

Recreation. The proposed Project is located at one of the few spots in the Cache Slough region where the public has access to the delta waterways and is used extensively by the public for recreational fishing and water sports. The Project also proposes to eliminate the only land access to lower Liberty Island by eliminating the bridge. The Project proposes to close Liberty Island Road before it is on the west bank of the Yolo Bypass and eliminate that access or would cause the public to park and recreate alongside the Project's newly constructed setback levee and down to the Yolo Bypass levee where the District's main drainage plant is located. Therefore, the Project would increase the level of public accessing Shag Slough at the District's drainage plant, which will increase the level of trespass and vandalism on District facilities.

Easements. The Project's northern levee is proposed to be built adjacent to Liberty Island Road (LIR) and the Central Valley Flood Protection Board will require a minimum twenty-foot easement from the toe of the levee prism landward. The District has an irrigation and drainage canal parallel and adjacent to LIR, and the District's easement for the canal extends approximately to the midpoint of LIR. If the setback levee's easement is co-located with the District's canal maintenance easement it will diminish the ability to perform maintenance due to regulatory restrictions on levees. The regulatory restrictions will also impact maintenance performed by Solano County on LIR.

Utilities. The Project will inundate a large number of acres of lands which may have active or inactive buried gas lines and above ground power lines. Maintenance or replacement of these lines will be impaired or impossible if they are under water. A powerline adjacent and south of LIR, which may have to be removed as part of the Project, provides electricity to the District's Pump Station #5. This plant serves a critical public safety purpose during flood and high rainfall events. Adequate access for routine and emergency maintenance and repair to the plant and its power supply is essential for proper flood management within the District. Further, any future power or gas transmission needs by local landowners in the region will be limited due to the Project area being covered in water.

Mitigation Measures

Due to the aforementioned concerns, Reclamation District No. 2068 encourages the California Department of Water Resources to ensure the level of analysis and modeling provided in the environmental impact report are adequate, with details necessary to determine the impacts to the District and its landowners. Any significant impacts should be identified with detailed mitigation measures offered to reduce the severity of impacts to all the mentioned concerns. Below is a list of recommended measures to be taken to mitigate for impacts of the Project.

1. Modeling of hydrology, hydraulics, and water quality should be completed to show the projected impacts of the Project. To the extent that modeling shows that water surfaces will be elevated, the Project proponents must pay to mitigate those impacts.
2. The Project proponents should subsidize the cost of power to compensate for higher irrigation and drainage pumping costs if pump efficiencies are reduced, and provide funding to build and operate pumping facilities if gravity systems are no longer operational.
3. The Project proponents should continuously monitor salinity levels in the Cache Slough region and if increased salt levels are detected due to the Project, the proponents should work with DWR to find a physical solution to reduce salts and compensate for any damages.
4. Design the Project to have no more than 0.05 feet increase in water levels in the Cache Slough region during all high-water events.
5. Design the Project to have adequate rip-rap protection on levees that will see increased wave fetch, scour, or erosion.
6. The Project proponents should identify the funding sources and demonstrate it is adequate to properly maintain the Project features, including the new setback levee, the existing Cache Slough levee, and the cross levee at the south end of the Project.

7. The Project proponents should demonstrate how RD 2098 will remain sufficiently funded to perform operation and maintenance (O&M) of the State Plan of Flood Control levees, and potentially provide a source of annual O&M funding to keep RD 2098 solvent.
8. The Project proponents should work with the adjacent local water agencies and landowners to develop assurances, and pay for permits (incidental take permit, habitat conservation plans, safe-harbor agreement, etc.) and/or facility improvements to allow current use of lands to exist with potential higher regulation due to increased presence of endangered species.
9. The Project proponents should provide adequate funding to maintain and/or modify the habitat as needed to support native species and control non-native species.
10. The Project should be designed with setback areas to keep mosquitos away from adjacent lands and financially support the Solano County Mosquito and Vector Control Agency
11. The Project proponents should provide a waterfowl removal program for when geese cause damage to local agriculture fields and pay for damages.
12. The Project design should include a publicly accessible parking lot with garbage and restroom facilities located away from the District's drainage pumping plant.
13. The Project design should build the setback levee away from Liberty Island Road and the District's drainage canal to not interfere with operations and maintenance activities within their easements.
14. The Project proponents should meet with utilities and local landowners on potential new facilities that will require power or gas transmission lines and provide access for those projects if needed.

Reclamation District No. 2068 appreciates the California Department of Water Resources commitment to protecting local water users and land owners in the Cache Slough region and following CEQA requirements. Please add admin@rd2068.com and busch@rd2068.com to the Lookout Slough Project email list, and contact us if we can be of assistance to clarify any of our concerns for this proposed habitat restoration project.

Sincerely,



Bryan Busch, General Manager

Subject: Lookout Slough NOP Attn Heather Green



Leland, James H. <JHLeland@solanocounty.com>
to FRPA@DWR, Axelrad, Lee, Emlen, Bill F., trandall_dt@yahoo.com

Thu, Apr 11, 2:37 PM

You are viewing an attached message WRA, Inc. Mail can't verify the authenticity of attached messages.

Heather,

Thank you for the opportunity to comment on the preparation of environmental documents for the Lookout Slough project. The project is located within the Area of Influence of the Travis AFB Land Use Compatibility Plan (Travis Plan) . In addition, it is located approximately 5.5 miles north of the Rio Vista Municipal Airport.

The Travis Plan identifies an "Assault Landing Zone (ALZ) Training Area" which covers a portion of the eastern county including the site which is the subject of the NOP. Within the ALZ, large military aircraft conduct training missions at elevations as low as 500' AGL. It is a well documented fact that bird strikes are a known hazard to flight at elevations below 3,500' AGL and especially at elevations below 1,000' AGL. The proposed Lookout Slough project would restore habitat for Chinook Salmon, which are known to be preyed upon by seagulls, terns, cormorants and eagles. These birds can fly at altitudes up to 3,500' AGL. Development of the Lookout Slough project has the potential to introduce a significant number of birds into the area which would pose significant potentials for bird strike hazards for aircraft utilizing the ALZ training area. The Environmental Impact Report must address this potential impact and propose mitigations or alternative sites which eliminate or greatly reduce these potential hazards.

Another consideration, separate from the CEQA requirements, is the question of ALUC jurisdiction. This property is currently privately owned. Planning a project and seeking permit rights for privately held property requires compliance with the zoning regulations of the County of Solano and, independently, a consistency determination from the ALUC.

Please feel free to contact me if you would like to discuss this matter further. I can be reached at the contact info below.

Best Regards,

Jim Leland
Principal Planner
Solano County and
Solano County Airport Land Use Commission

O: 707-784-3166

BILL EMLÉN

Director
wfemlen@solanocounty.com
(707) 784-6765

TERRY SCHMIDTBAUER

Assistant Director
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DEPARTMENT OF RESOURCE MANAGEMENT

SOLANO COUNTY

675 Texas Street, Suite 5500
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www.solanocounty.com

April 22, 2019

Attn: Heather Green
3500 Industrial Blvd
West Sacramento, CA 95691

Subject: Notice of Preparation (NOP) for Proposed Lookout Slough Restoration Project, Solano County, California.

Dear Ms. Green:

The Solano County Department of Resource Management reviewed the NOP provided for the Lookout Slough Restoration Project located in the unincorporated portion of Solano County. The project proposes to convert approximately 3,400 acres of agricultural lands to tidal marsh and other wetlands. Solano County has been designated a Responsible Agency, with permits identified in Table 1 of the Initial Study. In addition to the permits listed in Table 1, a Land Use Permit, Well and Septic Destruction permits, and Encroachment/Transportation permit approval are required prior to construction. The following shall be evaluated in the Lookout Slough EIR:

A. Land Use Permit and Compatibility with Agriculture:

1. The NOP Table 1, Required Approvals, Permits and Consultations, and Section 11 Land Use Planning (b) in the Initial Study, omits the Land Use Permit requirement for conservation and mitigation banks in the Exclusive-Agriculture - 80 acre (A-80) Zoning District. Include discussion of land use compatibility with Agriculture and consistency with General Plan policies pertaining to the change of agriculture to non-agriculture land use, agricultural mitigation (AG.P-4) pertaining to the loss of farmland or land use compatibility of tidal marsh when adjacent to agriculture (A.I.1). The policies are discussed in Item B below.

