

**CALIFORNIA STATE LANDS COMMISSION**

100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



*Established in 1938*

Governor's Office of Planning & Research

**Jan 21 2021**

**STATE CLEARINGHOUSE**

January 20, 2021

JENNIFER LUCCHESI, *Executive Officer*  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

**Contact Phone: (916) 574-1890**

File Ref: SCH # 2020060424

Sutter Butte Flood Control Agency  
Attn: Michael Bessette, PE, Executive Director  
P.O. Box M  
Yuba City, CA 95992

VIA ELECTRONIC MAIL ONLY ([m.bessette@sutterbutteflood.org](mailto:m.bessette@sutterbutteflood.org))

**Subject: Draft Environmental Impact Report (EIR) for the Yuba City Boat Ramp  
Sediment Removal Project, Sutter County**

Dear Mr. Bessette:

The California State Lands Commission (Commission) staff has reviewed the Draft Environmental Impact Report (EIR) for the Yuba City Boat Ramp Sediment Removal Project (Project), which is being prepared by the Sutter Butte Flood Control Agency (Agency). The Agency, 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-owned sovereign land and its 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 ordinary high-water mark, which is generally depicted 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. 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.

Based on the information provided and a review of in-house records, the proposed project extends into the beds of the Feather and Yuba Rivers which at this location is within the jurisdiction of the Commission and will require a lease. According to the project description, sediment buildup in portions of the Feather River, exacerbated by the Oroville Dam Spillway incident of 2017, has created dangerous conditions for recreational users, made some boat launch facilities nearly unusable, and has hampered public safety as it has affected emergency vessel launching capabilities.

### **Project Description**

The proposed Project includes two phases. Phase 1 involves the planned removal of 65,600 cubic yards (cy) of dredged material within a 14-acre area as part of restoration, protection, and development of river parkways in accordance with the California River Parkways Grant Program. Phase 2 of the Project will involve dredging an additional 250,000 cy if additional funding becomes available, for a total of 315,600 cy.

Dewatering and disposal of the Phase 1 dredged material is proposed within wastewater ponds that are proposed for decommissioning at the Marysville Wastewater Treatment Plant (WWTP) located immediately adjacent to the proposed dredging area.

The Agency expects the proposed Project to meet its objectives and needs as follows:

- Remove excess sediment buildup in portions of the Feather River that were exacerbated by the Oroville Dam Spillway incident of 2017;
- Address dangerous conditions at the confluence of the Feather and Yuba Rivers for recreational users and emergency vessels due to sediment buildup;
- Restore and maintain access to the Feather River from the Yuba City Boat Ramp facility for emergency vessel launching capabilities and recreational users; and
- Restore and maintain fish passage in both the Feather River and Yuba River at their confluence.

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

- Maintenance dredging of the boat ramp/boat area at the confluence of the Feather River and the Yuba River

- Dewatering the dredged material in the existing northernmost wastewater ponds (North Ponds) at the former Marysville WWTP proposed by the City of Marysville for decommissioning
- Disposal of dredged material

### **Environmental Review**

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

### **Cultural Resources**

1. **Submerged Resources:** The EIR should evaluate potential impacts to submerged cultural resources in the Project area. The Commission maintains a shipwrecks database that can assist with this analysis. Commission staff requests that the Agency contact Staff Attorney Jamie Garrett (see contact information below) to obtain shipwrecks data from the database and Commission records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during any construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to determine the appropriate course of action.
2. **Title to Resources:** The Draft EIR should mention that the title to all 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 the Agency consult with Staff Attorney Jamie Garrett 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 EIR's Mitigation Monitoring and Reporting Program: "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."

### **Environmental Justice**

3. The Draft EIR does not state whether the Agency intends 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 Draft EIR, as an informational public document, is an appropriate vehicle to disclose and discuss how the proposed Project would attain or be consistent with the State's or County's equity goals and statewide policy direction.

### Hydrology and Water Quality

4. Deferred Mitigation: On page 4.10-18 of the Draft EIR, *Impact 4.10-1 Implementation of the Proposed Project would violate water quality standards or waste discharge requirements or otherwise substantially degrade surface water or groundwater quality. Impact Determination: less than significant with mitigation incorporated.* The document identifies water quality impacts from proposed dredging operations within the identified footprint of the Project will have temporary significant unavoidable impacts during the proposed Project. These significant and unavoidable impacts will be mitigated to a less than significant level by using a permit from the Central Valley Regional Water Quality Control Board (CVRWQCB). Identifying the permit mitigation measures (MMs) to reduce the impacts of the Project's activities should be disclosed and be included as measures in the Draft EIR as well. Simply stating a permit's MMs will be used to reduce the impacts to a less than significant level could be interpreted as deferred mitigation. A disclosure of the proposed mitigation and impact reducing measures in the CVRWQCB permit should be identified as part of the Project.

### Land Use and Planning

5. Deferred Mitigation: On page 4.11-5 of the Draft EIR, *Impact 4.11-2: Implementation of the Proposed Project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Impact Determination: less than significant with mitigation incorporated.* Within the impact evaluation of Land Use and Planning, the Draft EIR identifies the Project would result in potentially significant impacts to other environmental issue areas that would potentially result in inconsistencies with local and regional plans and policies. An analysis of the Project's consistency with the identified plans and policies of the region by issue area within the footprint of the Project was summarized within the Draft EIR. Within the Draft EIR, the Project impacts were identified as temporary and would not result in long-term impacts. It is stated in the Draft EIR that implementation of MMs from other issue areas, would reduce identified impacts to less than significant levels. The Draft EIR does not identify what the implemented measures are or what will be done to reduce the potential impacts to less than significant. Simply stating that MMs from other sections of the Draft EIR will be used to reduce the impacts to a less than significant level can be assumed/presumed as deferred mitigation. The analysis of the identified impacts and proposed mitigation is too broad and conclusory and could be interpreted as being deferred mitigation. Identifying the specific regional and local plans as the basis for the impact analysis and applied mitigation may be necessary to avoid interpretation as being too subtle. The Commission will require these MMs from other sections of the Draft EIR be identified in the Mitigation Monitoring Program as part of its discretionary action to approve a lease for the Project.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a trustee and responsible agency, Commission staff requests that you consult with us on this Project and 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 listed below as the EIR is being prepared.

Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or [Christopher.Huitt@slc.ca.gov](mailto:Christopher.Huitt@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.Garret@slc.ca.gov](mailto:Jamie.Garret@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Mary Jo Columbus, Public Land Management Specialist, at (916) 574-0204 or [MaryJo.Columbus@slc.ca.gov](mailto:MaryJo.Columbus@slc.ca.gov).

Sincerely,



Nicole Dobroski, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
C. Huitt, Commission  
M.J. Columbus, Commission  
J. Garrett, Commission