

**CALIFORNIA STATE LANDS
COMMISSION**

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January 27, 2023

File Ref: SCH #2022120577

California Department of Water Resources
Amy Lyons
2440 Main Street
Red Bluff, CA 96080

VIA ELECTRONIC MAIL ONLY: amy.lyons@water.ca.gov

Subject: Initial Study/Mitigated Negative Declaration for Kopta Slough Multi-Benefit Project, Tehama County

Dear Amy Lyons:

The California State Lands Commission (Commission) staff has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Kopta Slough Multi-Benefit Project (Project), which is being prepared by the California Department of Water Resources (DWR). DWR, 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 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.

The Sacramento River, at the project location, is natural, navigable, non-tidal, and, therefore, State sovereign land under the Commission's jurisdiction. Kopta Slough, at the project location, is natural, possibly navigable, and non-tidal. A portion of the present slough bed, at this location, appears to be the historic channel of the Sacramento River and, therefore, is located on State sovereign land under the Commission's jurisdiction. A lease is required for any portion of the project encroaching on State sovereign land.

Project Description

DWR proposes to remove rock revetment along the Sacramento River and transfer ownership to the United States Fish and Wildlife Service to restore natural fluvial and geomorphic processes. From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign land:

- Project Component 1: Removing the rock revetment from the landside of the bank.
- Project Component 2: Sorting excavated material and, where necessary, crushing rock to spoil on site.
- Project Component 3: Excavating and recontouring the existing natural berm behind the rock revetment to match the existing floodplain elevation.

Environmental Review

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

Cultural Resources

1. 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 DWR 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 IS/MND's Mitigation Monitoring Program, Mitigation Measure Cultural-1: "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."

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

Please send electronic copies of the adopted IS/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 agenda.

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 Management Specialist, at Ninette.Lee@slc.ca.gov or (916) 574-1869.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

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

Response to Comments from the State Lands Commission Correspondence Dated January 27, 2023

Comment 1-1: *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 DWR consult with Staff Attorney Jamie Garrett should any cultural resources on state lands be discovered during construction of the proposed Project.*

Response 1-1: Table 1 of the IS/MND lists the permits and approvals that are anticipated to be required for implementation of the proposed project. To address this comment, Table 1 was revised as follows:

Table 1 Anticipated Permits and Approvals for the Kopta Slough Project

Approving Agency	Permit/Approval	Required For
California State Lands Commission	Lease	Activities on State sovereign lands underlying navigable waters, <u>as these activities could result in the discovery of abandoned shipwrecks, archaeological sites, and historical or cultural resources under jurisdiction of the Commission.</u>

Comment 1-2: *Staff requests that the following statement be included in the IS/MND's Mitigation Monitoring Program, Mitigation Measure Cultural-1: "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."*

Response 1-2: The requested language was added to Mitigation Measure Cultural-1 as follows:

Mitigation Measure Cultural-1: Protect Newly Discovered Archaeological, Prehistoric, Historic, or Tribal Cultural Resources

Prior to the start of construction, DWR will provide an environmental tailgate training including an overview of the types of cultural resources, including tribal cultural resources (which could occur in the project area), a statement of confidentiality, and a review of the steps that must occur if any potential cultural resources are identified in the project area.

If any potential historical or archaeological materials are discovered during construction activities, work must be halted within 100 feet of the find until an archaeologist who meets U.S. Secretary of Interior's Professional Qualification Standards for Archaeology or personnel working under their direction evaluates the find. If the discovered materials are potential tribal cultural resources, affiliated Native American tribes will be notified and provided an opportunity to participate in the evaluation of the find. Work may continue on other parts of the proposed project while evaluation and, if necessary, mitigation, take place (California Environmental Quality Act [CEQA] Guidelines Section 15064.5 [f]). After the assessment is completed, the archaeologist shall submit a report to DWR describing the significance of the discovery with management recommendations. If the find is determined by DWR to be an historical, unique archaeological, or tribal cultural resource, time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available.

