

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

April 10, 2023

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800

TTY CA Relay Service: 711 or Phone 800.735.2922
from Voice Phone 800.735.2929
or for Spanish 800.855.3000

Contact Phone: (916) 574-1890

File Ref: SCH #2005072046

Flood Projects Branch
Department of Water Resources
3464 El Camino Avenue Room 200
Sacramento, CA 95821

VIA ELECTRONIC MAIL ONLY: PublicCommentARCF16@water.ca.gov

Subject: Draft Supplemental Environmental Assessment/Environmental Impact Report (SEA/EIR) for the American River Common Features, Water Resources Development Act of 2016, Sacramento River Erosion Contract 4, Sacramento County

To whom it may concern:

The California State Lands Commission (Commission) staff has reviewed the Draft SEA/EIR for the American River Common Features Development Act of 2016, Sacramento River Erosion Contract 4 (Project), which is being prepared by the Central Valley Flood Protection Board (CVFPB), as the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and the U.S. Army Corps of Engineers (USACE) as 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 tidal waterways, the State's sovereign fee ownership extends landward to 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.

The Sacramento River, at the location of the proposed Project, is tidal State sovereign land under the jurisdiction of the Commission. Based upon the information provided and a preliminary review of Commission records, Commission staff has determined that the Project will require submission of a lease application for issuance of a lease. The application can be found at our website at www.slc.ca.gov. As the Project proceeds, please submit additional information, including but not limited to MHTL and boundary surveys, for a determination of the extent of the Commission's jurisdiction. Please contact Sandra Avila, Public Land Management Specialist, for jurisdiction and leasing requirements for the Project (see contact information at end of letter). Additionally, please ensure that Ms. Avila is included on any future distribution mailing list for the Project.

Proposed Project Description

The USACE, CVFPB, and Sacramento Area Flood Control Agency propose to construct levee improvements to address erosion concerns along approximately 1,700 linear feet of the east levee of the Sacramento River near River Mile 55. Project objectives include the following:

- Reduce the chance of flooding and damages, once flooding occurs, and improve public safety preparedness and emergency response.
- Reduce maintenance and repair requirements by modifying the flood management system in ways that are compatible with natural processes.
- Integrate the recovery and restoration of key physical processes, self-sustaining ecological functions, native habitat, and species.
- Ensure that technically feasible and cost-effective solutions are implemented to maximize the flood risk reduction benefits given the practical limitations of applicable funding sources.

Commission staff understand that the proposed Project includes erosion protection work, including bank protection, construction access and staging within the levee prism, and the channel and bank of the Sacramento River at a single site in the Little Pocket neighborhood.

The Project design includes two options for bank protection, both of which will likely be located within the jurisdiction of the Commission. In Option 1, USACE would construct traditional bank protection comprised of riprap. In Option 2, USACE would construct a bioengineered improvement instead of riprap from 7 to 13 feet in

elevation. The design for both options includes instream woody material. Prior to construction, trees, shrubs, and other vegetation will be removed from the work area during the appropriate work window. A river barge equipped with a clamshell will be used to place rock and shape the bank protection feature, and an excavator will be used to trench keys if necessary.

Environmental Review

Commission staff request that the lead agencies consider the following comments on the Draft SEA/EIR.

General Comments

1. Commission staff request that the Project figures (Figures 2-1 and 2-2) include a line indicating the MHTL so staff can better assess impacts to areas within Commission jurisdiction (e.g., impacts to riparian habitat and associated species).

Cultural Resources

2. Title to Resources: Commission staff request the Archaeological Discovery Plan (Mitigation Measure CR-2) include a statement that the title to all archaeological sites and historic or cultural resources on or in the tide and submerged lands of California are vested in the State and under the jurisdiction of the Commission (Pub. Resources Code, § 6313), as follows: "The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission." Finally, Commission staff request that the lead agencies consult with Staff Attorney Jamie Garrett (see contact information below) should any cultural resources on State lands be discovered during construction of the Project.

Thank you for the opportunity to comment on the Draft SEA/EIR for the Project. As a responsible and trustee agency, the Commission will need to rely on the certified SEIR for the issuance of any lease as specified above and, therefore, we request that you consider our comments prior to certification of the SEIR.

Please send copies of future project-related documents, including electronic copies of the certified SEA/EIR, an accessible version of the final Mitigation Monitoring and Reporting Program, Notice of Determination, Findings, Statement of Overriding Considerations (if applicable), and approving resolution when they become available. Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or cynthia.herzog@slc.ca.gov. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov.

For questions concerning Commission leasing jurisdiction, please contact Sandra Avila, Public Land Management Specialist, at (916) 574-0282 or sandra.avila@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 initial "N".

Nicole Dobroski, Chief
Division of Environmental Science, Planning,
and Management

cc: Office of Planning and Research
C. Herzog, Commission
J. Garrett, Commission
S. Avila, Commission