

**CALIFORNIA STATE LANDS COMMISSION**

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*Established in 1938*

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Governor's Office of Planning & Research

**Nov 19 2020**

**STATE CLEARINGHOUSE**

File Ref: SCH #2020100322

Michael Bessette  
Sutter Butte Flood Control Agency  
1445 Butte House Road, Suite B  
Yuba City, CA 95993

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

**Subject: Initial Study/ Mitigated Negative Declaration (IS/MND) for the Live Oak Boat Ramp Sediment and Invasive Species Removal Project, Sutter and Yuba Counties**

Dear Mr. Bessette:

The California State Lands Commission (Commission) staff has reviewed the subject IS/MND for the Live Oak Boat Ramp Sediment and Invasive Species Removal Project (Project), Sutter and Yuba Counties, 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 sovereign land and their accompanying Public Trust resources or uses. Additionally, since 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, 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 upon the information provided and a preliminary review of our records, portions of the proposed Project are located in the Feather River on State-owned sovereign land under the jurisdiction of the Commission. In 2009, the Commission authorized the issuance of a 25-year General Lease – Public Agency Use, Lease No. PRC 8835, to the County of Sutter. The lease authorized the removal and construction of a new public boat launching ramp (Live Oak Boat Ramp) and floating dock with a gangway, placement of rock slope protection, construction, and maintenance dredging, and temporary placement of warning buoys during construction. Commission staff is currently processing an application submitted by the Agency for this project (application number A2702).

### **Project Description**

The Agency proposes to dredge the Feather River at the Live Oak Boat Ramp to remove sediment that has accumulated in portions of the Feather River. The dredging operation would be staged from the existing Live Oak Recreational Park Boat Ramp facility and adjacent lands. Dredging would remove approximately  $\pm 1.5$  acres of invasive water primrose and  $\pm 3,400$  cubic yards (cy) of sediment from the Live Oak Recreational Park Boat Ramp facility. Dredged spoils would be dewatered at the boat ramp and spoils would be disposed of at the Gridley Wastewater Treatment Plant emergency ponds or at the Ostrom Road or Neal Road landfills. The Project also intends to improve public access and recreation opportunities.

The Project Description (Section 2.1 of the IS/MND) identifies the Project footprint of approximately 8.22 acres at the Live Oak Recreational Park Boat Ramp facility along the right bank of the Feather River. 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.

### **Environmental Review**

Commission staff requests that the District 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 IS/MND to support a future lease approval for the Project.

### General Comments

1. Public Agency Approvals: As stated in the IS/MND Project Description (Section 2.3.1), a portion of the proposed activities within the Feather River would be below the mean high-water line, and under the Commission's jurisdiction. Therefore, Commission staff request that the IS/MND identify the Commission as a public agency with discretionary approval over the Project.

### Climate Change

2. A tremendous amount of State-owned lands and resources under the Commission's jurisdiction will be impacted by climate change. In rivers and non-tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Flooding and storm flow, as well as runoff, will likely increase scour and sediment accumulation and decrease bank stability at a faster rate. The Feather River and its surroundings are generally in a low-lying, flood-prone area that will be affected by climate change. With this in mind, the Agency should consider discussing in the IS/MND if and how various Project components might be affected by climate change and whether "resilient" designs have been incorporated.

### Geology/Soils

3. Paleontological Resources: The IS/MND under Section 4.7, Geology/Soils issue area (f), Mitigation Measure GEO-1 does not mention that the title to all potential paleontological or sensitive resource identified during any phase of the Project development 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 paleontological resource on State lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the IS/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".

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 any 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 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.Garrett@slc.ca.gov](mailto:Jamie.Garrett@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,

A handwritten signature in black ink that reads "Nicole Dobroski". The signature is written in a cursive, flowing style.

Nicole Dobroski, Chief  
Division of Environmental Planning  
and Management

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