Should significant archaeological resources be found, the resources shall be treated in compliance with PRC Section 21083.2. If the project can be modified to accommodate avoidance, preservation of the site is the preferred alternative. Data recovery of the damaged portion of the site also shall be performed pursuant to Public Resources Code (PRC) Section 20183.2(d). 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.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 27, 2023

Amy Lyons
Senior Environmental Scientist (Supervisory)
California Department of Water Resources 2440
Main Street
Red Bluff, CA 96080

**SUBJECT: REVIEW OF THE INITIAL STUDY AND MITIGATED NEGATIVE
DECLARATION FOR KOPTA SLOUGH MULTI-BENEFIT PROJECT,
STATE CLEARING HOUSE NUMBER 2022120577, TEHAMA COUNTY**

Dear Amy Lyons:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND) dated December 2022, for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW relies on the CEQA document prepared by the Lead Agency to make a finding and decide whether to issue a permit or agreement. It is important that the Lead Agency's ISMND consider CDFW's Responsible Agency recommendations. For example, CEQA requires CDFW to

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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include additional feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect a project would have on the environment (CEQA Guidelines section 15096(g)(2)). CDFW offers the following comments and recommendations on this Project in our role as a Trustee and Responsible Agency.

Project Description

The Project as described in the ISMND is as follows:

“The proposed project consists of three elements: (1) full removal of approximately 5,600 linear feet of existing rock revetment along the Sacramento River bank bordering the Kopta Slough property to restore natural fluvial and geomorphic processes; (2) restoration of the 176-acre agricultural field to native floodplain habitat on the Kopta Slough property; and (3) transfer of the Kopta Slough property to U.S. Fish and Wildlife Service ownership to assure its long-term management and conservation, as well as facilitate the enhancement of public recreational opportunities.”

Comments and Recommendations

CDFW recognizes that the California Department of Water Resources (DWR) has taken the appropriate steps to identify and assess biological resources and state special status species that have potential to occur within or, in-proximity to, the Project area. CDFW acknowledges that this is a restoration project, that the outcome will have a beneficial impacts to biological resources and that many of the environmental commitments listed in the ISMND are adequate in minimizing potential impacts to biological resources during implementation however, CDFW has the following additional comments and recommendations:

Promoting Pollinators

Insect pollinators such as the monarch butterfly and native bees have declined drastically relative to 1980s levels, have had an especially drastic decline since 2018 (Goulson et al. 2015²; Marcum and Darst 2021³) and several of California bumble bee species are now candidates for state listing. CDFW believes this Project is suitable for the incorporation of vegetation that promotes California’s native pollinators. CDFW encourages revegetation efforts that use locally occurring native trees, shrubs, and flowering plants to benefit native wildlife, and specifically, California’s insect pollinators. CDFW recommends the incorporation of native flowering species over non-native species, where possible.

² Goulson, D., Nicholls, E., Botías, C., & Rotheray, E. L. (2015). Bee declines driven by combined Stress from parasites, pesticides, and lack of flowers. *Science*, 347(6229). <https://doi.org/10.1126/science.1255957>

³ Marcum, S., & C. Darst. (2021). Western Monarch Butterfly Conservation Recommendations. Available from: <https://wafwa.org/wp-content/uploads/2021/10/Western-Monarch-Sec-7-Conservation-Recs-08.31.2021.docx>

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Invasive Species

As the Initial Study indicates, Project activities may contribute to the introduction of invasive plant species. CDFW concurs with the preparation and implementation of a weed prevention and control plan to reduce the potential spread of invasive plant species. Additional information and guidelines for invasive plants can be found on the California Invasive Plant Council's website at:

<http://www.cal-ipc.org/solutions/prevention/>.

Additionally, because Project activities include in-water work, prevention of aquatic invasive species may also be applicable. Additional information regarding invasive species can be found at <https://wildlife.ca.gov/Conservation/Invasives>. Guidelines for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquatichitchhikers.org>.

