

CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

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Caltrans, District 4
Arnica MacCarthy, Senior Environmental Planner
P.O. Box 23660, MS-8B
Oakland, CA 94623-0660

VIA ELECTRONIC MAIL ONLY (petalumabridge37@dot.ca.gov)

Subject: Initial Study with Proposed Mitigated Negative Declaration for the Marin State Route 37 Petaluma River Bridge Project, Marin and Sonoma Counties

Dear Arnica MacCarthy:

The California State Lands Commission (Commission) staff has reviewed the Initial Study with Proposed Mitigated Negative Declaration (IS/MND) for the Marin State Route 37 Petaluma River Bridge Project (Project), which is being prepared by the California Department of Transportation (Caltrans), District 4. Caltrans, 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 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. Such boundaries may not be readily apparent from present day site inspections.

On January 1, 1958, the Commission authorized a right-of-way easement for the Highway 37 Bridge over the Petaluma River to the State Division of Highways pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code.

The Project area includes sovereign land in the Petaluma River. Proposed development and in-water work activities are within the existing authorized right-of-way easement, however additional temporary construction areas within the Commission's leasing jurisdiction will require a lease from the Commission. An application may be submitted to the Commission through the online application portal ([OSCAR.slc.ca.gov](https://oscar.slc.ca.gov)). If you have questions specific to jurisdiction, lease provisions, or the application process, please contact Public Land Management Specialist Al Franzoia and Public Land Manager Ninette Lee (contact information below).

Project Description

Caltrans proposes to rehabilitate the Petaluma River Bridge deck, replace the bridge fender system, protect the bridge structures from scour, and upgrade the bridge railings to meet current safety standards.

From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign land found outside of existing Commission authorizations for Caltrans work:

- Barges. Barges would be used in the Petaluma River to replace the existing timber bridge fender system. The barges could be anchored or working outside the Street and Highways Code section 101.5 right-of-way (ROW).

- Bridge Fender Construction. The MND's Project Description notes that "steel piles would be driven into the riverbed to create an isolated work area to facilitate construction of the fenders." While the document does not clearly identify the work area's location or how the fenders would be constructed, any in-water work that occurs outside the ROW would affect State sovereign land for which Caltrans does not have authorization.

Environmental Review

Commission staff requests that Caltrans consider the following comments on the Project's MND to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the MND when considering a future lease application for the Project.

General Comments

1. Temporary Work in the Petaluma River and Caltrans' ROW: While the Project Description acknowledges that a temporary construction easement (TCE) would be needed at the Black Point Boat Launch for barge loading and unloading, the MND does not discuss if a TCE would be needed for the fender construction work area¹. In addition, it is not clear whether the fender replacement activities would occur within or outside the existing ROW. While Section 3.3.4, *Biological Resources*, notes on page 3-11 that most of the Project work would occur within the ROW except for "...barge river access surrounding the bridge, where the Project limits extend further than the Caltrans ROW", that area is not included in Section 2.4.9. Please clarify in the Project Description which fender construction and installation activities would take place within the existing ROW and which activities could require a TCE.
2. Public Agency Approvals: On page v, please identify the Commission as a public agency with approval authority and as a CEQA responsible agency. This would ensure the signed MND is consistent with Table 2-1.

Air Quality

3. Criteria Pollutants: The analysis in Section 3.3.3, *Air Quality*, subsection b), determined that "construction air pollutants are expected to be minimal to negligible and short term" and that "potential impacts to air quality, including violation of air quality standards, [and] criteria pollutants...are not anticipated based on the scope of the proposed Project." However, the document failed to provide applicable CEQA thresholds for criteria pollutants as well as modeled emission calculation results that would support a "minimal

¹Section 2.4.3: "Steel piles would be driven into the riverbed to create an isolated work area to facilitate construction of the fenders."

to negligible" determination and a less-than-significant impact to air quality. Commission staff note that Section 3.3.8, *Greenhouse Gas Emissions*, provides carbon dioxide, methane, and nitrous oxide emission calculations as part of the impact analysis. Please have the MND include CEQA threshold and emission calculations information for criteria pollutants, and, when providing the emission calculations, ensure that applicable marine vessel (barge, tugboat, etc.) emissions are included.

Biological Resources

4. Invasive Species: One of the major stressors in California waterways is introduced species. As noted in #1, above, the MND states that the Black Point Boat Launch would be used for barge loading and unloading. The MND should further clarify from where the barges, associated tugboats, or other marine vessels will come. If vessels will be brought along the waterway, then the MND should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel, or other nonindigenous, invasive species including aquatic and terrestrial plants.

For example, construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via vessel biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. If the analysis in the MND finds potentially significant AIS impacts, possible mitigation could include contracting vessels and barges from nearby or requiring contractors to perform a certain degree of vessel cleaning. The CDFW's Invasive Species Program and the Commission's Marine Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives> and <https://www.slc.ca.gov/misp/>).

Cultural Resources

5. Submerged Cultural Resources: The MND should evaluate potential impacts to submerged cultural resources in the Project area. The Commission maintains a shipwrecks database that can assist with this analysis. Commission staff requests that Caltrans contact Staff Attorney Jamie Garrett (contact information below) to obtain shipwrecks data and Commission records for the Project site. The Commission's database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown.

Thank you for the opportunity to comment on the Draft MND for the Project. As a responsible and trustee agency, the Commission will rely on the adopted MND

when issuing a new lease as specified above (see Section "Commission Jurisdiction and Public Trust Lands"). We request that you consider our comments before adopting the MND.

Please send electronic copies of the adopted MND, final Appendix B (Summary of Project Features, Avoidance, Minimization, and Mitigation Measures) or other record of environmental commitments, Notice of Determination, and approving agency document 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 Alexandra Borack, Senior Environmental Scientist, at Alexandra.Borack@slc.ca.gov or (916) 574-2399. 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 and Ninette Lee, Public Land Manager, at Ninette.Lee@slc.ca.gov or (916) 574-1869.

Sincerely,



Eric Gillies, Assistant Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
A. Borack, Commission
J. Garrett, Commission
A. Franzoia, Commission
N. Lee, Commission