

CALIFORNIA STATE LANDS COMMISSION

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Governor's Office of Planning & Research

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File Ref: SCH #2019079011

Thomas McCubbins
Resource Conservation District of Tehama County
2 Sutter Street, Suite D
Red Bluff, CA 96080

VIA REGULAR & ELECTRONIC MAIL (jon@tehamacountyrcd.org)

Subject: Initial Study/Mitigated Negative Declaration (IS/MND) for the East Sand Slough Side Channel Project, Tehama County

Dear Mr. McCubbins:

The California State Lands Commission (Commission) staff has reviewed the subject IS/MND for the East Sand Slough Side Channel Project (Project), which is being prepared by the Resource Conservation District of Tehama County (RCD). RCD, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (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, because the Project may involve work on State sovereign land, the Commission may 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. On navigable non-tidal waterways, including lakes, the state holds fee ownership of the bed of the waterway landward to the ordinary low-water mark (OLWM) and a Public Trust easement landward to the ordinary high-water mark (OHWM), except 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 IS/MND, it appears the Project may have potential to encroach on State sovereign land within the bed of the Sacramento River. Project activities encroaching below the OLWM of the Sacramento River will require authorization of a lease with the Commission, and activities occurring below the OHWM will require consultation with Commission staff to ensure compatibility with the Public Trust easement as explained above. Please contact Jannalisa Toy for further coordination of Commission jurisdiction and leasing requirements for the Project (see contact information at end of letter).

Project Description

East Sand Slough side channel restoration would consist of excavating two channel entrances and a new and improved channel network upstream of the Antelope Boulevard/Highway 36 Bridge, and a single channel below the bridge to provide rearing habitat for juvenile salmonids at different flow regimes on the Sacramento River. The channel was designed within the existing high-flow channel. The majority of channel excavation upstream of the Antelope Boulevard/Highway 36 Bridge would occur along the toe of the bank within the OHWM. The main channel entrance is located along the left bank of the Sacramento River. The 20-foot-wide main channel entrance would be excavated to an elevation of about 248 feet North American Vertical Datum 88, where water in the main channel would be approximately 1-foot deep at a design low flow of 5,000 cubic feet per second in the Sacramento River. The side slopes of the main channel entrance would be lined with larger rock to stabilize the banks at a slope of 3:1 or greater. Downstream of the Antelope Boulevard/Highway 36 Bridge, channel excavation is also proposed for connection of surface flows from the side channel to the Sacramento River.

The entrances and exit of the side channel have the greatest potential to require future maintenance. As flood flows recede, the suspended sediment in the mainstem could settle out in the entrances to the side channel due to lower velocities in the channel. At the exit of the channel, the Sacramento River widens and velocities are greatly reduced. These flow conditions could potentially cause deposition at the channel exit. If maintenance is required to convey design flows into East Sand Slough, maintenance would consist of excavating the entrances, exit, and/or channel to the design grade. Excavation would occur between October 1st and March 1st when flows within the Sacramento River are reduced.

Environmental Review

Commission staff requests that RCD consider the following comments on the Project's IS/MND to ensure that impacts to State sovereign land and the Public Trust easement are adequately identified and analyzed. If Project activities occur on State sovereign land, the Commission will need to use the MND to support a future lease approval for the Project.

General Comments

1. Project Description: Please ensure the Project Description provides detailed description and illustration of all proposed work at the main channel entrance and exit locations with the Sacramento River. In particular, identify and describe any work that may occur below the OHWM and OLWM of the Sacramento River.
2. Jurisdictional and Responsible Agencies: If work will occur below the OLWM, then please identify the Commission as an agency requiring authorization for the Project within the IS/MND.

Recreation

3. Sacramento River: The IS/MND should identify any potential temporary impacts to recreation, public access, and navigation along the bank and within the bed of the Sacramento River during construction activities, and potentially during future maintenance activities. Potential mitigation could include advance noticing to the public at the project area and local media sources.

Water Quality

4. Turbidity: The IS/MND should evaluate potential impacts of turbidity levels on water quality and biological resources within the Sacramento River, from channel excavation activities directly affecting the Sacramento River. Potential mitigation measures could include use of turbidity barriers to contain turbidity around excavation sites and testing and monitoring of turbidity levels within the Sacramento River to ensure turbidity remains within levels authorized by the Regional Water Quality Control Board.

Thank you for the opportunity to comment on the IS/MND for the Project. As a trustee and potential responsible agency, the Commission may need to rely on the adopted MND for the issuance of a lease as specified above and, therefore, we request that you consider our comments prior to adoption of the MND.

Please send copies of future Project-related documents, including electronic copies of the adopted MND, Mitigation Monitoring Program, Notice of Determination, and approving resolution when they become available. Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or via email at Jason.Ramos@slc.ca.gov. For questions concerning Commission

leasing jurisdiction and the Public Trust easement, please contact Jannalisa Toy, Public Land Management Specialist, at (916) 574-1926 or Jannalisa.Toy@slc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gillies". The signature is fluid and cursive, with a large initial "E" and "G".

Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

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