Weed Control and Pesticides

The Kopta Slough Riparian Restoration Plan indicates that control efforts for noxious weeds will include herbicide applications. If herbicide use cannot be precluded from the Project:

- CDFW strongly encourages herbicide applicators to follow the best management practices described by the [Guidance to Protect Habitat from Pesticide Contamination](#).
- Avoid using pesticides marked with the US Environmental Protection Agency's bee hazard icon.
- Avoid spraying pesticides onto any flowering plant, with special care to avoid taxa indicated above.
- Use pesticides with a short residual toxicity to bees- pesticide toxicity to bees can be checked via UC ANR's [Bee Precaution Database](#).
- Use targeted application instead of broadcast spraying whenever possible.
- Avoid mixtures of pesticides as they are only evaluated in scenarios in which they are not combined, therefore potential harmful synergies are also unknown.
- Avoid usage of soil fumigants, which penetrate the soil and can poison ground nesting bees.
- All pesticide application must be conducted by a Licensed and Certified Pesticide Applicator and should be used as directed by the manufacturer.

Additional guidance on this topic is provided by the [United States Environmental Protection Agency](#) and the [California Department of Pesticide Regulation](#).

Bats

Bats are considered non-game mammals and are afforded protection by state law from take and harassment (FGC, § 4150; Cal. Code of Regs, § 251.1). Several California bat species are considered California Species of Special Concern (SSC) and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance

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by the Lead Agency (CEQA Guidelines, § 15065). Therefore, CDFW concurs with Mitigation Measure Wildlife-1 (MMW1), to survey for bats prior to demolition of existing structures, to perform demolition outside of the bat maternity season (March 1 – August 31) and outside of bat hibernacula (November 1 – March 1). CDFW recommends that MMW1 be amended to clearly state the maternity and hibernacula timeframes above.

To learn more about bat surveys, bats and human-made structures, and appropriate avoidance and minimization measures, the 2003 Bat and Bridges Technical Bulletin⁴ may serve as a resourceful tool.

Foothill Yellow-Legged Frog

The ISMND states “*Foothill yellow-legged frogs are found year-round in rocky streams in a variety of habitats in Tehama County. The project area is located outside the Northwest and North Coast and Feather River populations. There have been no foothill yellow-legged frogs observed within the project area. Project implementation is not expected to affect this species.*”

According to the 2019 foothill yellow-legged frog (FYLF) status review⁵, the Project area is located *within* the Northwest/North Coast clade boundaries therefore, CDFW encourages amending the above statement. According to the California Natural Diversity Database (CNDDDB), FYLF has been observed within 4 miles of the Project area in tributaries with similar habitat characteristics to that of Kopta Slough.

The statement “*There have been no foothill yellow-legged frogs observed within the project area*” is unclear if surveys for FYLF were performed throughout the Project site, or if is considering CNDDDB observations only. If the latter, please be advised that CNDDDB is not an exhaustive or comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence (or protocol level surveys to determine absence) of sensitive species is encouraged.

Aside from the narrative above, there is no further mention of FYLF throughout the report. CDFW recommends that if FYLF surveys were performed, this information should be included with a corresponding date(s). Typically, a table of all biological surveys performed with their corresponding dates is suitable.

Since potentially suitable habitat may occur throughout Kopta Slough and adjacent habitats, CDFW recommends the inclusion of pre-construction FYLF surveys, alongside the daily pre-construction surveys for Western pond turtle, as mentioned in Mitigation Measure Wildlife-6.

⁴ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10333>

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=174663&inline>

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Lake and Streambed Alteration Agreement

FGC section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

1. substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or
2. substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or
3. deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Notification pursuant to Section 1602 of the FGC appears warranted. Information about the 1600 Notification process can be found at:

<https://www.wildlife.ca.gov/Conservation/LSA>.

