

CALIFORNIA STATE LANDS COMMISSION
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Sacramento, CA 95825-8202



Established in 1938

July 25, 2022

JENNIFER LUCCHESI, *Executive Officer*
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File Ref: SCH #2022060515

California Public Utilities Commission
Connie Chen
505 Van Ness Avenue
San Francisco, CA 94102

Governor's Office of Planning & Research

JUL 26 2022

STATE CLEARINGHOUSE

VIA ELECTRONIC MAIL ONLY (Connie.Chen@cpuc.ca.gov)

Subject: Draft Initial Study Mitigated Negative Declaration/Environmental Assessment for Klamath River Rural Broadband Initiative, Humboldt County

Dear Connie Chen:

The California State Lands Commission (Commission) staff has reviewed the Draft Initial Study Mitigated Negative Declaration/Environmental Assessment (MND/EA) for the Klamath River Rural Broadband Initiative (Project), which is being prepared by the California Public Utilities Commission (CPUC). The CPUC, as the public agency proposing to carry out the Project (on behalf of the Karuk Tribe), is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and the Bureau of Indian Affairs is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). The Commission will act as a responsible agency because of its duty as the trustee of school lands to monitor projects that could directly or indirectly impact these lands.

Commission Jurisdiction

The Commission staff has already received an application from the Karuk Tribe and has been working with them to identify the State's interest in the Project area. Please see attached letter dated April 18, 2022, for the detailed description of State's school land interest. The Project, as proposed, does not appear to be on sovereign lands. However, the Commission, as a trustee agency, still has an interest in projects that could impact sovereign lands.

In 1853, the United States Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund (SLBF) and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the State and the reserved mineral interests on an additional 790,000± acres where the surfaces estates have been sold. Revenue from school lands is deposited in the State Treasury for the benefit of the Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

Environmental Review

Commission staff requests that the CPUC consider the following comments on the Project's MND/EA.

General Comments

1. Project Description: Staff recommends that the MND/EA include a detailed analysis that includes the following:
 - a. What is being proposed on lands under the Commission's jurisdiction?
 - b. Will the Project components under the Commission's jurisdiction have possible environmental impacts?
 - c. How will possible environmental impacts be reduced to less than significant levels? Clearly identifying these measures is crucial since this MND/EA will be used when presenting this Project to the Commission.
2. Figures: Staff recommends that a general figure, like Figure 2-1 General Project Location map, should be included in the Executive Summary and not just Appendix E (starting on [pdf page 83](#)) to help the reader better anchor themselves as they review the Project.

Thank you for the opportunity to comment on the MND/EA for the Project. As a responsible and trustee agency, the Commission will rely on the adopted MND/EA when issuing a new lease as specified above (see Section "Commission Jurisdiction"). We request that you consider our comments before adopting the MND/EA.

Please send electronic copies of the adopted MND/EA, Mitigation Monitoring, Reporting, and Compliance Program, and Notice of Determination, and approving resolution, when they become available. Please note that federal

and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

Refer questions concerning environmental review to Afifa Awan, Senior Environmental Scientist, at Afifa.Awan@slc.ca.gov or (916) 574-1891. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at Jamie.Garrett@slc.ca.gov or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact Al Franzoia, Public Land Management Specialist, at Al.Franzoia@slc.ca.gov or (916) 574-0992.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research

- A. Awan, Commission
- A. Franzoia, Commission
- J. Garrett, Commission
- P. Huber, Commission

Attachment: Jurisdictional Determination

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April 18, 2022

File Ref: I 3137

SENT VIA EMAIL TO: pjeckert@enertribe.com

Penelope Eckert
Permit Manager
Karuk Tribe
P.O. Box 164
Orleans, CA 95556

SUBJECT: Jurisdictional Determination of the State's interest in the Klamath River and adjacent parcels, for the Klamath River Rural Broadband Project, Humboldt County

Dear Penny,

This letter is in response to your inquiry regarding the California State Lands Commission (Commission) jurisdiction as to whether it asserts a sovereign title interest in the Klamath River, near Orleans.

After review of the information provided and our in-house records, staff of the Commission has determined the following:

Site 1 Orleans Crossing:

The Klamath River at this location is natural, possibly navigable, non-tidal, and shown but not meandered on the U.S. Township plat. Both the bed of the river and the uplands are located within lands the State did not acquire or patent and are unpatented federal lands (por. Sec. 31, T11N, R6E, HM).

Site 2 Martin's Ferry Crossing:

The Klamath River at this location is natural, possibly navigable, non-tidal, and does not appear to be meandered at this location. (Note: The head of U.S. meanders appears to be the south line of Sec. 32, T11N, R3E, HM). Both the bed of the river and the uplands are located within lands the State did not acquire or patent and are federal lands

patented under U.S. Homestead Entry Patent Serial No. 658, dated 8/15/1884 (por. SE 1/4 Sec. 31, T10N, R4E, HM).

Site 3 SLC Parcel:

The proposed fiber route will extend across a parcel of State-owned school (lieu) land located within the NE1/4 of NW1/4 of Section 28, T9N, R3E, HM, containing 40 acres, more or less, acquired in California Indemnity School Land Clear List No. 267, dated 6/6/1957, subject to valid rights existing at date of selection, and reserving to the U.S. a right-of-way for ditches and canals (APN 531-023-008, SLC Parcel 009-001).

Note:

Coyote Peak Forest Improvement Project, subject parcel.

The bed of the creek and the uplands are located within lands the State did not require or patent and are federal lands patented under U.S. Cash Entry Patent Serial No. 1732, dated May 20, 1872 (Por. Sec. 6, T18N, R17W, MDM).

Sites 1 and 2 were neither acquired nor patented by the State and therefore a lease or permit will not be required by the Commission for these crossings. However, Site 3, will require a lease or permit from the Commission.

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 (PRC §6301 and §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 mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court decision. 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.

This determination is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information come to our attention. In addition, this letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

If you have any questions, please contact Al Franzoia, Public Land Management Specialist at (916) 574-0992 or by email at Al.Franzoia@slc.ca.gov.

Sincerely,

DocuSigned by:

89A8A2E548454D8...
Robert Brian Bugsch, Chief
Land Management Division

cc: Al Franzoia, PLMS
LMD