

**CALIFORNIA STATE LANDS COMMISSION**

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Governor's Office of Planning & Research

**Aug 12 2020**

**STATE CLEARINGHOUSE**

August 12, 2020

File Ref: SCH #2020079016

Mr. Kyle Knopp  
City of Rio Dell  
675 Wildwood Avenue  
Rio Dell, CA 95562

VIA ELECTRONIC MAIL ONLY ([cityhall@cityofriodell.ca.gov](mailto:cityhall@cityofriodell.ca.gov))

**Subject: Initial Study/Mitigated Negative Declaration (IS/MND) for the Water Infrastructure Improvement Project, City of Rio Dell, Humboldt County**

Dear Mr. Knopp:

The California State Lands Commission (Commission) staff has reviewed the subject IS/MND for the Water Infrastructure Improvement Project (Project), which is being prepared by the City of Rio Dell (City). The City, 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 sovereign land and their 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 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.

Upon review of the information contained in the IS/MND, Commission staff understands that the proposed Project includes three potential construction scenarios for crossing the Eel River. The Eel River at this location is State-owned sovereign land under the jurisdiction of the Commission, and a lease from the Commission would be required for Scenarios 1 and 2 involving horizontal directional drilling (HDD) beneath the Eel River. Scenario 3 appears to be within Caltrans' existing right-of-way Lease No. PRC 3445.9 and may not require a separate lease from the Commission if Caltrans issues an encroachment permit to the City. Once the City has chosen a construction scenario for the Project, City staff should contact Commission staff to determine what, if any, authorization is needed from the Commission. If a lease is required, the City can apply on our website at [OSCAR.slc.ca.gov](https://oscar.slc.ca.gov). Additional questions may be directed to Jannalisa Toy, Public Land Management Specialist (contact information provided below).

Promotion of public access to and use of California's navigable waters is a mandate of the California Constitution (Article 10, Section 4), a condition of statehood in the Act of Admission (Vol. 9, Statutes at Large, page 452), and a responsibility of State agencies pursuant to the Public Trust Doctrine.

### **Project Description**

The current City water system is comprised of many components of differing age and condition. Some components have been in service for more than 50 years. The system has many components that have experienced or are susceptible to failure. The City proposes to reconfigure or replace portions of the system to meet the needs of the community. Objectives of the Project include improving the system to:

- Meet capacity and quality requirements
- Improve operations
- Reduce water losses from the distribution system

Commission staff understands that Project elements include improvements to the distribution system, transmission system, and storage system. The Project would include the following components that have potential to affect State sovereign land:

- Eel River Pipeline Crossing – The Metropolitan Well site is one of two water supplies used by the City. It is located across the Eel River from Rio Dell and serves as the backup supply of municipal water. It is connected to the City's water storage and distribution system by a single 8-inch-diameter pipe located inside the U.S. 101 southbound bridge structure (Caltrans Bridge 04-0016L). The existing waterline is of unknown age and is considered seismically vulnerable due to the use of glued joints and simple pipe stands. The Project proposes three construction scenarios for addressing this pipe section.

- Construction Scenario 1 and Construction Scenario 2 would install an additional, seismically resilient, connection between the Metropolitan Wells and the City's storage and distribution system using HDD under the Eel River.
- Construction Scenario 3 would replace the existing pipeline in the bridge using modern seismic mitigation methods.

### **Environmental Review**

Commission staff requests that the City 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.

#### **Air Quality**

1. In Section 3.3, the checklist contains an error under (b), as it indicates the impact is less than significant with mitigation. The text following the checklist indicates that (b) is less than significant. Commission staff suggests a correction be made.

#### **Cultural Resources**

2. **Title to Resources:** The IS/MND 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). 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.*" Finally, Commission staff requests that the lead agencies consult with staff attorney Jamie Garrett (see contact information below) should any cultural resources on State lands be discovered during construction of the proposed Project.

#### **Tribal Cultural Resources**

3. As the IS/MND states, "*A Tribal cultural resource is defined to include 'sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe,'*" (Pub. Resources Code, § 21074, subd. (a)). Therefore, a Tribal cultural resource is not limited to archaeological resources as Mitigation Measure CR-1 suggests. Commission staff requests that CR-1 be modified to say "If buried archaeological resources or other Tribal cultural resources are ~~discovered~~ identified during project implementation, all work ~~should~~ shall be halted within 50 feet of the find and City officials, a professional archaeologist, and tribal representatives would be contacted immediately to evaluate the find." Although no Tribes responded to the City's consultation letters prior to release of this IS/MND, this modification would allow for the protection of any Tribal cultural resources that may be identified during the permitting process.

Recreation

4. The IS/MND (page 3-53) states that there would be no impact to recreation. Although no onshore recreational facilities would be impacted by Project construction, Commission staff requests that the IS/MND analyze the impacts associated with recreation on the Eel River within the Project area, inclusive of fishing and boating, and if impacts are found to be significant, include appropriate mitigation measures 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 issuance of a 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, Notice of Determination, and City Resolution 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 Jamie Garrett, Staff Attorney, at (916) 574-0398 or [jamie.garrett@slc.ca.gov](mailto:jamie.garrett@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Jannalisa Toy, Public Lands Specialist, at (916) 574-1926 or [jannalisa.toy@slc.ca.gov](mailto:jannalisa.toy@slc.ca.gov).

Sincerely,



Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

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