Solano County disagrees with Initial Study findings and determines that without Land Use Permit approval, the project is in conflict with Zoning and General Plan policies and land use impacts are potentially significant. The property's General Plan Land Use Designation is Agriculture with a Resource Conservation Overlay and is subject to the goals and policies contained in the Agricultural Chapter and Sacramento-San Joaquin Delta policies in the General Plan. The EIR shall evaluate consistency with Solano County General Plan policies. Land use permit approval is required prior to issuance of any construction permits. The EIR shall include a variety of measures to ensure effective transition and compatibility of restored lands with existing land uses.

B. Farmland Loss and Consistency with Solano County Agriculture Preserve Guidelines:

1. Section 2 Agriculture & Forestry Resources in the Initial Study states that the properties are currently under Williamson Act contract number 567 and 1218, and subject to Solano County Agricultural Preserves Uniform Guidelines. Portions of the property are classified as Prime Farmland on the California Department of Conservation Farmland Mapping Program. According to Table A of the Solano County Uniform Rules and Procedure Governing Agricultural Preserves and Land Conservation Contracts, Habitat Land Uses such as restoration of tidal, managed and seasonal wetlands are prohibited on Prime Farmland class. A Notice of Williamson Act Non-Renewal or Contract cancellation is required.
2. Section 2 Agriculture Resources in the Initial Study identifies impacts to conversion of Prime Farmland within the Moore Tract and conflicts with the Williamson Act contracts are potentially significant. According to the Solano County General Plan, the conversion of agricultural to non-agricultural land use is subject to AG. P-4 and A.I.1, as follows:

General Plan Policy AG. P-4: Require farmland conversion mitigation for either of the following actions:

- A. General Plan amendment that changes the designation of any land from an agricultural to a non-agricultural use or*
- B. an application for a development permit that changes the use of the land from production agriculture to a nonagricultural use, regardless of the General Plan designation.*

General Plan Policy A.I-1 requires a mitigation ratio of a minimum 1.5-1 (1.5 acres protected for 1 acre of farmland converted) and mitigation of similar agricultural quality within the same agricultural region as the proposed development or within the Agricultural Preserve Overlay.

Mitigation for the loss of farmland shall be evaluated and mitigation measures to reduce the impacts consistent with the above policies shall be included in the EIR.

C. Loss of Heritage Trees:

The Initial Study and Biological Assessment identifies removal of 35 acres of Heritage trees and preservation of 6 acres. County General Plan Policy RS. I-3 requires mitigation for the loss of any tree more than 15 inches at dbh or 54-inches above natural grade, or California Native Oak more than 10 inches dbh above natural grade, or any tree or group of trees determined to be culturally significant. The Initial Study or Biological Assessment does not clearly identify the size or location of trees to be removed or preserved. In order to determine appropriate mitigation to a level of less than significant, clearly identify the size, location and species of trees in order to determine the loss of trees and appropriate on-site, off site or combination mitigation. The Cultural Resource report shall evaluate the potential for culturally significant trees and identify mitigation as appropriate, in order to determine consistency with Solano County General Plan policies.

D. Aesthetics and Change in Landscape:

Section 1: The Initial Study states that aesthetic impacts are less than significant. The project proposes a significant change in the landscape from agricultural lands, marsh and levee to a significant amount of tidal marsh, and the change in landscape and topography is potentially significant. It is impossible to evaluate the aesthetic impacts of change in landscape or view between existing and proposed without visual simulations. Provide panoramic visual simulations or video simulations of the existing and proposed project, with the tide in and tide out, from multiple vantage points from the north, south, east and west points. In addition, provide proposed topography and elevation points of the project at low and high tide.

E. Transportation, Drainage and Recreation Impacts:

1. The proposed public road abandonment/vacation (Liberty Island Road along Shag Slough) and removal of the Shag Slough bridge has the potential to cause disruption in the agricultural transportation network. Road abandonment could limit access by local landowners and the general public to lands in the surrounding region. Provide information that the transportation of goods and services would not be disrupted or otherwise affect public access to the subject or adjacent properties. The potential road abandonment and removal of Shag Slough bridge have potentially significant transportation and recreational impacts that need to be addressed.
2. The area is currently used for recreation; a change to tidal marsh and wetland land use has the potential to draw additional people and traffic via land or water vehicles. The EIR shall evaluate potential impacts to the County and State roadways and additional trips to the site shall be evaluated, including effects on greenhouse gases, air and water quality.
3. Construction traffic from the proposed project on County roads would create damage due to increased use. The EIR shall consider transportation related damage and associated mitigating improvements and/or repairs. A performance bond may be required under Chapter 31 of the Solano County Code due to the proposed work potentially damaging the Solano County roadway system and associated facilities within the public right of way.
4. Changes to local and regional drainage patterns from the proposed project have potential for significant impacts and need to be studied. Chapter 31 of the Solano County Code allows filling, grading, excavation, or obstructing the bed or banks of a watercourse and removal of the riparian vegetation only where no reasonable alternative is available. The EIR shall include and consider alternatives.
5. Importation and use of soils and construction materials from outside the area, including straw based erosion controls as an example, have the potential of introducing invasive plants to the region and are potentially a significant impact.
6. Construction season commences on April 15th and ends on October 15th. A construction schedule shall be provided, and a plan developed to acquire approval if construction will occur outside of the construction season.
7. All material export is assumed to occur in 2020 and would need to be hauled/disposed to a nearby landfill or used on the project site. The EIR shall discuss, in detail, a program to

prevent non-compliant grading related to any surplus export materials being disposed in non-approved/non-permitted lands.

F. Impacts to Emergency Services:

The initial Study, Section 15 Public Services states that the impacts to Fire are less than significant and no impact to Police Services due to reduced risk of exposure to people and structures. However, the proposed project has the potential for increased impacts to police services due to land or water-side nuisance abatement and more serious public safety risks such as drowning and boat accidents at this location due to its increasing water recreation potential, impacting Solano County Fire and Sheriff services. The EIR shall fully evaluate the impacts, emergency response rates and costs of such potential impacts.

G. Impacts due to Levee Degrade and Breaching:

1. The federally-authorized levee along Shag Slough proposed for degrade as part of the Lookout Slough Project controls flood stages along Cache and Haas Sloughs. Increased flood stages along these sloughs may negatively impact the performance and increase the maintenance cost of operating the federally-authorized levees associated with RD 2068, RD 2060, and RD 2104. Provide a detailed hydraulic analysis of the changes in stage associated with the proposed degrade of the Shag Slough levee. This analysis should address a range of flood frequencies no less than the 10 to 100-year events.
2. The federally-authorized levee along Cache Slough proposed for breaching as part of the Lookout Slough Project may serve to control flood stages along Cache and Haas Sloughs in the with-project condition. Provide a detailed explanation of the following (a) the final configuration of the Cache Slough levee including dimensions, composition (material selection), and planned vegetation; (b) a clear articulation of who is responsible to maintain this configuration in perpetuity; and, (c) what sustainable source of funding will be used to conduct this maintenance.
3. The federally-authorized levee along Cache Slough proposed for breaching as part of the Lookout Slough Project may serve to control flood stages along Cache and Haas Sloughs in the with-project condition. Provide a detailed description of the configuration of the breach dimensions, composition (material selection), and access (to and beyond) the structure. Provide a detailed hydraulic analysis of the breach under various loading conditions and describe the associated change in stage and resulting velocity profiles associated with the proposed breach.
4. Describe how all of the levees degraded, modified, or constructed in the with-project condition will be classified and regulated pursuant to Section 408 of Title 33 of the United States Code and Title 23 of the California Code of Regulations.

