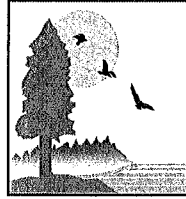


CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

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July 11, 2019

File Ref: SCH # 2019069029

John Kearns, Senior Planner
City of Suisun City Development Services Department
701 Civic Center Boulevard
Suisun City, CA 94585

Governor's Office of Planning & Research

JULY 11 2019

STATE CLEARINGHOUSE

VIA REGULAR & ELECTRONIC MAIL (JKearns@Suisun.com)

**Subject: Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the
Suisun Marina October and November Maintenance Dredging Project,
Solano County**

Dear Mr. Kearns:

The California State Lands Commission (Commission) staff has reviewed the subject Draft IS/MND for the Suisun Marina October and November Maintenance Dredging Project (Project), which is being prepared by the City of Suisun City (City). The City 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, the Project involves work on State sovereign land and 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.

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 decision. 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 decision. Such boundaries may not be readily apparent from present day site inspections.

Based on the information provided and review of in-house records, the Project will extend onto a portion of the Commission's jurisdiction, which is covered by General Lease PRC 7757.9 issued to the City of Suisun City on February 4, 2019. Due to the change in lease area and Project duration, an amendment to the existing lease is required.

Project Description

The Project proposes maintenance dredging from October 1 through November 30 in the Suisun Marina and the associated Whispering Bay and Marina Village Residential District Area access channels. The total volume of material to be removed is estimated at 53,000 cubic yards (CY). At an average production rate of 1,745 CY per day, it would take approximately 30 to 60 days to complete the necessary dredging and maintain compliance with permit requirements, including allowable turbidity levels. The Project proposes to dredge the main channel to -8 feet mean lower low water (MLLW), Whispering Bay Channel to -6 feet MLLW, and the Marina Village Residential District area to -6 feet MLLW. Dredging to these depths would assure safe navigable depths for existing vessels that use this facility.

The Project proposes dredging in Areas 3, 4, and 5 as identified in Figure 3 in the IS/MND. The Project Site is comprised of the three dredging Areas and the Pierce Island upland disposal site as shown on Figure 3 of the IS/MND, as well as general use of the channels for temporary equipment access. The Project vicinity is generally described as the area within 2 miles of the Project site. The Project's dredging schedule would coincide with the seasonal timing conditions of an issued incidental take permit (ITP) from the California Department of Fish and Wildlife (CDFW). The Project's dredging schedule for Areas 3, 4 and 5 would be determined based on field conditions, dredging needs, and conditions of the ITP. The Project Description identifies certain Project aspects that would potentially affect lands under the Commission's jurisdiction. Proposed dredging in Dredge Area 3 appears to be within the lease area for General Lease PRC 7757.9.

Environmental Review

Commission staff requests that the City consider the following comments when finalizing the IS/MND, to ensure that impacts to Public Trust resources and State sovereign land are adequately analyzed.

1. Project Description: A thorough and complete Project Description should include any and all aspects of the proposed Project. In the Project Description, similar dredging activity occur within Suisun City Marina two months prior to the planned scheduling of this Project. It appears that this proposed Project and the prior Project have the same reasoning and intent (Lease PRC 7757.9). The approved lease and other prior permits and approvals from all regulatory agencies with oversight in the Project footprint are valid between August 1 and November 30. The stated intent of this IS/MND is to evaluate the potential impacts to Delta and long-finned smelt for the purpose of securing an ITP in the proposed dredging area during October and November. The IS/MND does not identify or evaluate the potential impacts of the prior dredging along with the impacts of the dredging in October and November. CEQA Guidelines, sections 15378(a)(3) and 15378(c) identify what constitutes a "project" (see also § 15003 subd. (h)). They define a "project" as consisting of the whole of the action that may result in a physical change to the environment. Prior approvals and impact analyses of planned dredging prior to this Project (including dredging occurring August through September), should be evaluated together with the proposed Project since both episodes of the proposed dredging appear to be similar. Based on the existing environmental compliance approvals of the dredging planned in August and September, it does not appear that the proposed Project has independent utility from the earlier dredging period, and both the August and September dredging and the proposed Project rely upon the same existing leases and permits. It appears that the City may be piecemealing the dredging Project in October and November and not fully evaluating all the potential impacts of dredging from August 1 through November together in the IS/MND. Commission staff suggests that all the potential impacts of all dredging be evaluated together as a single project to avoid the appearance of piecemealing. For example, the IS/MND could be revised to explain that the August and September dredging has already been permitted and approved, but that its impacts are part of the same project as the October and November dredging, which still requires Commission authorization for a lease amendment in order to go forward.

Should the City choose not to revise the IS/MND to incorporate analysis of the August and September dredging as part of the Project, then at a minimum, the August and September maintenance dredging should be considered as a cumulative project in the IS/MND, and the cumulative effects of the August and September dredging should be analyzed in combination with the October and November dredging. Currently, the IS/MND states at page 8 that, "Maintenance dredging between August 1 and September 30 has existing approvals and CEQA clearance; and is therefore, not a part of the 'Project' analyzed in this IS/MND." However, the IS/MND does not appear to analyze the impacts of the August and September dredging as part of the IS/MND's cumulative impacts analysis.

2. Invasive Species: One of the major stressors in California waterways is introduced species. Therefore, the IS/MND should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel, or other nonindigenous, invasive species including aquatic and terrestrial plants. For example, construction equipment brought in from long stays at distant projects may transport new species to the Project area via hull biofouling, or new

species may be transported by soil in or on work and hauling vehicles. Marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. Plant invaders may disperse seeds from one area to another via dried mud/soils attached to vehicles from previous work areas. If the analysis in the IS/MND finds potentially significant AIS and plant impacts, possible mitigation could include contracting vessels from nearby, or requiring contractors to perform a certain degree of hull and vehicle cleaning. The CDFW's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives>).

3. Environmental Justice: The IS/MND does not state the City's intent to discuss and analyze potential environmental justice related issues, including an assessment of public access and equity implications and who would bear the burdens or benefits from the proposed Project. Commission staff believes the IS/MND, as an informational public document, is an appropriate vehicle to disclose and discuss how the proposed Project would attain or be consistent with any of the City's equity goals and statewide policy direction.

Thank you for the opportunity to comment on the IS/MND for the Project. As a responsible agency, Commission staff requests that you keep us advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff indicated below if questions and concerns arise.

Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or christopher.huitt@slc.ca.gov. For Commission leasing jurisdiction, please contact Dobri Tutov, Public Lands Management Specialist, at (916) 574- 0722 or dobri.tutov@slc.ca.gov.

Sincerely,



Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
L. Calvo, Commission
C. Huitt, Commission
D. Tutov, Commission