

**CALIFORNIA STATE LANDS COMMISSION**

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*Established in 1938*

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Governor's Office of Planning & Research

**Nov 02 2020**

November 2, 2020

**STATE CLEARINGHOUSE**

File Ref: SCH # 2018062020

California Department of Fish and Wildlife  
Northern Region (Region 1), Eureka Field Office  
Attn.: Gordon Leppig, Senior Environmental Scientist Supervisor  
619 2nd Street  
Eureka, CA 95501

VIA ELECTRONIC MAIL ONLY ([orurestoration@wildlife.ca.gov](mailto:orurestoration@wildlife.ca.gov))

**Subject: Draft Environmental Impact Report (EIR) for the Ocean Ranch Restoration Project, Humboldt County**

Dear Mr. Leppig:

The California State Lands Commission (Commission) staff has reviewed the subject Draft EIR for the Ocean Ranch Restoration Project (Project), which is being prepared by the California Department of Fish and Wildlife (CDFW), Northern Region (Region 1). The CDFW, 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. A letter on the Notice of Preparation was previously submitted by Commission staff on July 16, 2018 (attached).

**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 ordinary high-water mark, which is generally indicated by 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.

In 1988, the Commission authorized a 49-year General Permit – Public Agency Use, Lease No. PRC 7153.9, to the California Department of Fish and Game ([Item 11, January 21, 1988](#)). The lease authorized levee construction and maintenance for wildlife habitat restoration. Based upon the information provided and a preliminary review of Commission records, the proposed Project, with the exception of the portion in the Dune Restoration Area, appears to be located within this lease area on tidally influenced State sovereign land. An amendment to the lease or a new lease may be required from the Commission for the Project. Please contact Ninette Lee, Public Lands Manager (see contact information at end of letter) to further discuss Project leasing requirements.

### **Project Description**

CDFW proposes to restore and enhance tidal estuarine and coastal dune habitats within a portion of the Ocean Ranch Unit (ORU) of the Eel River Wildlife Area (805 acres) to meet its objectives and needs as follows:

- To restore and expand natural estuarine function in the restoration area, and to assist in recovery and enhancement of habitat for native fish, invertebrates, wildlife, and plant species
- To restore natural dune function, and to assist in recovery and enhancement of habitat for native species, state and federally listed or otherwise sensitive plants, and associated sensitive natural communities

From the Project Description in the Draft EIR, Commission staff understands that the Project includes the following components that have potential to affect State sovereign land:

- Tidal restoration activities include:
  - Breaching external and internal levees
  - Lowering portions of the external levee along McNulty Slough
  - Removing portions of internal levees
  - Excavating tidal channels
  - Creating transitional high marsh habitat
  - Constructing habitat ridges
  - Installing ditch plugs and filling internal ditches
- Public access improvements include:
  - Improving the access road into the restoration area and the existing parking area
  - Constructing a new parking area
  - Installing a non-motorized boat put-in
  - Establishing a trail system

**Environmental Review**

Commission staff requests that the CDFW consider the following comments on the Draft EIR, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the certified Final EIR in acting on a future lease application for the Project.

1. Project Description:

- a. It is understood that sediment mobilization and redeposition with the Project Area and study area are natural and ongoing processes within the Eel River delta; however, if the new channels do require minor sediment removal in the future to function properly, how would this work be conducted? Commission staff suggest that the "Maintenance" section on Draft EIR page 2-20 include this possible activity.
- b. Section 2.7.2 discusses the possible use of sheet pile walls to act as cofferdams. Please provide a description of how they would be installed and what equipment would be used.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a responsible and trustee agency, the Commission will need to rely on the certified EIR for the issuance of any lease as specified above and, therefore, we request that you consider our comments prior to certification of the EIR. Please send copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations, when they become available.

Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or [cynthia.herzog@slc.ca.gov](mailto:cynthia.herzog@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](mailto:jamie.garrett@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Ninette Lee, Public Land Manager, at (916) 574-1869 or [ninette.lee@slc.ca.gov](mailto:ninette.lee@slc.ca.gov).

Sincerely,



Eric Gillies, Assistant Chief  
Division of Environmental Planning  
and Management

Attachment

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