Trenching, Excavation and Pipe Staging

Any open trench and excavated areas should be covered securely prior to stopping work each day and/or a wildlife exit ramp should be provided in the trench to prevent wildlife entrapment. If pipes are left out onsite, they should be inspected for wildlife prior to burying, capping, moving, or filling.

CDFW appreciates the opportunity to comment on this Project, and to assist the California Department of Water Resources in adequately analyzing, minimizing, and mitigating impacts to biological resources. If you have any questions, please contact Erika Iacona, Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

132FDFECF23F4FD...

Jason Roberts, acting for
Tina Bartlett, Regional Manager
Northern Region

ec: State Clearinghouse
State.Clearinghouse@opr.ca.gov

Erika Iacona
R1CEQARedding@wildlife.ca.gov

Response to Comments from the California Department of Fish and Wildlife Correspondence Dated January 27, 2023

Promoting Pollinators

Comment 2-1: *CDFW encourages revegetation efforts that use locally occurring native trees, shrubs, and flowering plants to benefit native wildlife, and specifically, California insect pollinators. CDFW recommends the incorporation of native flowering species over non-native species, where possible.*

Response 2-1: DWR agrees that locally occurring native vegetation should be used. The proposed project includes planting 176 acres of native floodplain habitat, which specifies the use of flowering native trees, shrubs, and grasses. DWR partnered with TNC on the restoration plan to ensure the use of native plant species appropriate for the project area. Appendix 2 of the Kopta Slough Riparian Habitat Restoration Plan (Appendix A to the IS/MND) details the planting composition of each planned community within the 176-acre restoration area. Disturbed areas along the river bank would also be reseeded with a mix of native grasses and forbs, and willow cuttings would be planted in specific areas along the toe of the bank at the river's edge.

Invasive Species

Comment 2-2: *CDFW concurs with the preparation and implementation of a weed prevention and control plan to reduce the potential spread of invasive plant species. Additional information and guidelines for invasive plants can be found on the California Invasive Plant Council's website at: <http://www.cal-ipc.org/solutions/prevention/>.*

Response 2-2: Comment noted.

Comment 2-3: Additionally, because Project activities include in-water work, prevention of aquatic invasive species may also be applicable. Additional information regarding invasive species may also be applicable. Additional information regarding invasive species can be found at <https://wildlife.ca.gov/Conservation/Invasives>. Guidelines for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquatichitchhikers.org>.

Response 2-3: Measures incorporated into the project are intended to prevent the introduction of invasive species or hazardous materials during in-water work and to minimize in-water construction activities. Mitigation Measure Botany-1, "Develop and Implement a Weed Prevention Control Plan," requires that construction equipment be made weed-free prior to entering the project area (e.g., washing construction equipment and trucks before entering the area). In addition, Mitigation Measure Hazards-1, "Prepare and Implement a Spill Prevention and Control Plan" requires that machinery be steam-cleaned prior to entering the river. Mitigation Measure Fish-1, "Implement Measures to Minimize Injury or Mortality to Adult or Juvenile Fish Species" minimizes in-water construction activities by restricting equipment to work from the riverbank so that only the excavator bucket would extend into the river. Implementation of the required washing and steaming prior to extending the excavator bucket into the river would serve to prevent the potential spread or introduction of aquatic invasive species.

Weed Control and Pesticides

Comment 2-4: *The Kopta Slough Riparian Restoration Plan indicates that control efforts for the noxious weeds will include herbicide applications. If herbicide use cannot be precluded from the Project:*

- *CDFW strongly encourages herbicide applicators to follow the best management practices described by the Guidance to Protect Habitat from Pesticide Contamination.*
- *Avoid using pesticides marked with the US Environmental Protection Agency's bee hazard icon.*
- *Avoid spraying pesticides onto any flowering plant, with special care to avoid taxa indicated above.*
- *Use pesticides with a short residual toxicity to bees- pesticide toxicity to bees can be checked via UC ANR's Bee Precaution Database.*
- *Use targeted application instead of broadcast spraying whenever possible.*
- *Avoid mixtures of pesticides as they are only evaluated in scenarios in which they are not combined, therefore potential harmful synergies are also unknown.*
- *Avoid usage of soil fumigant, which penetrate the soil and can poison ground nesting bees.*