H. Potential for Seepage through or under levees and breaches:

1. The proposed with-project condition will permanently inundate over 3,400 acres of land through permanent and uninterruptable breaches in the existing levees. Provide a detailed geotechnical analysis describing the potential for increased seepage through or under the federally-authorized levees associated with RD 2068, RD 2060, and RD 2104. The analysis must be sufficiently detailed to understand the impacts of the with-project condition on levee performance during flood conditions as well as on

groundwater in the project area and the potential to increase drainage pumping costs in adjacent reclamation districts.

2. Erosion from wind generated waves is common for levees along the Yolo Bypass. The proposed degrade of the federally-authorized levee along Shag Slough will increase fetch distances within this portion of the bypass. Provide a detailed hydraulic analysis describing the potential for increases in wind-generated wave runup, wave heights, and the associated levee overtopping and erosion potential resulting from the proposed with-project condition.

I. Impacts to Water Resources:

1. Water Quality: See Attachment A
2. Dewatering of the project site may create groundwater impacts to adjacent and other properties in the region. Provide detailed hydrologic and hydrogeological analyses.
3. A detailed analysis of methylmercury production and export associated with creation of tidal habitat should be included, that addresses effects on the project, surrounding areas, the region and the Sacramento-San Joaquin Delta.

J. Other Impacts to Agriculture:

1. A large number of water supply intakes for agriculture are present adjacent to the project and throughout the region. The project intends to improve primary and secondary productivity and food availability for Delta Smelt and other native fishes. Detailed analysis of primary and secondary productivity, food availability (and increased numbers of fish) and subsequent effects over time on water supply intakes should be identified and mitigated.
2. The increase of on-site diversity of foraging, breeding and refuge habitat for aquatic and terrestrial species on the Project site and in surrounding tidal sloughs will have impacts on agriculture adjacent and near the project, and in the region. Analyses of this habitat conversion on agriculture should be analyzed and mitigation measures identified to offset impacts.
3. A revegetation plan that relies on "natural recruitment" delays habitat benefit and invites invasive species and failure: an active and ongoing revegetation plan should be included in the EIR. This would require a detailed revegetation plan and schedule, with ongoing monitoring and funding that takes into account unintended impacts to adjacent landowners.

K. Active Stewardship, Maintenance and Good Neighbor Policies:

Changing lands from managed (active presence on the land) to unmanaged (or less managed) can create impacts related to vectors, other pests and invasives of all types, impacting surrounding agriculture. Construction noise and nuisances may cause conflicts with adjacent properties and agricultural operations during and post construction. The potential significant impacts shall be evaluated in the EIR, including a short term (during construction) and long-term management plan with an active stewardship commitment to minimize nuisances and disruption with the adjacent active agricultural operations and

residents living nearby. The Project shall identify an ongoing Point of Contact in the management plan to resolve nuisances.

L. Alternatives and Cumulative Impacts:

1. The EIR shall evaluate a range of alternatives to satisfy project goals that should include an Agriculture Friendly Alternative. The alternative shall consider transitional terrestrial ecosystem land use types adjacent to the existing agricultural operations.
2. The EIR shall evaluate cumulative impacts from nearby projects in Solano, Yolo and Sacramento Counties, including those in the Yolo Bypass, Cache Slough and the Delta. in order to assess the change in the environment which could result in the incremental impacts of a project in the past, present and foreseeable future. The EIR discussion shall be consistent with Section 15130 of the CEQA Guidelines.

We question why the required National Environmental Policy Act (NEPA) review is not considered with CEQA at this juncture. The Project consists of ecosystem and significant change to federal flood control elements requiring permits and should not be bifurcated. The effects of the entire Lookout Project should be considered together. The Project, as described will breach State and Federal flood system levees, construct additional State-Federal Project levees and change the hydrology of the Yolo Bypass and Cache Slough region. Furthermore, all of the EcoRestore projects (of which Lookout is one) should be considered together, due to cumulative impacts that are not being addressed by segmented, piecemeal environmental review of the number of smaller projects in the region.

Thank you for the opportunity to review the NOP and Initial Study and provide input to satisfy County statutory requirements related to the proposed Lookout Slough Project.

Sincerely,



Bill Emlen
Director of Resource Management

Water Quality Scoping Comments on Lookout Slough NOP

The Environmental Impact Report (EIR) for the Lookout Slough Restoration Project must include a detailed analysis of the adverse impacts of the proposed restoration of approximately 3,000 acres of tidal marsh habitat on water quality in the full Sacramento-San Joaquin Delta. The Lookout Slough EIR must use the water quality significance criteria of 5 mg/l chloride or 5% increase, whichever is greater. In the case of specific conductance (EC) the corresponding criterion should be 20 μ S/cm. These significance criteria were developed as significance screening criteria by CCWD for the September 1993 *Los Vaqueros Project Final EIR/EIS* (SCH #91063072, Volume 1, page 5-9)¹. These significance criteria were also used by EBMUD for the July 2003 *Freeport Regional Water Project EIR/EIS* (see *Draft EIR/EIS Modeling Technical Appendix*, page 4-228)²

The proposed Prospect Island Project involves restoration of another 1,600-acres in south-eastern Solano County. The Prospect Island RDEIR, on page 5-128, states that the maximum salinity increases under the Proposed Project by up to 7.8% during a dry-year hydrology (fall of 2009). Table 38 on page 82 of *Appendix D: Additional Modeling Results to Support Environmental Analysis of the Prospect Island RDEIR* shows the computed change from Base condition monthly averaged EC (μ S/cm and %) for Alternatives 26, 3 and 23, for C4 – San Joaquin River at San Andreas discloses that other Prospect Island alternatives would increase salinities at San Andreas Landing in the central Delta by up to 10.4%. This is well in excess of the widely-used water quality significance criterion of 5%. The Prospect Island RDEIR failed to analyze the impacts of that proposed project on Delta water quality and other beneficial and legal users of water in critically-dry years. Only 2009 (a dry water year type) and 2010 (a below normal water year) were analyzed. No critically-dry years were modeled.

As was the case with the modeling for the Prospect Island RDEIR, the project proponents may choose to use a detailed calibrated RMA Delta model with computational grid modifications within the restoration site and surrounding waterways to evaluate hydrodynamics within the restoration site. The RMA Delta model is a 2-D depth averaged / 1-D cross-sectionally averaged model extending from Martinez at the west end of Suisun Bay to the Sacramento River above the confluence with the American River, and to the San Joaquin River near Vernalis. Because the Lookout Slough proposed project will also significantly impact salinities in the central and south Delta, and upstream reservoir operations, the Lookout Slough EIR must also simulate the effects of the project on flows, Delta exports and Delta water quality over a much greater range of water year types that includes several drought periods with critically-dry water years. The EIR modeling should also use DWR's CALSIM II operations model and DWR's DSM2 water quality model for the full 82 years of available Central Valley hydrology (1922-2003).

The CALSIM II and DSM2 simulations for the California WaterFix proposed project was flawed because daily time steps were used to simulate Sacramento flows past the proposed new north Delta intakes but exports were quantified as monthly-averages. This often resulted in unrealistic

¹ http://www.calwater.ca.gov/Admin_Record/C-033044.pdf

² http://www.freeportproject.org/nodes/project/draft_eir_eis_v3/section04-4-7.pdf

spikes in salinity and other anomalies, and also meant that CALSIM II was not able to realistically represent the reductions in exports that occur during the 14-day San Joaquin pulse flow in October. In the latter case, this resulted in unrealistically high Delta outflows in October and underestimation of salinities in the Delta in October, November and even December. See SWRCB WaterFix hearing exhibit CCC-SC-03³ at page 24, and WaterFix Final EIR/EIS, Chapter 8, Water Quality, p. 8-145:21, p. 8-146:30⁴.) This serious problem must be corrected by using daily-averaged flows at all input and export locations.

