

**CALIFORNIA STATE LANDS COMMISSION**  
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*Established in 1938*

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**Jan 14 2021**

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## STATE CLEARINGHOUSE

January 14, 2021

File Ref: SCH #2020120237

Three Rivers Levee Improvement Authority  
Paul Brunner, P.E., Executive Director  
1114 Yuba Street, Suite 218  
Marysville, CA 95901

VIA ELECTRONIC MAIL ONLY ([pbrunner@co.yuba.ca.us](mailto:pbrunner@co.yuba.ca.us))

### **Subject: Initial Study/Proposed Mitigated Negative Declaration (MND) for the Yuba River North Training Wall Project, Yuba County**

Dear Paul Brunner:

The California State Lands Commission (Commission) staff has reviewed the MND for the Yuba River North Training Wall Project (Project), which is being prepared by the Three Rivers Levee Improvement Authority (Authority). The Authority, 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 their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State-owned 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 will be located on State-owned sovereign land under the jurisdiction of the Commission. In 2018, the Commission authorized the issuance of a 10-year General Lease – Public Agency Use, Lease No. PRC 9449, to the U.S. Fish and Wildlife Service. The 2018 lease authorized placement and maintenance of gravel for the rehabilitation and restoration of Central Valley Chinook salmon and steelhead spawning and rearing habitat, including lowering elevations of existing gravel bars as needed to create side channels, grading, and riparian revegetation. The proposed Project with additional improvements will have some overlapping area with the PRC 9449 lease and would require a new and separate lease for encroaching on State-owned sovereign land in the River. The lease application is available online at <https://www.slc.ca.gov/leases-permits>. If you have any questions specific to jurisdiction or lease, please contact Mary Jo Columbus (contact information provided below).

### **Project Description**

The Authority proposes to reshape the approximately 2.25-mile-long North Training Wall embankment to a more stable geometry to reduce flood risk to the Hallwood Community, city of Marysville, and portions of Reclamation District 10, and enhance approximately 2.4 acres of aquatic and riparian habitat along the Yuba River to meet the Authority's objectives and needs as follows:

- The primary purpose of the North Training Wall Project is to meet Federal Emergency Management Agency (FEMA) 100-year flood protection certification requirements for the Hallwood community.
- A secondary purpose is to improve availability of rearing, high-flow refugia, and other habitats for salmonids in this reach of the River.

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

- North Training Wall Reshaping. The existing North Training Wall embankment would be graded to make it geotechnically stable to achieve 100-year FEMA certification and to account for future changes in hydraulics and hydrology that could result from climate change.
- Ecological Enhancement. The ecological enhancement would be to create flow velocity refugia and feeding areas for juvenile anadromous salmonids along approximately 3,900 linear feet of the south bank of the River. The installation of riparian vegetation plantings would improve instream cover and provide large woody material in areas where vegetation is currently lacking or sparse.

## Environmental Review

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

### General Comments

1. Detailed Site Plans: Please include detailed site plans in the MND so Commission staff can analyze the extent of Commission's jurisdiction in the Project area. Please see the "Commission Jurisdiction and Public Trust Lands" discussion above.
2. Hauling Away or Selling Aggregate Material: The MND on page 2-7 states that an excess of approximately 300,000 cubic yards of material would be generated by North Training Wall reshaping. The excess material "... would be made available for aggregate processing at the adjacent Hallwood Facility. If the material cannot be processed as it is removed, it would be stored at an on-site stockpile ...." Please note that any aggregate material from under the Commission's jurisdiction cannot be sold without Commission's permission or without paying royalties to the Commission. Therefore, Commission staff requests that the Authority includes this information in the MND and contact Commission staff to discuss the Commission's jurisdiction and possible aggregates under Commission jurisdiction.
3. Adding Commission to the Public Agency Approvals: Please identify the Commission on page 2-11 of the MND as a public agency with jurisdiction and as requiring a discretionary approval over the Project.

### Cultural Resources

4. Title to Cultural Resources Within Commission's Jurisdiction: The MND on page MND-7 should also 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 Authority 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 Measure CR-2, "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

5. Public Recreation Open in the River: The MND on page 3-67 states that the Project site is located adjacent to the River, but no River recreation facilities are present in the vicinity and this area is not easily accessible to the public. Nonetheless, the bed of the River is State owned public land and open to public navigation. Commission

staff recommends that the MND include public notice of the Project for public use of the River and discuss temporary public access and recreation impacts in the Project area, including navigation impacts within the River.

Thank you for the opportunity to comment on the MND for the Project. As a responsible and trustee agency, Commission staff will need to rely on the adopted MND for the issuance of any new 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 Afifa Awan, Senior Environmental Scientist, at (916) 574-1891 or [Afifa.Awan@slc.ca.gov](mailto:Afifa.Awan@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 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  
Afifa Awan, Commission  
MaryJo Columbus, Commission  
Jamie Garrett, Commission