- *All pesticide application must be conducted by a Licensed and Certified Pesticide Applicator and should be used as directed by the manufacturer.*
- *Additional guidance on this topic is provided by the United States Environmental Protection Agency and the California Department of Pesticide Regulation.*

Response 2-4: Mitigation Measure Botany-1, "Develop and Implement a Weed Prevention and Control Plan," states that any herbicide used shall be consistent with federal, State, and local requirements under advisement of a department or interagency pesticide control advisor. The U.S. Environmental Protection Agency actions to protect pollinators and the California Department of Pesticide Regulations' managed pollinator protection plan cited in this comment letter are included in federal, State, and local requirements. To ensure that these specific measures are implemented, they have been added to Mitigation Measure Botany-1, as follows:

Mitigation Measure Botany-1: Develop and Implement a Weed Prevention and Control Plan

Prior to the start of construction, the contractor shall prepare a weed prevention and control plan in coordination with the appropriate agency. The plan may include the following avoidance and minimization measures:

- Construction equipment shall be made weed-free prior to entering the project area (e.g., washing construction equipment and trucks before entering the area).
- Equipment staging shall occur in areas that have been cleared of weeds.
- Straw bales and other vegetative materials used for erosion control shall also be certified weed-free.
- All revegetation materials (e.g., container plants, mulches, seed mixtures) shall be certified weed-free and come from locally adapted native plant materials to the extent practicable.
- If areas require additional weed control, herbicides may be used consistent with federal, State, and local requirements, under advisement of a department or interagency pesticide control advisor (PCA). All herbicides shall be applied by a licensed operator and used as directed by the manufacturer.
- Herbicide application shall incorporate the following best management practices: use targeted application instead of broadcast spraying

whenever possible; avoid using pesticides marked with the U.S. Environmental Protection Agency's bee hazard icon; avoid spraying pesticides onto any flowering plant; use pesticides with a short residual toxicity to bees (see UC ANR's Bee Precaution Database); avoid mixtures of pesticides; and avoid use of soil fumigant.

- Invasive plants removed during project construction (e.g., *Arundo donax*) shall be removed to an appropriate off-site disposal area or otherwise properly disposed of out of the floodplain, or buried appropriately beneath spoiled material at a depth sufficient to prevent reintroduction and floating debris.
- Construction practices shall comply with other recommendations of the PCA for invasive weed management.

Bats

Comment 2-5: *CDFW concurs with Mitigation Measure Wildlife-1 (MMW1), to survey for bats prior to demolition existing structures, to perform demolition outside of the bat maternity season (March 1 – August 31) and outside of bat hibernacula (November 1 – March 1). CDFW recommends that MMW1 be amended to clearly state the maternity and hibernacula timeframes above.*

Response 2-5: The bat maternity season (mid-April through August 31) is stated in Mitigation Measure Wildlife-1 and reflects dates previously provided by CDFW staff. The start of the bat hibernacula season (October 30, or earlier than October 30 if evening temperatures fall below 45 degrees Fahrenheit or more than half inch of rainfall occurs within 24 hours during the month of October) is stated in Mitigation Measure Wildlife-2. To address this comment and maintain consistency between the two measures, Mitigation Measure Wildlife-1 was revised as follows:

Mitigation Measure Wildlife-1: Implement Bat Exclusion Measures Prior to Demolition of Existing Structures

Prior to structure demolition, structures shall be inspected by a qualified biologist to determine if bats are present. If present, surveys shall be conducted to determine if the structure is being used as a day, night, or maternity roost. If a roost is present, appropriate bat exclusion measures shall be implemented at least five to seven days prior to structure demolition outside of the maternity season, which can range from mid-April through August 31, and outside of the hibernacula season, which can begin October 30, or earlier than October 30 if evening temperatures fall below 45 degrees

Fahrenheit or more than half inch of rainfall occurs within 24 hours during the month of October, and continue through the winter months when bats could be hibernating. Bat exclusion measures could include one-way devices, such as polypropylene netting, plastic sheeting, or tube-type excluders, that would be placed at all active entry points.