As is apparent from the Delta water quality modeling performed for the California WaterFix, DWR's presentation of WaterFix water quality data only for the period 1976-1991 (16 years) disclosed very different (and often lower) adverse water quality impacts than for the full 82-year analysis of CWF H3+ and an earlier proposal BA H3+. See for example, Solano County and Contra Costa County's joint testimony in the WaterFix Change Petition hearing.⁵

The EIR should present results of the water quality modeling in terms of daily and 14-day averaged chlorides and EC – not just long-term (82-year) averages that obscure exceedances of the State Water Resources Control Board's daily municipal and industrial chloride standards. The EC and chloride data should be presented for all the key monitoring and compliance locations in the Delta, including:

- Barker Slough (NBA intake),
- Mallard Island
- Sacramento River at Rio Vista
- Sacramento River at Emmaton
- Sacramento River at Collinsville
- San Joaquin River at City of Antioch intake
- San Joaquin at Jersey Point
- San Joaquin River at San Andreas
- San Joaquin River at Prisoners Point
- CCWD's Rock Slough intake
- CCWD's Old River at Highway 4 intake
- CCWD's Victoria Canal intake
- SWP intake to Clifton Court Forebay
- CVP intake to Jones Pumping Plant

The CALSIM II and DSM2 output data should not only be presented as long-term averages (82 years, water years 1922-2003) but also as scatter plots of monthly-averaged flows and exports and daily water quality with the project as a function of the no action alternative (without the project). It is important that the modeling results not only be accurate but that the data are presented in a way that is useful and usable by decision makers and the public. Changes in water quality, for example, on a daily basis can result in significant adverse impacts on legal users of water, the Delta ecosystem and other beneficial uses of Delta water, which would otherwise be masked through the use of 82-year averaging.

³ https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/ccc_cccwa/CCC-SC_03.pdf

⁴ https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/ccc_cccwa/CCC-SC_25.pdf

⁵ Exhibit CCC-SC-28: Difference Between 16-year and 82-year Analyses of Water Quality Impacts
https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/ccc_cccwa/CCC-SC_28.pdf

Under CEQA and the State's antidegradation policies (CVRWQCB 2011; Page IV-8.00), water quality of waterbodies with above-average existing conditions should not be diminished even if resulting quality would still satisfy minimum standards. This means that a Bay-Delta project should disclose and fully mitigate its adverse water quality impacts even if the quality is better than current SWRCB municipal and industrial and agricultural standards. For example, the water available to Solano County residents at Barker Slough is typically of lower salinity than the SWRCB's daily-average 250 mg/L chloride concentration standard, but the people of Solano County and local residents have historically had access to that low salinity water and have the right to have that existing high quality preserved.

The Lookout Slough should not attempt to argue that any significant adverse water quality impacts *are consistent with maximizing the beneficial use of water for the State based upon the additional benefits to fish and wildlife from the Proposed Project.*" Beneficial use of water for the State would be maximized if the State Water Project and Federal Central Valley Project were to operate to the enhanced Delta inflow and outflow standards recommended by the SWRCB in its 2010 Delta Flow Criteria report and Part 2 of the SWRCB's current Bay-Delta Water Quality Control Plan update. Higher Delta outflows, especially in the fall, would serve to restore and sustain the Delta ecosystem for fish and wildlife while restoring water quality (lower salinities) in the Delta and offsetting the significant adverse water quality impacts of the proposed Bay-Delta habitat restoration projects.

The Lookout Slough EIR should also take into account the cumulative water quality impacts of the proposed project in conjunction with other proposed EcoRestore habitat restoration projects and the current version of DWR's WaterFix Delta conveyance project. Even if each of these projects only increased Delta salinities by the 5% water quality significance criterion, the combined increase in salinity would be far greater than 5%. Piecemealing the Bay-Delta solution project into small sub-projects for the purposes of dispersing the adverse water quality impacts is illegal under California Environmental Quality Act (CEQA).

The modeling for DWR's original Bay Delta Conservation Plan (BDCP) which included both new conveyance and multiple ecosystem habitat restoration projects disclosed severe adverse water quality impacts throughout the Delta. DWR at the time declared these impacts as significant and unavoidable. As discussed above, those impacts were avoidable through increased Delta outflows (to reduce seawater intrusion into the Delta and improve the Delta ecosystem) and modifications to both the habitat restoration projects and the conveyance-only tunnels project. For example, by adding new south-of-the-Delta export-area storage, more water could be captured and exported during wet months (Big Gulp) and allow less water to be exported during dry months (Little Sip) allowing for higher Delta outflows in those dry months, typically in the fall. A holistic joint storage-conveyance project that incorporates a portfolio of ecosystem restoration, water conservation, levee strengthening, local water supply reliability and groundwater overdraft correcting actions would truly maximize the beneficial use of water for California and should be developed.

The Lookout Slough EIR must clearly disclose how the chloride concentrations were calculated from the modeled EC or TDS values. Relationships between salinity, EC and chloride were presented in a January 1997 CCWD memorandum, titled "*Conversions between EC, TDS, Chloride, Bromide and Sodium.*" (see, e.g., SWRCB WaterFix hearing Exhibit DWR-509.)⁶ More detailed information for converting from EC to other Delta water quality constituents is given in

⁶https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/petitioners_exhibit/dwr/dwr_509.pdf

the February 2015 technical report, "*Delta Salinity Constituent Analysis*," prepared by Richard Denton & Associates for the State Water Project Contractors Authority.⁷

To summarize, the Lookout Slough DEIR must disclose and fully mitigate the significant adverse impacts of the proposed project on salinity in the Delta under the full range of hydrologic conditions (especially critically-dry years).

⁷ https://www.baydeltalive.com/assets/588ee18bdb51ef1619ac6fd28b97f694/application/pdf/Denton_2015_Delta_Salinity_Constituents_Report.pdf



Delivered via email (frpa@water.ca.gov)

April 22, 2019

Lookout Slough NOP
California Department of Water Resources
Senior Environmental Scientist
Heather Green
3500 industrial Blvd.
West Sacramento, CA 95691

Subject: City of Vallejo Lookout Slough Restoration Project NOP Comment Letter

File: Lookout Slough NOP

Dear Ms. Green,

Thank you for providing the City with the opportunity to comment on the Lookout Slough Restoration Project Notice of Preparation, which proposes to restore approximately 3,400 acres of tidal marsh.

The City maintains a point of diversion (POD) on Cache Slough approximately one mile upstream of the proposed project as well as a second POD on Barker Slough, located at the diversion works used by Solano County Water Agency (SCWA). Although we are under contract to divert water using the North Bay Aqueduct (NBA), a part of the State Water Project (SWP), our diversion rights are separate from those of SCWA and the restrictions and requirements of the SWP. Please see the attached figure for reference of our Cache Slough Intake in relation to the project.

A cursory review of the Initial Study (IS) item 10-C states the project could substantially alter hydraulics in the area. If the project is expected to alter hydrodynamics in the area, we are concerned it would impact our ability to divert water out of Cache Slough.

