

CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

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1716 Morgan Road
Modesto, CA 95358

Governor's Office of Planning & Research

Dec 02 2020

STATE CLEARINGHOUSE

VIA ELECTRONIC MAIL ONLY (Bazyukd@stancounty.com)

Subject: Draft Initial Study/Mitigated Negative Declaration (IS/MND) for River Road over San Joaquin River Bridge Replacement (aka Hills Ferry Road Bridge Replacement), Stanislaus County

Dear Mr. Bazyuk:

The California State Lands Commission (Commission) staff has reviewed the subject Draft IS/MND for the River Road over San Joaquin River Bridge Replacement (aka Hills Ferry Road Bridge Replacement) (Project), which is being prepared by the Stanislaus County Department of Public Works (County). The County, 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, 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, including rivers and 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.

After review of the information contained in the Draft IS/MND, the existing bridge crossing the San Joaquin River is located on State sovereign land under the jurisdiction of the Commission. The San Joaquin River at this location is natural, navigable, and non-tidal. In 2009, the Commission authorized the issuance of Lease No. PRC 2563 with Merced and Stanislaus counties for the continued use and maintenance of the existing bridge. Based upon the information provided, the Project to reconstruct the bridge will require an application for either an amendment of the current lease or a new lease for portions of the Project within the San Joaquin River. Please contact Ninette Lee (contact information provided below) for more information.

Project Description

The County proposes to replace an existing bridge at River Road over San Joaquin River Bridge (Bridge No.39C-0001) and to construct the necessary approach roadway improvements to accommodate the bridge replacement. The Project is located immediately north of the confluence of the San Joaquin and Merced rivers in southern Stanislaus and northwestern Merced counties in the southern, central part of Stanislaus County, 2.0 miles northeast of Newman. The Project would provide long-term safe vehicular access across the San Joaquin River and meet the County's objectives and needs as follows:

- Replace the seismically deficient existing bridge
- Decrease erosion at the eastern embankment
- Avoid and minimize environmental impacts
- Reduce right-of-way and land use impacts
- Promote adherence to average daily traffic requirements

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

- Diversion of the San Joaquin River
- Construction of temporary work trestles and falsework consisting of a mixture of driven 16-inch-diameter piles and possibly timber support pads
- Installation of new reinforced concrete seat type abutments supported on cast-in-drilled-hole concrete piles or cast-in-steel-shell concrete piles and rock slope protection at the abutments to protect the roadway embankments

- Removal of the existing bridge foundations to approximately 2 feet below grade

Environmental Review

Commission staff requests that the County consider the following comments on the Project's Draft 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.

Project Description:

1. On page 1-8 of the IS/MND, it states that "Foundation removal limits would be 2 ft (feet) below the existing ground line, per normal practice." Please be advised that Commission guidelines for removal of structures within sovereign lands may dictate that removal be greater than the suggested depth of 2 feet. Commission staff suggests that the County consult Ninette Lee (contact information provided below) with the Commission's Land Management Division as soon as possible to determine if the proposed assumptions are acceptable.
2. The IS/MND discusses demolition debris on page 1-11, stating that "Removal methods would depend on whether concrete debris would be allowed to fall in the water or not." Measures for debris control over the river are included in mitigation measures (MMs) BIO-8 and BIO-12, which propose measures that would prevent debris from falling into the water. Therefore, Commission staff suggest modifying the statement on page 1-11 to clearly state that no debris will be allowed to fall into the San Joaquin River. The discussion also mentions that piles would be broken off at the mudline. Please refer to Comment #1, above, which discusses structure removal.

Biological Resources

3. MM BIO-12 addresses impacts to riverine habitat. Sub-measure 4 states that "Measures consistent with the current Caltrans' Construction Site BMPs Manual (including the [Stormwater Pollution Prevention Plan] SWPPP and [Water Pollution Control Plan] WPCP Manuals) shall be implemented to minimize effects to steelhead during construction." Examples of measures consistent with the SWPPP are provided under sub-measure 5; however, as the public is likely unfamiliar with the content of the WPCP, Commission staff suggest that examples of additional measures from the WPCP to minimize impacts to steelhead during construction be included in BIO-12.

In addition, Commission staff consider sub-measure 7 as deferred mitigation. In order to avoid the improper deferral of mitigation, MMs must be specific, feasible, and fully enforceable to minimize significant adverse impacts from a project, and "shall not be deferred until some future time." (State CEQA Guidelines, §15126.4, subd. (a)). For example, references to obtaining regulatory permits from the California Department of Fish and Wildlife (or the National Marine Fisheries Service)

to reduce an impact, without calling out the specific activities in the IS/MND to reduce that particular impact to a less than significant level, is considered deferral. Commission staff requests that more specific information be provided in MM BIO-12 to demonstrate how the MM would mitigate potential significant impacts to steelhead to less than significant. In particular, impacts associated with any dewatering during construction or demolition should be clearly addressed.

Cultural and Tribal Cultural Resources

4. The IS/MND should mention that the title to all abandoned shipwrecks, 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 County 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 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."
5. Although the discussion on page 3-38 says that "Implementation of Mitigation Measure CULT-1, which requires archaeological monitoring by a qualified archaeologist during all ground-disturbing activities, would reduce impacts to previously undiscovered resources to less than significant with mitigation incorporated," there is no mention of a monitor in MM CULT-1, only that an archeologist would be contacted if resources were discovered. In addition, as noted under the Tribal Cultural Resources section (p. 3-76), the North Valley Yokuts Tribe requested notification before any ground disturbance to ensure that a (Tribal) monitor was present. This request is also not reflected in MM CULT-1. Commission staff request that MM CULT-1 be modified to clearly require both an archeological and a Tribal monitor to be on site during Project ground disturbance.

Climate Change

6. Greenhouse Gas (GHG). Construction emissions inclusive of debris-disposal trips for the 100 cubic yards of construction-related solid waste, should be analyzed as part of the IS/MND and a GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the IS/MND. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.

Riverine Impacts. Climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms. In rivers, 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. Climate change will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate. Commission staff request that these impacts associated with climate change be considered prior to Project approval.

Recreation

7. Public Access. The IS/MND should include a section describing the potential for the Project to affect recreational uses and public access to the San Joaquin River, particularly in light of the Project's construction schedule. The IS/MND should discuss the recreational uses and access points in the Project vicinity, whether and to what extent these uses would be facilitated or disrupted by the Project, and what, if any, measures could be implemented to reduce any potential negative impacts. This discussion should also identify any safety measures the County will put in place to ensure public safety for recreational activities. Measures could include a public notice and Project area signage provided in advance of the Project, notifying the public of any disruptions or creation of alternate access points or use areas.

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 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. 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. For questions concerning Commission leasing jurisdiction, please contact Ninette Lee, Public Land Manager, at (916) 574-1869 or ninette.lee@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

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