Foothill Yellow-Legged Frog

The ISMND states "Foothill yellow-legged frogs are found year-round in rock streams in a variety of habitats in Tehama County. The project area is located outside the Northwest and North Coast and Feather River populations. There have been no foothill yellow-legged frogs observed within the project area. Project implementation is not expected to affect his species."

Comment 2-6: *According to the 2019 foothill yellow-legged frog (FYLF) status review, the Project area is located within the Northwest/North Coast clade boundaries therefore, CDFW encourages amending the above statement.*

Response 2-6: DWR agrees that the project area is located within the Northwest/North Coast clade boundaries. The IS/MND does not refer to clades but states the project area is located outside the Northwest and North Coast and Feather River "populations," which is based on historic range (Figure 5 in the 2019 FYLF status review). Because the statement is accurate, no changes were made to the IS/MND.

Comment 2-7: *The statement "There have been no foothill yellow-legged frogs observed within the project area" is unclear if surveys for FYLF were performed throughout the Project site, or if is considering CNDDDB observations only. If the latter, please be advised that CNDDDB is not an exhaustive or comprehensive list inventory of all rare species and natural communities statewide. Field verification for the presence (or protocol level surveys to determine absence) of sensitive species is encouraged.*

Aside from the narrative above, there is no further mention of FYLF throughout the report. CDFW recommends that if FYLF surveys were performed, this information should be included with a corresponding date(s). Typically, a table of all biological surveys performed with their corresponding dates is suitable.

Since potentially suitable habitat may occur throughout Kopta Slough and adjacent habitats. CDFW recommends the inclusion of pre-construction FYLF surveys, alongside the daily pre-construction surveys for Western pond turtle, as mentioned in Mitigation Measure Wildlife-6.

Response 2-7: Protocol-level surveys for FYLF were not conducted because during project area habitat assessments and site tours with regulatory agencies, including CDFW staff, it was determined that suitable FYLF habitat is not present within Kopta Slough or along the bank of the Sacramento River adjacent to the Kopta Slough Property. The statement “There have been no foothill yellow-legged frogs observed within the project area” refers to the lack of incidental observations during the many biological surveys conducted within the project area over numerous years. FYLF was not mentioned further in the document because of the determination that suitable habitat is not present.

The Sacramento River flows adjacent to the project area were determined to be too swift and deep to provide suitable habitat for FYLF. The upper reach of Kopta Slough adjacent to the project area is unlike other nearby tributaries in the area (e.g., Deer Creek or Mill Creek) that may provide potential suitable habitat because it lacks a gravel or rocky substrate and has intermittent flows consisting primarily of agricultural run-off. Sacramento River flows back up into the lower reach of Kopta Slough, resulting in warm water temperatures that support non-native predatory fish and amphibian species. Because the project area is outside the known range of this species, lacks suitable habitat, and supports predatory species, the project area is considered to be unsuitable to support FYLF.

Lake and Streambed Alteration Agreement

Comment 2-8: *FGC section 1602 requires any person, state or local government agency, or public utility to notify CDFW prior to the beginning any activity that may do one or more of the following:*

- 1. Substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or*
- 2. Substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or*
- 3. Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.*

Notification pursuant to Section 1602 of the FGC appears warranted. Information about the 1600 Notification process can be found at: <https://www.wildlife.ca.gov/Conservation/LSA>.

Response 2-8: A Streambed Alteration Agreement Notification has been submitted and a draft agreement has been prepared. The agreement will be executed when the CEQA document is finalized.

