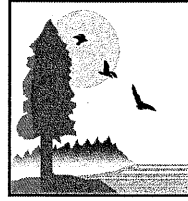


CALIFORNIA STATE LANDS COMMISSION
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Established in 1938

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Governor's Office of Planning & Research

OCT 03 2019

STATE CLEARINGHOUSE

October 3, 2019

File Ref: SCH #2019089122

Cody Bridgewater
City of Oakdale
455 South Fifth Avenue
Oakdale, CA 95361

VIA REGULAR & ELECTRONIC MAIL (cbridgewater@ci.oakdale.ca.us)

Subject: Initial Study/Mitigated Negative Declaration (IS/MND) for City of Oakdale Wastewater River Crossing Replacement Project, Oakdale, CA

Dear Mr. Bridgewater:

The California State Lands Commission (Commission) staff has reviewed the subject IS/MND for the City of Oakdale Wastewater River Crossing Replacement Project (Project), which is being prepared by the City of Oakdale. The City of Oakdale, 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 sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on 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. 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 and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

At the location of the sewer crossing, the Stanislaus River (River) is State-owned sovereign land, and the sewer crossing is currently authorized under Lease 5221.9 issued to the City of Oakdale. Based upon the information provided and a preliminary review of Commission records, Commission staff has determined that the proposed project will require submission of a lease application for either an amendment to the existing lease or termination of the existing lease and issuance of a new lease. The application can be found at our website at www.slc.ca.gov.

Project Description

The City of Oakdale proposes to replace an existing sewer crossing suspended over the River with a new pipeline under the River to improve the reliability and redundancy into the sewer system.

From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign land:

- Project Component 1. Re-routing of existing collection system trunk sewers to an inverted siphon structure.
- Project Component 2. Use of an inverted siphon structure located in the upper portion of an empty lot near the river and intersection of Oak Avenue and Kimball Street, which will be the transition point to the multi-barrel inverted siphons crossing under the Stanislaus River.
- Project Component 3. Use of valves and fittings on the downstream portion of the alignment to transition from siphons to one pipe.
- Project Component 4. Connection to existing piping upstream of the existing Wastewater Treatment Plant flow meter.

Environmental Review

Commission staff requests that the City of Oakdale consider the following comments on the IS/MND for the Project, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's future consideration of a lease amendment or new lease for the Project.

General Comments

1. Project Description: The Project Description does not address what will happen to the current pipeline that goes over the Stanislaus River once the new pipeline is in place.

Please address what will happen with the current pipe and analyze any impacts if there are plans to remove the pipe.

Biological Resources

2. Swainson's Hawk: According to a 2019 search of the California Natural Diversity Database, Swainson's Hawk (*Buteo Swainsoni*) has potential suitable habitat in the region that the Project is occurring. However, no mention of Swainson's Hawk was made. Please analyze the likelihood of Swainson's Hawk to occur in the Project location and adjust mitigation measures to reflect any potential impacts to Swainson's Hawk.

Hazards and Hazardous Materials

3. Hazards and Hazardous Materials a, b, c, and g: For Hazards and Hazardous Materials, all answers in the checklist are marked as "no impact," but the analysis claims "less than significant with mitigation" for sections a, b, c, and g. Please change the checklist for consistency and to avoid confusion.

Cultural Resources

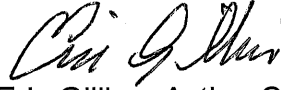
4. Mitigation Measure CULT-2: The IS/MD should also mention that the title to all archaeological sites and historic or cultural resources on lands of California is vested in the state and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that the City of Oakdale consult with Staff Attorney Jamie Garrett, whose contact information is provided below, should any cultural resources on state lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the IS/MND's Mitigation Monitoring Reporting Program (MMRP), "The final disposition of archaeological, historical, and paleontological resources recovered on state land under the jurisdiction of the California State Lands Commission must be approved by the Commission."
5. Mitigation Measure CULT-3: If human remains are discovered on state-owned land, the Commission must also be notified. Therefore, Commission staff requests that the following statement be added to Mitigation Measure CULT-3, "Should human remains be discovered on state land, the City of Oakdale shall also notify the California State Lands Commission within 24 hours of the discovery."

Thank you for the opportunity to comment on the IS/MND for the Project. As a responsible and trustee agency, the Commission will need to rely on the adopted MND for the issuance of an amended or new 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, MMRP, Notice of Determination, and approving resolution when they become available. Please refer questions concerning environmental review to Christine Day, Environmental Scientist, at (916) 562-0027 or christine.day@slc.ca.gov. For

questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Marlene Schroeder, Public Land Management Specialist, at (916) 574-2320 or marlene.schroeder@slc.ca.gov.

Sincerely,



Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Day, Commission
E. Kennedy, Commission
J. Garrett, Commission
M. Schroeder, Commission