

**CALIFORNIA STATE LANDS
COMMISSION**

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Established in 1938

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NOTICE OF EXEMPTION

File Ref: SCH #2022120684

Governor's Office of Planning & Research

City of Oakdale
Attn: Colleen Andersen
280 N. Third Avenue
Oakdale, CA 95361

FEB 3 2023

STATE CLEARING HOUSE

VIA ELECTRONIC MAIL ONLY: (bwhitemyer@ci.oakdale.ca.us)

Subject: Draft Environmental Assessment/Initial Study/Mitigated Negative Declaration for the Stanislaus River Salmonid Habitat Restoration Project at Stanley Wakefield Wilderness Area, Stanislaus County

Dear Bryan Whitemyer:

The California State Lands Commission (Commission) staff has reviewed the Draft Environmental Assessment/Initial Study/Mitigated Negative Declaration (EA/MND) for the proposed Stanislaus River Salmonid Habitat Restoration Project at Stanley Wakefield Wilderness Area (Project), which is being prepared by the City of Oakdale (City). The City, 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.), and the U.S. Fish and Wildlife Service (USFWS) is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 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 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 inspection.

The Stanislaus River at the Project location is natural, navigable, and non-tidal. Based on the Draft EA/MND, staff understands that the Project falls within the Commission's jurisdiction because Project activities would occur below the ordinary low-water mark. Therefore, a lease from the Commission will be required for the Project. An application was submitted to the Commission on November 15, 2022. If you have questions specific to jurisdiction, lease provisions, or the application process, please contact Public Land Management Specialist Joanne Holt (contact information below).

Project Description

The Project aims to restore and enhance the Stanislaus River off-channel and riparian ecosystem processes critical for juvenile California Central Valley (CCV) steelhead (*Oncorhynchus mykiss*) populations, with anticipated ancillary benefits to California's Central Valley (CV) Chinook Salmon (*O. tshawytscha*) and other native fish, on the lower Stanislaus River. The primary objective of the Project is to augment, rehabilitate, and enhance productive Stanislaus River juvenile salmonid rearing habitat by providing juveniles access to the historic floodplain. Additionally, the Project may:

- Address goals of existing recovery plans and work synergistically with existing restoration efforts on the Stanislaus River
- Improve community opportunities to participate in, learn about, and support salmonid habitat restoration and the value of functional riverine ecosystems

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

sovereign land during the creation of the upstream and downstream channel connections.

Environmental Review

Commission staff requests that the City consider the following comments on the Project's Draft EA/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. Public Agency Approvals: Section 2.7 "Required Proposed Action Permits and Approvals" should identify the Commission as a public agency with jurisdiction within the Project area that requires discretionary approval of a lease for the Project.
2. Project Description: There is a lack of detail regarding how the creation of the upstream and downstream channel connections (within State sovereign lands) would be accomplished. The Project Description should be as precise as possible in describing the details of all proposed activities (e.g., types of equipment or methods that may be used, maximum area of impact, and estimated volume of sediment to be removed specifically from sovereign lands), as well as the details of the timing and length of activities. Although engineering plans were provided in the Draft EA/MND, the document should also provide a thorough written description 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. Commission staff requests that a separate section be prepared detailing the creation of the upstream and downstream connections.

Biological Resources

3. Page 62 of the Draft EA/MND states, "Although some short-term disturbance may occur, these effects would be minimized through implementing Mitigation Measure WQ-1 and therefore impacts on special status fish species would be less than significant." Commission staff suggests that the determination for this impact should be "less than significant with mitigation."

Cultural and Tribal Cultural Resources

4. Title to Resources Within Commission Jurisdiction: The Draft EA/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 the City consult with Staff Attorney Jamie Garrett should any cultural resources on State lands be discovered during construction of the proposed Project.

Staff requests that the following statement be included in the EA/MND's Mitigation Monitoring Program: "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."

5. Tribal Cultural Outreach: The Draft EA/MND should disclose the nine recipients of the Project Tribal notification letters sent on September 2, 2022, to assist the Commission's Tribal Liaison with review of the conducted outreach as it applies to the Commission's Tribal Policy (<https://www.slc.ca.gov/wp-content/uploads/2018/07/Tribal.pdf>).

Thank you for the opportunity to comment on the Draft EA/MND for the Project. As a responsible and trustee agency, the Commission will rely on the adopted MND in issuing a 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, Mitigation Monitoring Program, 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's agenda.

Refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at cynthia.herzog@slc.ca.gov or (916) 574-1310. 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 Joanne Holt, Public Land Management Specialist, at Joanne.holt@slc.ca.gov or (916) 574-1832.

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
J. Holt, Commission
J. Garrett, Commission
C. Herzog, Commission