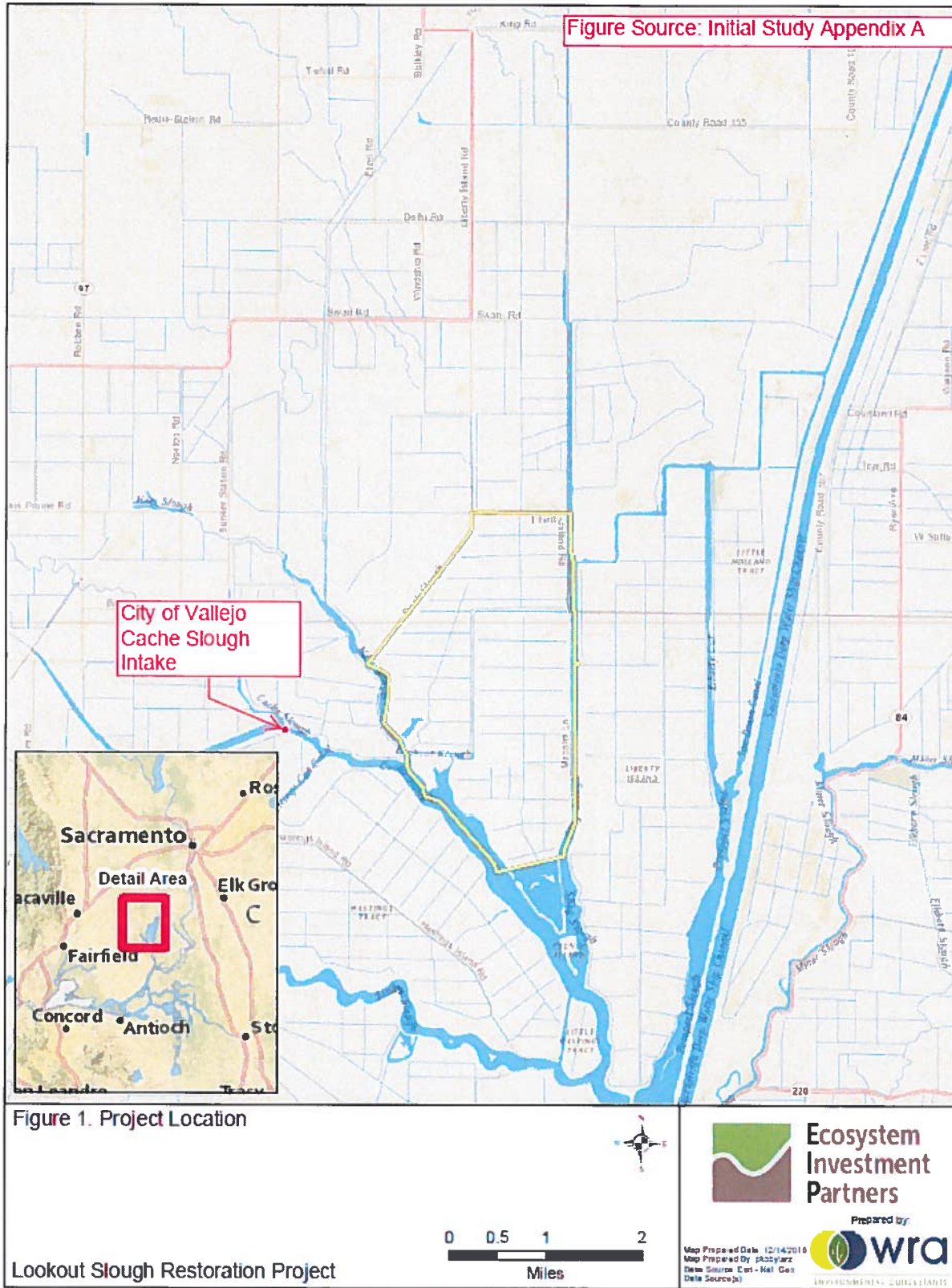
Given the proximity of our diversion works to the project, and the anticipated impacts on hydrodynamics of the Cache Slough Complex, we would request a larger area of impact be identified and evaluated. We would also request to be included on further communications and notices regarding this project as the City was missing from the contact list included with the Notice of Preparation.

Thank you,

Beth Schoenberger
Water Operations Manager

Cc: Mike Malone, Water Department Director
Randy Risner, Chief Assistant City Attorney
Shannon Eckmeyer, Assistant City Attorney
Mark Quady, Engineering Manager
Melissa Cansdale, Associate Engineer

Attachment



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3
4 LOOKOUT SLOUGH RESTORATION PROJECT SCOPING MEETING

5
6 REPORTER'S TRANSCRIPT OF MEETING

7
8 --o0o--

9
10 OLDE VETS HALL
11 231 NORTH FIRST STREET
12 DIXON, CALIFORNIA

13
14 WEDNESDAY, APRIL 10, 2019

15 6:07 P.M.

16
17 SIMS & SIMS
18 Certified Shorthand Reporters
19 1700 Second Street, Suite 308
20 Napa, California 94559
21 (707) 226-3022
22 simsandsims@sbcglobal.net

23
24 Reported by: KATHLEEN M. SOLOAGA

25 CSR 6957

A P P E A R A N C E S

IN ATTENDANCE:

JOEL LEDESMA, Deputy Director

State Water Project, Department of Water Resources

KRISTOPHER TJERNELL, Deputy Director

Integrated Watershed Management Program

BEN GETTLEMAN, Vice President

Kearns & West

KYLE BICKLER, Contract Manager, Reclamation District

Department of Water Resources

HEATHER GREEN, Project Manager, Restoration Project

Department of Water Resources

DAVE URBAN, Managing Director of Operations

Ecosystem Investment Partners

ADAM DAVIS, Managing Partner

Ecosystem Investment Partners

//

//

A P P E A R A N C E S

(Cont.)

JONATHAN HIDALGO, Senior Asso. Environmental Planner
WRA Environmental Consultants

Also Present:

COMMUNITY MEMBERS AND INTERESTED PARTIES

KATHLEEN M. SOLOAGA, CSR 6957

SIMS & SIMS

Certified Shorthand Reporters

1700 Second Street, Suite 308

Napa, California, 94559

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--o0o--

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--o0o--

1 WEDNESDAY, APRIL 10, 2019

6:08 P.M.

2
3
4 P R O C E E D I N G S

5
6 MR. LEDESMA: All right. Folks, we're going
7 to get started. First, I would like to thank you guys
8 all for coming out this evening. I know it takes a
9 lot of your time away from your families to kind of
10 come out and listen to this project we'll be talking
11 about.

12 And so today we will be talking to you
13 about the Lookout Slough Tidal Habitat Restoration and
14 Flood Improvement Project. So before that, my name is
15 Joel Ledesma. I'm the State Water Project, Deputy
16 Director for the State Water Project.

17 And just a little bit of, you know, facts
18 about the State Water Project: It's the largest
19 State-built water conveying system in the country. We
20 have -- we serve water to over 27 million
21 Californians, provide water for 750,000 acres just for
22 the farmland. On top of that, flood management, we'll
23 generate clean energy out of our hydro facilities,
24 recreational, and ecosystem enhancement.

25 One more thing about me, I know -- I'm a

1 soccer player for about 30 years and played in West
2 Sacramento, and one of the high schools that we used
3 to play that we always had a good battle was Dixon
4 High School, because Dixon has a lot of good soccer
5 players in this area. I played against a lot of them
6 and still do now, going on 50. So Dixon's always been
7 on my radar for good soccer teams.

8 So why do we -- why are we -- why is this
9 project really important to the Department and the
10 State Water Project sustainability? Sustainability
11 for us is a core value. What it really means to us is
12 that the State Water Project needs to be able to
13 provide those benefits not just today, but into the
14 future.

15 One of our goals in the Department is
16 that we need to ensure the State Water Project for
17 future generations, but we want to look out fifty, a
18 hundred years and make sure that the State Water
19 Project, the benefits that we -- all of Cali -- most
20 of California have been able to benefit from the State
21 Water Project --

22 (Proceedings briefly interrupted; microphones
23 switched out.)

24 MR. LEDESMA: Those benefits that we've all
25 been able to get through the State Water Project and

1 continue. And so today's project is about meeting
2 today's water demands and into the future.

3 So another thing that's really important
4 to the Department is that we look at more
5 comprehensive projects that have multi-benefits that
6 serve more than one purpose, and that's what this
7 project is all about.

8 So California, and I think we have all
9 seen, you know, the population growth that we've had
10 in California and, you know, with the heart of
11 California's water system home to almost 600,000
12 people and more than 750 animals and plant species in
13 the Delta (inaudible).

