

**CALIFORNIA STATE LANDS COMMISSION**

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*Established in 1938*

June 25, 2020

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6/26/2020

File Ref: SCH # 2020059042

Stanislaus County, Department of Public Works  
Attn: Sarah Collins  
1716 Morgan Road  
Modesto, CA 95358

Governor's Office of Planning & Research

**Jun 25 2020**

**STATE CLEARINGHOUSE**

VIA ELECTRONIC MAIL ONLY ([collinss@stancounty.com](mailto:collinss@stancounty.com))

**Subject: Initial Study/Mitigated Negative Declaration (IS/MND) for the East Las Palmas Avenue Bridge Maintenance Project, Stanislaus County**

Dear Ms. Collins:

The California State Lands Commission (Commission) staff has reviewed the subject IS/MND for the East Las Palmas Avenue Bridge Maintenance Project (Project), which is being prepared by Stanislaus County (County). The County, as the public agency proposing to carry out the Project in coordination with the California Department of Transportation (Caltrans), 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 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 subject existing East Las Palmas Avenue Bridge extends across the bed of the San Joaquin River, which at this location is natural, navigable, non-tidal sovereign land. On August 11, 2009, the Commission authorized a lease (Lease No. PRC 2202.9) to the County of Stanislaus for the continued use and maintenance of the existing bridge (referred to in the Lease as the Las Palmas Road Bridge). The lease is for 20 years, beginning July 21, 2007. Pursuant to the terms of the lease, prior review and approval is required for repairs and improvements. The Lessee shall submit an application to the Commission for review. The application is available on our website at [OSCAR.slc.ca.gov](http://OSCAR.slc.ca.gov).

### **Project Description**

The County proposes to perform maintenance on the East Las Palmas Avenue Bridge (No. 38C-0033) over the San Joaquin River. The primary goal of the maintenance is to clean the existing steel casings that surround the concrete bridge columns between piers 4 and 8 and install new encasements that would both strengthen the piles and protect them from further corrosion. The encasements would cover a minimum of 3 feet beyond the limits of the existing corrosion for both the normal high and low water conditions. Rehabilitation of these piles would not substantially reduce the area between the piles which would ensure that channel flow is not obstructed.

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

- Removal of sections of corrosion on the piers
- Installation of new supplemental grouted steel column/pile encasements around the existing steel casings

### **Environmental Review**

Commission staff requests that the County consider the following comments on the Project's IS/MND to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the MND to support a future lease approval for the Project.

## Biological Resources

1. Acoustic Impacts to Special-Status Fish. Pages 31 and 32 of the IS/MND describe impacts associated with the use of a vibratory pile driver and impact hammer to install, test, and remove the steel piles that would support the temporary work trestle. After the temporary trestle piles are vibrated to design depth, each pile would be tested with approximately 10 strikes from an impact hammer to verify the pile's load-bearing capacity. Per the analysis, to reduce these impacts, mitigation measures (MMs) BIO-1 through BIO-9 as well as BIO-16 through BIO-18 would be implemented; however, per Table 5, resident juvenile fish that happen to be within 178 feet of pile testing would still be impacted. Although MM BIO-17 includes the statement that "Use of an impact pile driver will only be permitted to test the strength of each pile," the measure does not appear to be reduce the impact to juvenile fish to a less than significant level.

Given the potential for underwater noise impacts to juvenile fish (including listed species) within the Project site, Commission staff recommends that the County consult with the appropriate resource agencies, including the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to ensure that the appropriate MMs are implemented during impact hammer use, as additional measures may be required by these agencies to ensure potential impacts remain less than significant.

## Cultural Resources

2. On Page 43 of the IS/MND, it states that no Native American tribe or individuals have requested to be notified by the County for AB 52 consultation. Although no tribes requested consultation, Commission staff suggests that Tribal outreach be implemented as soon as possible with representatives from Tribal groups identified by the Native American Heritage Commission as having cultural or geographic affiliation in the Project area. Commission staff notes that, even if none of the affiliated Tribes has requested notification of CEQA projects, the AB 52 provisions in CEQA require lead agencies to evaluate the potential for the Project to impact Tribal cultural resources and avoid such impacts to the extent feasible. Commission staff recommends that the County include this information in the IS/MND to maintain a clear record of the County's efforts to comply with AB 52.
3. Title to all archaeological sites and historic or cultural resources on or in submerged lands of California are vested in the state and under the jurisdiction of the Commission (Pub. Resources Code, § 6313). Commission staff requests that the County consult with Staff Attorney Jamie Garrett (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 MND's Mitigation and Monitoring Plan: "The final disposition of archaeological, historical, and paleontological resources recovered on state lands under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Recreation

4. The IS/MND (page 70) states that there would be no impact to recreation. Although no onshore facilities would be impacted by Project construction, Commission staff requests that the IS/MND analyze the impacts associated with recreation on the San Joaquin River within the Project area, inclusive of fishing and boating, and if impacts are found to be significant, include MMs appropriate to reduce the impacts to a less than significant level (e.g., public notices, signage).

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 the amended 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 and Reporting Program, and Notice of Determination 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 and lease application process, please contact Marlene Schroeder, Public Land Management Specialist, at (916) 574-2320 or [marlene.schroeder@slc.ca.gov](mailto:marlene.schroeder@slc.ca.gov).

Sincerely,



Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
C. Herzog, Commission  
M. Schroeder, Commission  
J. Garrett, Commission