

CALIFORNIA STATE LANDS COMMISSION

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Established in 1938

November 30, 2022

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File Ref: SCH #2022100650

Caltrans, District 1
Zachary Larson
1656 Union Street
Eureka, CA 95501

VIA ELECTRONIC MAIL ONLY zarchary.larson@dot.ca.gov

Subject: Initial Study/Mitigated Negative Declaration for Eel River Bridge Seismic Retrofit, Humboldt County

Dear Zachary Larson:

The California State Lands Commission (Commission) staff has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Eel River Bridge Seismic Retrofit (Project), which is being prepared by the California Department of Transportation, District 1 (Caltrans). 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.

The existing Eel River Bridge No. 04-0016R, also referred to as the Paul Mudgett Memorial Bridge, extends across the bed of the Eel River, which at this location is natural, subject to artificial conditions (gravel extraction activities), navigable, non-tidal sovereign land. On March 1, 1966, the Commission authorized a lease (Lease No. PRC 3445.9) to the Department of Transportation for the continued use and maintenance of the Paul Mudgett Memorial bridge. The lease is for the life of the bridge plus one year, beginning March 1, 1966. Pursuant to the terms of the lease, prior review and approval is required for repairs and improvements. The Lessee will need to submit an application to the Commission for review. The application is available on our website at [OSCAR.slc.ca.gov](https://oscar.slc.ca.gov).

The Project also appears to include the relocation of utilities, which must be brought under lease if located on State sovereign land. For the Commission, to authorize the installation of utilities on sovereign land the potential environmental impacts of such work must be fully analyzed to inform the Commission's decision.

Promotion of public access to and use of California's navigable waters is a mandate of the California Constitution (Article 10, Section 4), a condition of statehood in the Act of Admission (Vol. 9, Statutes at Large, page 452), and a responsibility of State agencies pursuant to the Public Trust Doctrine. In this case, the Legislature has provided for a process to be followed regarding promoting access at bridge sites in the California Streets and Highways Code section 84.5. During the design hearing process, Caltrans is required to prepare a report on the feasibility of providing public access to the waterway, for recreational purposes, and determine if such public access will be provided.

Project Description

Caltrans proposes to seismically retrofit the Eel River Bridge to meet the agency's objectives and needs for repair of the seismic deficiencies of the bridge and improve its structural integrity to withstand a seismic event.

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

- Relocating underground utilities (PG&E high pressure gas line and City of Rio Dell water line)
- Remove existing through-truss bridge
- At Pier 5, construct new pier, seismic joint, and base isolation bearing
- Construct new Pre-stressed, Cast-In-Place Box Girder Bridge
- Retrofit footings as Piers 6, 7, and 8
- Retrofit Abutment 9
- Place 1-inch polyester overlay from Abutment 1 to Abutment 9
- Remove northbound approach roadway section

- Construct retaining wall
- Install drainage inlet and rock slope protection (RSP) dissipator
- Construct realigned northbound roadway approach to Abutment 1

Environmental Review

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

General Comments

1. Project Description: Commission staff was unclear which components of the Project would be under the Commission's jurisdiction. When submitting an application with the Commission for the Project, please ensure that engineering plans identify the ordinary low water mark of the Eel River for all components of the Project, including temporary roads and other falsework necessary to complete the Project.
2. Mitigation Measures: Mitigation measures were not discussed in the IS/MND. In addition, there was no discussion of how mitigation measures and best management practices would reduce impacts to less than significant. Mitigation measures as well as a Mitigation Monitoring Program (MMP) adopted by Caltrans will be necessary to complete an application with the Commission before construction on the Project can start.

Biological Resources

3. Impacts to Pacific Salmon Evolutionarily Significant Units and Essential Fish Habitat: In Section 2.4, Biological Resources, the determination under Federal Endangered Species Act of "may affect, is likely to adversely affect" for Chinook Salmon – California Coastal Evolutionarily Significant Units (ESU), Coho Salmon – Southern Oregon/Northern California Coast ESU, Steelhead – Northern California Distinct Population Segments (DPS), Steelhead – Summer-run DPS, and Pacific Salmon Essential Fish Habitat would require consultation with the National Marine Fisheries Service (NMFS). A copy of the Biological Assessment as well as the Biological Opinion issued by NMFS will be required to complete an application with the Commission.

Cultural Resources

4. Title to Resources within Commission Jurisdiction: The IS/MND should state 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 Caltrans consult with Staff Attorney Jamie Garrett should any cultural resources on state lands be discovered during construction of the Project.

Staff requests that the following statement be included in the IS/MND's MMP: "The final disposition of archaeological, historical, and paleontological resources recovered on State land under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Recreation

5. Public Access: The IS/MND should include a section describing the potential for the Project to affect recreational uses and public access to the Eel River. 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 potential negative impacts. This discussion should also identify measures Caltrans 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.

Staff appreciates the opportunity to comment on the IS/MND for the Project. As a responsible agency, the Commission will rely on the adopted MND for issuance of 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, MMP, 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 use of the documents and issuance of a lease.

Please refer questions concerning environmental review to Christine Day, Environmental Scientist, at Christine.Day@slc.ca.gov or (916) 562-0027. 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 Ninette Lee, Public Land Manager, at Ninette.Lee@slc.ca.gov or (916) 574-1869.

Sincerely,

A handwritten signature in black ink that reads "Nicole Dobroski". The signature is written in a cursive, flowing style.

Nicole Dobroski, Chief
Division of Environmental Planning
and Management

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