14 So with that, I want to pass it on to my
15 colleague, Kris, and he'll talk a little more about
16 the benefits.

17 And thank you for being here tonight, and
18 I just wanted to make that -- you know, tell you thank
19 you, and this is really important to us.

20 MR. TJERNELL: Thanks, Joel.

21 Well, welcome everyone. My name is Kris
22 Tjernell. I'm the Deputy Direct for Integrated
23 Watershed Management, Department of Water Resources.

24 And I think I was just talking to Joel a
25 little before and I was trying to figure out what our

1 role is tonight in just opening up the conversation.
2 And from my perspective, that role is really about
3 providing a welcome to you all, a thanks to you all
4 for your interest in this. Hopefully, this feels like
5 a safe space to share your perspectives, your
6 interests, why you came here tonight. There are
7 certainly opportunities for written comments, of
8 course, oral comments, and mostly just wanted to
9 extend that warm welcome to you all.

10 This is a proposed project that --
11 there's been a -- we've been certainly talking about
12 for a while, and what's really exciting about where
13 we're at tonight is that we get to start sharing that
14 externally, we start looking outside of our own
15 cubicles, outside of our offices and really engaging
16 in that conversation.

17 Now, the nature of these sorts of
18 conversations is not necessarily the kind of dialog
19 that many people would appreciate, there is certainly
20 time for that in the future, but it is certainly that
21 opening opportunity to really hear from you all things
22 that you are willing to share tonight and provide in
23 your written comments.

24 What comes up for you when you think
25 about this project? What are those concerns? What

1 are those interests? Where does it align with your
2 values, your interests, irrespective of what
3 perspective you bring to the evening tonight.

4 So mostly I just wanted to say that
5 welcome. You are welcome here. Really looking
6 forward to hearing your comments.

7 And just one other thing I wanted to say,
8 just to piggy-back off a little bit what my colleague
9 Joel Ledesma mentioned, and it actually parallels a
10 little bit with my title, which is a new position with
11 DWR, the concept of integrated watershed management.

12 What does that really mean? Really what
13 it means to me, in one way at least, is the fact that
14 we are planning a lot of our landscapes these days,
15 whether it's flood protection for local interests,
16 flood protection for our State interests, (inaudible),
17 ecosystem restoration, agricultural sustainability,
18 economic development, et cetera, et cetera.

19 And what's really exciting to me about a
20 project like the proposed Lookout Slough multi-benefit
21 project is that the whole idea from the beginning is
22 how can we achieve, if not all of these aspects, a lot
23 of these aspects in one particular landscape; and in
24 doing so, bring together nontraditional partnerships,
25 reach out to potential partners and existing partners

1 who we otherwise haven't in the past, and in doing so,
2 really looking at this as a model for what's to come.

3 Certainly, to say we have a huge interest
4 in the Delta restoration, in economic development, air
5 (inaudible) sustainability, water supply, and that's
6 going to remain in force to the future.

7 And I really see this proposed project as
8 an opportunity to learn a lot about the kinds of ways
9 that we need to be pushing these sorts of projects,
10 and what (inaudible) from the local government and
11 (inaudible), what is the State's interest? What the
12 federal interest?

13 How do we best mix those up into a
14 project that will be successful and provides the
15 benefits, in this case, fish restoration, flood
16 protection, that we all want to see and really create
17 a model for what comes next?

18 So, thanks again for being here, really
19 appreciate the time and the energy you're putting into
20 it and will put into it in the future months, and we
21 look forward to the conversation.

22 Thank you.

23 MR. LEDESMA: Thanks, Kris.

24 BEN GETTLEMAN: Good evening. My name is Ben
25 Gettleman. I'm with Kearns & West. I will be the

1 facilitator for the scope of the meeting this evening.

2 I'm going to walk us through the purpose
3 of the scope of the meeting, our objectives, walk
4 through the agenda and some of the ground rules, and
5 then we'll get into presentations.

6 So we'll start with the objectives. So
7 of course we want to provide information about the
8 proposed project, and given that this is a scoping
9 meeting, we want to solicit public comment on the
10 scope of environmental analysis for the project to
11 inform the Draft EIR, so really the focus is to get
12 comments from you all on the scope of the analyses.

13 The agenda that we have for you today is
14 after I kind of walk you through the introductory
15 slides, we'll have presen -- two presentations. One
16 is just a general overview of CEQA and the other will
17 give more detail on the project itself, then we'll
18 take a break, about 15 minutes.

19 We have some informational posters in the
20 back. We have staff that are available to answer
21 questions, provide additional information, and then
22 we'll come back around 7:00 o'clock for a public
23 comment session, so anyone who is interested in
24 providing verbal public comment will be able to do so
25 then, and then we'll adjourn at 8 o'clock.

1 And I just wanted to let (inaudible), the
2 focus really is on getting your input; and so if you
3 have questions, I encourage you to ask during the
4 informational session, but we won't be doing that
5 during the actual public comment or during the
6 presentation.

7 Okay. Couple things about public
8 comment. There are some -- if you'd like to write an
9 oral comment, there are some blue speaker cards that
10 are up on the table. We would ask you to fill one out
11 and hand it into the DWR staff and we'll sort of go
12 through the public comment in the order that we
13 receive them. So with those comments, staff will
14 reconsider the issues raised and the comments provided
15 by the attendees in the scope of the final analysis,
16 as I mentioned.

17 Let's see, a couple other things. We're
18 going to ask folks to keep it to three minutes or
19 less. We have a court reporter, who is going to be
20 getting down your comments, and those will go on the
21 public record. And in addition to the oral comments,
22 we would also encourage people to submit their
23 comments either in writing here (inaudible) up there
24 that I believe is yellow, and you can also submit an
25 email; and at the end of the presentation today, we'll

1 give you all those details.

2 Okay. Just a couple grounds rules I
3 think should all be familiar to you. I really do want
4 to encourage participation during public comment so we
5 can get as much input from you all as we can, really
6 ask you to honor to focus of the meeting here; so
7 we're hoping to see comments on environmental issues,
8 concerns, and alternatives to evaluate the EIR, so
9 we'd ask you to focus your comments again on the scope
10 of the environmental analysis of the project.

11 During public comment, we're going to
12 have one person speak at a time. We'd really ask
13 people to refrain from side conversations so we stay
14 focused. We certainly understand there are going to
15 be differences of opinion, but we'd ask you to be
16 respectful of those differences.

17 And finally, if you haven't already done
18 so, please silence or turn off yours phones, okay.

19 I'm going to -- before we on, I'm going
20 to ask a few key staff to introduce themselves, so
21 let's start with DWR staff, Heather and Kyle.

22 MR. BICKLER: My name is Kyle Bickler,
23 (inaudible) Department of Water Resources, Flood
24 Management. I'm the contract manager with the
25 Reclamation District (inaudible) with the flood

1 (inaudible) scope of the project.

2 MS. GREEN: Hi, my is name Heather Green,
3 also with the Department of Water Resources, and I'm
4 the project manager for the Restoration Project.

5 MR. URBAN: Hello, I am David Urban with
6 Ecosystem Investment Partners. I'm the project
7 manager for the restoration from Ecosystems Investment
8 Partners side of the house.

9 MR. DAVIS: Good evening, I'm Adam Davis, I'm
10 one of the owners of (inaudible) Ecosystem Investment
11 Partners.

12 MR. HIDALGO: Hi, I'm Jonathan Hidalgo with
13 WRA (inaudible) CEQA (inaudible).

14 MR. LEDESMA: Okay. All right. So we're
15 going to get into an overview of CEQA. I think that's
16 you, John.

17 MR. HILDAGO: Greetings, everyone. As I
18 mentioned just a couple seconds ago, I am Jonathan
19 Hidalgo. I'm a senior environmental planner with WRA,
20 and I'm going to give you a quick overview of the
21 CEQA, because this meeting, after all, is for the
22 purposes of scoping out the EIR.

