

**CALIFORNIA STATE LANDS
COMMISSION**

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Established in 1938

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Governor's Office of Planning & Research

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STATE CLEARING HOUSE

File Ref: SCH #2022120577

California Department of Water Resources
Amy Lyons
2440 Main Street
Red Bluff, CA 96080

VIA ELECTRONIC MAIL ONLY: amy.lyons@water.ca.gov

Subject: Initial Study/Mitigated Negative Declaration for Kopta Slough Multi-Benefit Project, Tehama County

Dear Amy Lyons:

The California State Lands Commission (Commission) staff has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Kopta Slough Multi-Benefit 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 (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 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 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.

The Sacramento River, at the project location, is natural, navigable, non-tidal, and, therefore, State sovereign land under the Commission's jurisdiction. Kopta Slough, at the project location, is natural, possibly navigable, and non-tidal. A portion of the present slough bed, at this location, appears to be the historic channel of the Sacramento River and, therefore, is located on State sovereign land under the Commission's jurisdiction. A lease is required for any portion of the project encroaching on State sovereign land.

Project Description

DWR proposes to remove rock revetment along the Sacramento River and transfer ownership to the United States Fish and Wildlife Service to restore natural fluvial and geomorphic processes. 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: Removing the rock revetment from the landside of the bank.
- Project Component 2: Sorting excavated material and, where necessary, crushing rock to spoil on site.
- Project Component 3: Excavating and recontouring the existing natural berm behind the rock revetment to match the existing floodplain elevation.

Environmental Review

Commission staff requests that DWR consider the following comments on the IS/MND, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the IS/MND when considering a future lease application for the Project.

Cultural Resources

1. Title to Resources Within Commission Jurisdiction: The IS/MND should state that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that DWR consult with Staff Attorney Jamie Garrett should any cultural resources on state lands be discovered during construction of the proposed Project.

Staff requests that the following statement be included in the IS/MND's Mitigation Monitoring Program, Mitigation Measure Cultural-1: "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."

Thank you for the opportunity to comment on the IS/MND for the Project. As a responsible and trustee agency, the Commission will rely on the adopted IS/MND when considering whether to issue a new lease as specified above (see Section "Commission Jurisdiction and Public Trust Lands"). We request that you consider our comments before adopting the IS/MND.

Please send electronic copies of the adopted IS/MND, Mitigation Monitoring Program, Notice of Determination, and approving resolution when they become available. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

Refer questions concerning environmental review to Christine Day, Environmental Scientist, at Christine.Day@slc.ca.gov or (916) 562-0027. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at Jamie.Garrett@slc.ca.gov or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact Ninette Lee, Public Land Management Specialist, at Ninette.Lee@slc.ca.gov or (916) 574-1869.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Day, Commission
J. Garrett, Commission
N. Lee, Commission