

**CALIFORNIA STATE LANDS COMMISSION**

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*Established in 1938*

May 26, 2022

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File Ref: SCH # 2022040557

Jill Demers  
Humboldt County Resource Conservation District  
5630 South Broadway  
Eureka, CA 95503

VIA REGULAR & ELECTRONIC MAIL: [jillhcrd@gmail.com](mailto:jillhcrd@gmail.com)

**Subject: Notice of Preparation (NOP) for an Environmental Impact Report (EIR)  
for the Russ Creek and Centerville Slough Restoration Project,  
Humboldt County**

Dear Jill Demers:

The California State Lands Commission (Commission) staff has reviewed the subject NOP for an EIR for the Russ Creek and Centerville Slough Restoration Project (Project), which is being prepared by the Humboldt County Resource Conservation District (District). The District, as a California 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 because of its trust responsibility 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 is also a responsible agency. Commission staff requests that the District consult with us on preparation of the Draft EIR (DEIR) as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

**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, §§ 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.

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 as generally indicated by the mean high tide line (MHTL), 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.

At the Project area, the Eel River, portions of Centerville Slough, and the Pacific Ocean waterward of the MHTL are State sovereign land under the Commission's jurisdiction. A lease for the use of State sovereign land will be required from the Commission for any portion of the Project encroaching on State sovereign land. Please see the contact information below for more information on leasing requirements with the Commission.

### **Project Description**

The Project would restore a landscape of mostly diked pasture land to a mosaic of pasture and natural habitats, including estuarine and tidal slough channels, freshwater streams, freshwater ponds, and agricultural pastures. The goal of the Project is to improve geomorphic and ecosystem function that will enhance habitats for native fisheries and aquatic species, support water bird and wildlife species, and increase agricultural land viability and resiliency to changing geomorphological and climatic conditions. As a strategy to increase agricultural land viability and reduce vulnerability from frequent dune over-wash events and projected sea level rise, proposed placement of set-back berms provides increased resiliency to ongoing and projected geomorphic and climactic changes. Reestablishing the connection of Centerville Slough to the Eel River and removing and reconfiguring dikes would provide full tidal prism into a restored Centerville Slough.

### **Environmental Review**

Commission staff requests that the District consider the following comments when preparing the DEIR.

#### **General Comments**

1. **Project Description**: A thorough and complete Project Description should be included in the DEIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of

sediment removed or disturbed, seasonal work windows, locations for material disposal, construction schedule and staging areas, etc.), as well as the details of the timing and length of activities. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required. Please be as specific as possible regarding all proposed work within the Commission's jurisdiction waterward of the MHTL, inclusive of the historic bed of the Eel River, Centerville Slough, and if applicable, below the MHTL of the Pacific Ocean. Please describe construction access, staging areas, and equipment for proposed dune restoration and all other work occurring within close proximity to the MHTL of the Pacific Ocean. Provide additional details regarding proposed passive and active techniques for invasive species management and improvement of dune function.

### Biological Resources

2. The DEIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special-status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. The District should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The DEIR should also include a discussion of consultation with the CDFW, USFWS, and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS), including any recommended mitigation measures and potentially required permits identified by these agencies.
3. Construction Noise: The DEIR should also evaluate noise and vibration impacts on fish and birds from construction, restoration, or flood control activities in the water, on the dikes, and for water conveyance and tide gate structures. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and NMFS. Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

### Cultural Resources

4. Title to Resources: The DEIR should also 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 California State Lands Commission (Pub. Resources Code, § 6313). Commission staff requests that the District consult with Staff Attorney Jamie Garrett, should any cultural resources on state lands be discovered during construction of the proposed Project. In addition, staff requests that the following statement be included in the DEIR's Mitigation and Monitoring Plan: "The final disposition of archaeological, historical, and paleontological resources recovered on State sovereign land under the

jurisdiction of the California State Lands Commission must be approved by the Commission.”

### Hydrology and Sea Level Rise

5. In the Environmental Setting section of the DEIR, please provide detail regarding the Project area's surface hydrology features and characteristics, groundwater characteristics, history of flood events and any known land uses and structures subject to flood hazards, and any flood zone designations for the Project area. Please also provide a description of the former hydrology and floodplain of the Project vicinity prior to the construction of dikes, tide gates, and other drainage control structures that resulted in the conversion of wetlands and tidelands to other land uses, such as pasture lands for grazing.

In addition to impacts from proposed modifications of Project area hydrology, sedimentation processes, biological resources, and geomorphic channel modifications, the DEIR should also analyze potential for these impacts on the affected reaches of the Salt River, Eel River, and coastal processes and resources outside of the Project area, including sediment discharge in the Pacific Ocean.

Please also provide a detailed analysis of how the Project will attempt to plan for sea level rise through enhanced floodplain drainage, capacity, open space, preservation and enhancement of dune areas, and any potential future conflicts with surrounding land uses, such as agricultural and grazing land uses.

### Recreation

6. Please provide a comprehensive description of existing recreational uses and public access to waterways and coastal resources within the Project area, particularly waterways within the Commission's jurisdiction. In addition to inland waterways, describe recreational uses of the dunes, beach, and surf zone of the Pacific Ocean, and identify public access locations to the Pacific Ocean within the Project vicinity, such as Centerville Beach. Describe any restrictions or limitations on public access to the Project area during construction and methods to provide notice to the public prior to construction.

### Alternatives

7. In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, the District should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines § 15126.6).

### Environmental Justice

8. Environmental justice is defined by California law as “the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to

the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code § 65040.12) This definition is consistent with the Public Trust Doctrine’s principle that management of trust lands is for the benefit of all people.

The Commission adopted an updated [Environmental Justice Policy and Implementation Blueprint](#) in December 2018 to ensure that environmental justice is an essential consideration in the agency’s processes, decisions, and programs. The twelve goals outlined in the Policy reflect an urgent need to address the inequities of the past, so they do not continue. Through its policy, the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations.

Although not legally required in a CEQA document, Commission staff suggests that the District include a section describing the environmental justice community outreach and engagement undertaken in developing the DEIR and the results of such outreach. The California Office of Environmental Health Hazard Assessment developed the [CalEnviroScreen](#) mapping tool to assist agencies with locating census tracts near proposed projects and identifying the environmental burdens, should there be any, that disproportionately impact those communities. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the project planning process. Commission staff strongly recommends using the [CalEnviroScreen](#) tool and then, as applicable, reaching out through local community organizations, such as the [California Environmental Justice Alliance](#). Engaging in early outreach will facilitate more equitable access for all community members. In this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice. Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures. Commission staff will review the environmental justice outreach and associated results as part of any future Commission action.

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and responsible agency, the Commission 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 DEIR is being prepared. Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or via e-mail at [Jason.Ramos@slc.ca.gov](mailto:Jason.Ramos@slc.ca.gov). For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at [Jamie.Garrett@slc.ca.gov](mailto:Jamie.Garrett@slc.ca.gov) or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact Ninette Lee, Public Land Manager, at (916) 574-1869, or via e-mail at [Ninette.Lee@slc.ca.gov](mailto:Ninette.Lee@slc.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Nicole Dobroski". The signature is written in a cursive style with a large, prominent "N" and "D".

Nicole Dobroski, Chief  
Division of Environmental Planning  
and Management

CC: Office of Planning and Research

N. Lee  
J. Ramos  
J. Garrett