23 And under CEQA, which is the California
24 Environmental Quality Act, we have a couple goals we
25 want to achieve, and the biggest is in both informing

1 the business decision-makers and also the public of
2 any potentially significant environmental impacts. We
3 can do that through a couple of ways.

4 We can also identify environmental damage
5 (inaudible) to the project, potential ways to avoid
6 it, whether or not there can be any applicable
7 mitigation to reduce those impacts. And should the
8 project be approved in the end, we would also disclose
9 why the decision-maker made that decision.

10 So how exactly are we going to accomplish
11 that? Well, here we have a general overview of the
12 schedule. What I really want to stress here is, this
13 is the first step in a long process. As you can see,
14 the one at the very top, this is preparation scope of
15 (inaudible).

16 Everyone in this room, and I would also
17 encourage all your friends, anyone that could possibly
18 care about this project, please, please, please
19 comment. Provide us comments, it's the best way that
20 we can know what people are thinking and then address
21 them in the EIR. It allows us to get local knowledge
22 of things that we may not have, so please do comment.

23 We are expecting the public review draft
24 of the EIR around late summer. From there, we will go
25 through another comment period. There will also be

1 another public hearing, so, again, the public will
2 have time to comment on the EIR, and then we will get
3 into the Final EIR and respond to everyone's comments;
4 and eventually we will get to the certification stage.

5 I also do want to stress, certification
6 of the CEQA document is not project approval, it is
7 merely certification of the CEQA document.

8 And now I'm going to hand it off to Adam
9 Davis from EIP.

10 MR. DAVIS: Thank you.

11 So, as I said, hi, my name is Adam Davis.
12 I'm one of the founders and owners of EIP. We're a
13 private restoration company. We do projects all
14 around the United States. We were formed in 2007, and
15 our company really grew up in the mitigation banking
16 business, which is providing compliance for folks that
17 have impacts under the Clean Water Act.

18 So our company basically is like a
19 project developer. We finance, design, and build
20 projects around the United States, and so far we've
21 done about 40,000 acres of wetlands and about 150
22 miles of streams in really large-scale restoration
23 projects around the country.

24 So we were aware that DWR and the State
25 of California had an issue with the Delta Smelt

1 habitat. In 2017, we ended up acquiring three
2 properties here in Solano County: The Bowlsbey Ranch,
3 Liberty Farms, and a place called the Vogel tract,
4 which is a smaller piece. All together, it's about
5 3400 acres of property, and that put us in a position
6 to be able to work with DWR. We're now contracted
7 with them to help them achieve the goals of this
8 proposed project.

9 So this map up here is just a snapshot of
10 the kind of places we're working around the United
11 States, and we're really proud and pleased to be
12 working with DWR to try and accomplish the goals of
13 this project.

14 So I'm going to hand it off to Dave
15 Urban, who is our -- did I go one past? Dave Urban,
16 who is our Director of Operations and Project Manager
17 on this project.

18 MR. URBAN: Thank you, Adam.

19 The first thing I want to point out about
20 this project, or proposed project, is the Delta Smelt,
21 which is required to be -- the habitat for the Delta
22 Smelt, which is required to be restored, is actually
23 in a very limited place within the Delta system, and
24 this green map shows the primary target area where
25 restoration is ideal to occur, and it's actually a

1 pretty small area. There's a yellow marker, "project
2 location" is where we are.

3 And the goals of doing restoration is to
4 basically increase the number of fish species that are
5 out there and to provide food benefit; and then also,
6 because this is the Sacramento Delta, we also need to
7 think about flooding because that's always a concern
8 there. And so the idea is, how do we negotiate both a
9 fish restoration project and flood benefits here?

10 As Adam said, we were aware of these
11 needs. We purchased 3400 acres of land in three
12 tracts; located here on the east side of the project
13 is the Yolo Bypass; over in -- on the southwest side
14 is Cache Slough, and to the right of the project is
15 what is now (inaudible), lake -- what do you call
16 that?

17 The important thing to do restoration on
18 a project is to find the ideal location for it. This
19 map demonstrates that the Delta Smelt needs a tidal
20 habitat, and the ideal tidal range of -- by elevation
21 of ground is the green zone in this map; and so this
22 property is very ideal for -- as a proposed project
23 location, and that's -- when we bought that, we
24 understood that, and that is why we focused on that
25 piece of property.

1 One of the things EIP does, we're all --
2 as Adam showed you on the map, we have projects all
3 over the country. The way we accomplish doing
4 projects all over the country is to hire teams of
5 people who are in the region and we do -- and that's
6 very important. We believe that it's important for
7 the local economy.

8 It's also important because the folks who
9 live in the region understand the ecology, the
10 weather, the local conditions, which are important to
11 succeed in restoration. It doesn't do me any good to
12 bring a contractor from Kentucky, who is doing stream
13 restoration out there, to California, because they
14 don't know the region. And the local people, the
15 teams of people that we have hired are all locally
16 based, regionally based, and provide us the expertise
17 to properly accomplish the restoration that we are
18 proposing here.

19 Once again, this property is in an area
20 that the Delta Stewardship Council has identified as
21 an important place to do restoration. It is also an
22 important place to think about flood control.

23 Historically, the earliest USGS map we
24 could find shows that this whole area was a marsh.
25 It's a little hard to tell in this category, but if

1 you go up close, it shows that about 90 percent of the
2 property was historically marsh.

3 Obviously, since 1916, a lot of changes
4 to the landscape have happened. As agriculture moves
5 south into the Delta, levees start being built.
6 There's been several rebuilds of the levee system
7 through this system, and our current system of levees
8 has been established for 60 or 70 years now.

9 Our particular property, currently the
10 land use includes irrigated pasture on what's called
11 the Bowlsbey tract, which is the property to the north
12 and west. And on the -- to the south and east, it is
13 currently a managed duck club. It was, up until 2005,
14 agriculture. In 2005, that tract got converted to
15 duck habitat.

16 These are some pictures you all have seen
17 of the typical Solano County agricultural fields and
18 levees, but that's the site. As we said, this is a
19 proposed project that has multiple benefits, including
20 flood control.

21 Flood control has always been -- or has
22 been recently thought of in this project for this
23 piece of property. The blue line demonstrates -- is a
24 proposed levee alignment for moving the existing levee
25 out into the duck club property. It's part of the

1 Sacramento Area Flood Control Studies planning
2 documents. It was always -- it was -- it's been
3 incorporated because it was recognized that providing
4 flood benefits in this region were important.

5 Our proposed project actually expands
6 that flood capacity by putting the alignment of a
7 levee not where the blue line is, but all the way to
8 include our entire 3400 acres.

9 So what are we planning on doing on this
10 site? As I said earlier, we are going to move a
11 levee, we are going to open up the area to the ebb and
12 flow of the adjacent tidal area. And to do that, we
13 are going to develop different elevations of habitat,
14 which is what the different colors are on my concept
15 plan that we are using to move forward as the basis
16 for this CEQA process.

17 In order to take that basic concept and
18 try to refine it, we have already done an extensive
19 amount of public outreach. We've been reaching out to
20 federal officials, state officials, local officials,
21 and other interested parties to receive input.

22 Many of you I recognize in the room here,
23 tried to sit down with you over the last year to
24 incorporate (inaudible) already on the project that we
25 are moving forward or proposing to do in the CEQA

1 process.

2 Once again, one of the goals of this
3 project is to develop habitat. So in order to develop
4 habitat, we have to actually build channels into the
5 site to more efficiently move the tidal influence in
6 and out of the project.

7 The blue squiggles are the -- are an idea
8 of what the proposed channels could look like. The
9 orange lines are the upland levee areas. We also have
10 to accommodate PG&E. There's very large transmission
11 towers there. We have to have an idea of how to
12 propose protection to those PG&E towers that allow
13 access within those. We have (inaudible) early
14 discussions with PG&E to understand their needs and
15 their concerns with the technical aspects of
16 maintaining their power grid there.

17 Once again, this has to have food
18 habitat. The green are different elevations which
19 would grow different kinds of (inaudible) material
20 that would then eventually wash into the channels and
21 then provide food for Delta Smelt.

22 One of the other things we have to think
23 about is the other native species in the area. Giant
24 Garter Snake has been identified by several entities,
25 and so we have been doing conceptual thinking on how

1 to accommodate the Giant Garter Snake as well as the
2 fish.

3 Once again, these orange upland areas are
4 not only going to provide -- could provide PG&E
5 access, but they could also provide habitat for the
6 Giant Garter Snake if they are around there.

7 There's other fish species that all have
8 to be thought about that in our discussions with
9 several of the state and federal agencies, they've
10 suggested some ideas that we have to think about how
11 to incorporate into the project.

12 Once again, this is -- I keep stressing
13 this is a multi-benefit project. By opening up these
14 levees and moving them, there's over 20,000 acre feet
15 of temporal storage that we have created on this site.
16 That provides a benefit to the adjacent reclamation
17 districts and that, especially to the north, it will
18 take it a little bit lower flood elevations, relieving
19 some stress on levees to the north of us along the toe
20 grade.

21 We have also worked hard to create --
22 make sure we are causing no harm to the south and to
23 the west of us. The yellow is areas where we are in
24 effect, by modeling, demonstrating a no-flood-impact
25 area. Again, these are just early hydrolic studies

1 coming out to help analyze how we would proceed with
2 the design work.

3 I'm going to turn it back to Jonathan,
4 who will describe kind of the modeling process
5 (inaudible) this work we're doing, how that affects
6 the things that we ask you to comment on.

7 Thank you.

8 JONATHAN HIDALGO: Thank you.

9 So, as David said, (inaudible) how this
10 impacts CEQA is that we have a list of items such as
11 the construction of the levees, levee breaches,
12 construction throughout the project site. This is not
13 an exhaustive list, this is part of the scope of the
14 process, because we want to figure out some additional
15 things that can be included within this.

16 So, so far we have put out an initial
17 study, which is available on DWR's website to go along
18 with (inaudible), and we have identified a number of
19 topics that are -- so far we consider to be
20 potentially significant and want to discuss further in
21 the EIR.

22 Again, this list isn't exhaustive. In
23 fact, part of the goal of this meeting is to
24 potentially include additional comments that may come
25 out of public comments. And how you can do that is,

1 provide local knowledge, provide potential
2 alternatives to the project, mitigation measures,
3 items such as how you would like to see the impact
4 analysis occur, and all of that will impact on these
5 various topics.

6 So now I'm going to hand it to Ben.

7 Actually, I can discuss this. So we have
8 several methods for you guys to provide comments. A
9 couple of them are going to be available for you
10 today, either by orally providing it, you can also
11 email the address at the top.

12 In the back of the room, there are yellow
13 cards. They have stamps on them, and they have who to
14 mail it to. All you have to do is fold it in half,
15 put it in a mailbox and you can mail it to us. If you
16 would like to take it home, take a little bit of time
17 to write on it. You can also write and fill out the
18 cards this evening, just hand it to one of the DWR
19 staff and we'll accept it that way.

20 Now, pass it back.

21 UNIDENTIFIED SPEAKER: Okay. We're gonna
22 take a break soon, but before I do that, I would just
23 like to acknowledge two elected officials in the room.
24 We have Skip Thompson and John Vasquez, Solano County
25 Supervisors. Thank you for being here.

1 Okay. We are now ready to take a break
2 for informational posters. So staff are going to be
3 in the back, we'll be there to chat with you, answer
4 your questions. We'll come back in about 15 minutes
5 for public comment, and I will give you all a couple
6 minute warning.

7 Let's take a break and we'll see you all
8 soon.

9 (Informational session held from 6:37 p.m. to
10 6:54 p.m.)

11 MR. KATZ: Good evening, my name is Jacob
12 Katz, (inaudible) conservation organization.

13 (Feedback from microphone.)

14 MR. KATZ (inaudible): That doesn't count
15 against my time, right?

16 I would like to say just a couple things
17 about (inaudible) because this project is just of
18 critical importance, not -- not for the regional area
19 and not for the Delta but for the State of California
20 as a whole.

21 Why? Because this is the first project,
22 literally the first restoration project that is
23 actually being built on a scale that matters, that's
24 at the landscape scale, not because that sounds
25 better, because it sounds like it's big, but because

1 what you are actually able to do is restore the
2 ecological processes which make for a healthy
3 environment, which make for a functioning tidal
4 system, which create enough food to feed fish and make
5 a system that works.

6 What is critical here is that the slough
7 systems, the tidal systems that are built at locality,
8 because it is at that whole 3400 acre size, because it
9 is located in the right place, allows for water to
10 slosh back and forth at the top of those -- at the top
11 of those tidal channels.

12 Why is that so important? Because that
13 builds residence time. What is residence time?
14 Residence time is the time needed for the aquatic
15 food, for the energy that actually makes fish food,
16 that makes fish, to actually take place, and that
17 doesn't happen in a postage-stamp, small little
18 restoration. It doesn't matter how much money you
19 spend. It doesn't matter how many of them you
20 actually make. If the tidal water goes in and comes
21 right back out, you are not getting it done.

22 What we have a chance to do at Lookout
23 Slough it actually mimic the way the system used to
24 work and do it at a place where we actually have
25 impact.

1 How many billions of dollars have been
2 spent on Delta planning, on Delta efforts, on federal
3 and state, you know, interface over the last several
4 decades, one, one and a half?

5 How many acres have actually been put on
6 the ground? Very few. How many of those acres are
7 actually at a scale where we're actually getting
8 something that means something for adult smelt?
9 Almost none.

10 This is the first time we actually get a
11 chance to change the tide, to actually create a system
12 that is going to work, and we have to learn how to do
13 it together.

14 This ultimately is critical for the
15 future and water security of Solano County, like it is
16 for the rest of the state. It's going to be projects
17 like this that actually create a working system, a
18 system that has the capacity to make robust
19 populations of fish, and it's those same fish
20 populations that are ultimately the greatest liability
21 for pumping withdrawals of the Northbay Aqueduct, that
22 are a liability for the continuing operation of
23 Sonoma -- of Solano County's water agency.

24 And with that I'd just like to say, we
25 need to do this together. We need to do it in a way

1 where everybody gets what they need, but also
2 everybody has skin in the game. So I look forward to
3 seeing this project, you know, happen.

4 Thanks.

5 MR. LEDESMA: Thank you.

6 Any other folks have public comments they
7 would like to provide?

8 (No response from audience.)

9 MR. LEDESMA: Okay. I think what we'll do is
10 we still have some time, staff are going to be here.
11 I think we will sort of go back to the information
12 session, and you are welcome to ask questions to
13 staff, talk about the posters, all sorts of things.

14 We certainly do encourage, if you do have
15 a comment, to fill out our comment form here or you
16 can take one home and mail it in.

17 But with that, I think we're going to
18 adjourn the scoping meeting and, yeah, let's go back
19 to information sessions, and thank you all for coming
20 this evening.

21 (Off record at 6:59 p.m.)

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STATE OF CALIFORNIA)
) ss:
COUNTY OF SOLANO)

CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, KATHLEEN SOLOAGA, CSR NO. 6957, Certified
Shorthand Reporter, do hereby certify:

That on Wednesday, April 10, 2019, I reported
in shorthand writing the Lookout Slough Restoration
Project Scoping Meeting.

That I thereafter caused my said shorthand
writing to be transcribed into longhand typewriting.

That the foregoing pages constitute and are a
true, correct and accurate transcription of my said
shorthand writing to the best of my ability to hear
and understand comments made by speakers at the
proceedings so had and taken, as aforesaid.

Dated this day of 25th of April, 2019.

KATHLEEN SOLOAGA, CSR NO. 6957
Certified Shorthand Reporter
County of Solano
State of California

--oOo--