Trenching, Excavation and Pipe Staging

Comment 2-9: *Any open trench and excavated areas should be covered securely prior to stopping work each day and/or a wildlife exit ramp should be provided in the trench to prevent wildlife entrapment. If pipes are left out onsite, they should be inspected for wildlife prior to burying, capping, moving, or filling.*

Response 2-9: Comment noted. Shallow trenching for irrigation is anticipated within the proposed restoration site but would not be deep enough for wildlife to become entrapped. The proposed project does not anticipate pipes being left out on site.

From: Clark, Cherie D@DOT <cherie.clark@dot.ca.gov>
Sent: January 27, 2023 4:18 PM
To: Lyons, Amy@DWR <Amy.Lyons@water.ca.gov>
Cc: Grah, Kathy M@DOT <kathy.grah@dot.ca.gov>; Battles, Michael@DOT <Michael.Battles@dot.ca.gov>; Caruso, Brenda@DOT <Brenda.H.Caruso@dot.ca.gov>
Subject: Teh-99-6.1_Kopta Slough Multi-Benefit Project

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Good Afternoon Amy,

Thank you for the opportunity to review the Kopta Slough Multi-Benefit Project. Please see comments below:

Hydraulics:

It appears from the meander modelling that this project should not cause the Sacramento river to directly affect Route 99, but on page 4-39 of the attached Meander Modeling report it seems to indicate that the river would have a very slightly less perpendicular angle of attack (by the year 2063) when it encounters Woodson bridge on South Avenue. If this is the case and if the project caused negative effects to the Woodson bridge supports or to the adjacent county road, to the extent that the bridge/road had to be closed, it would increase the number of vehicles using Route 99 to the north of the project area and remove an important highway detour. Tehama County officials should consider whether this is a possibility, as should the project proponents.

If one considers the downstream extent of the existing revetment shown on page 2-2 of the Meander Modeling report, the "2063 With Revetment" predicted river centerline shown on page 4-39 seems questionable. It seems possible that the river flow is completely redirected by the revetment to a straight alignment, and that the "2013" digitized centerline more closely approximates the future flow path immediately downstream of the revetment, if the revetment were to remain in place. The predicted flow paths discussed in this paragraph may affect the proponent's conclusion that the project would cause no negative effects to the adjacent park and the Woodson bridge.

Have a great weekend!

Thank you,
Cherie Clark
Associate Transportation Planner
Regional Planning and Local Development Review
Caltrans District 2
Cell: (530) 768-742

Response to Comments from the California Department of Transportation Correspondence Dated January 27, 2023

Comment 3-1: *The meander modelling results indicate that the proposed project should not cause the Sacramento River to directly affect Route 99, but on page 4-39 of the attached Meander Modeling report it seems to indicate that the river would have a very slightly less perpendicular angle of attack (by the year 2063) when it encounters Woodson bridge on South Avenue. If this is the case and if the project caused negative effects to the Woodson bridge supports or to the adjacent county road, to the extent that the bridge/road had to be closed, it would increase the number of vehicles using Route 99 to the north of the project area and remove an important highway detour. Tehama County officials should consider whether this is a possibility, as should the project proponents.*

Response 3-1: The comment is noted. Tehama County Public Works and Tehama County Flood Control and Water Conservation District (TCFCWCD) are both partners in the project. DWR staff have given presentations to the Tehama County Board of Supervisors related to potential project impacts and anticipated project benefits.

The modeling results on page 4-39 of the meander model report (Figure 24, "Meander Model Revetment Comparison, Future Results – Project Area") do show a slight difference between the 2063 modeled centerline with and without the project. This slight difference is negligible in the context of the predicted trend model output. Based on the hydraulic analysis, the project is not expected to increase scour or erosional pressure at the bridge supports or along South Avenue. It should be noted that channel migration has been occurring at this location for decades under existing conditions. There is an ongoing monitoring effort in coordination with Tehama County Public Works, TCFCWCD, California Department of Parks and Recreation (State Parks), and DWR to help understand migration rates and explore potential erosion reduction options at this location.

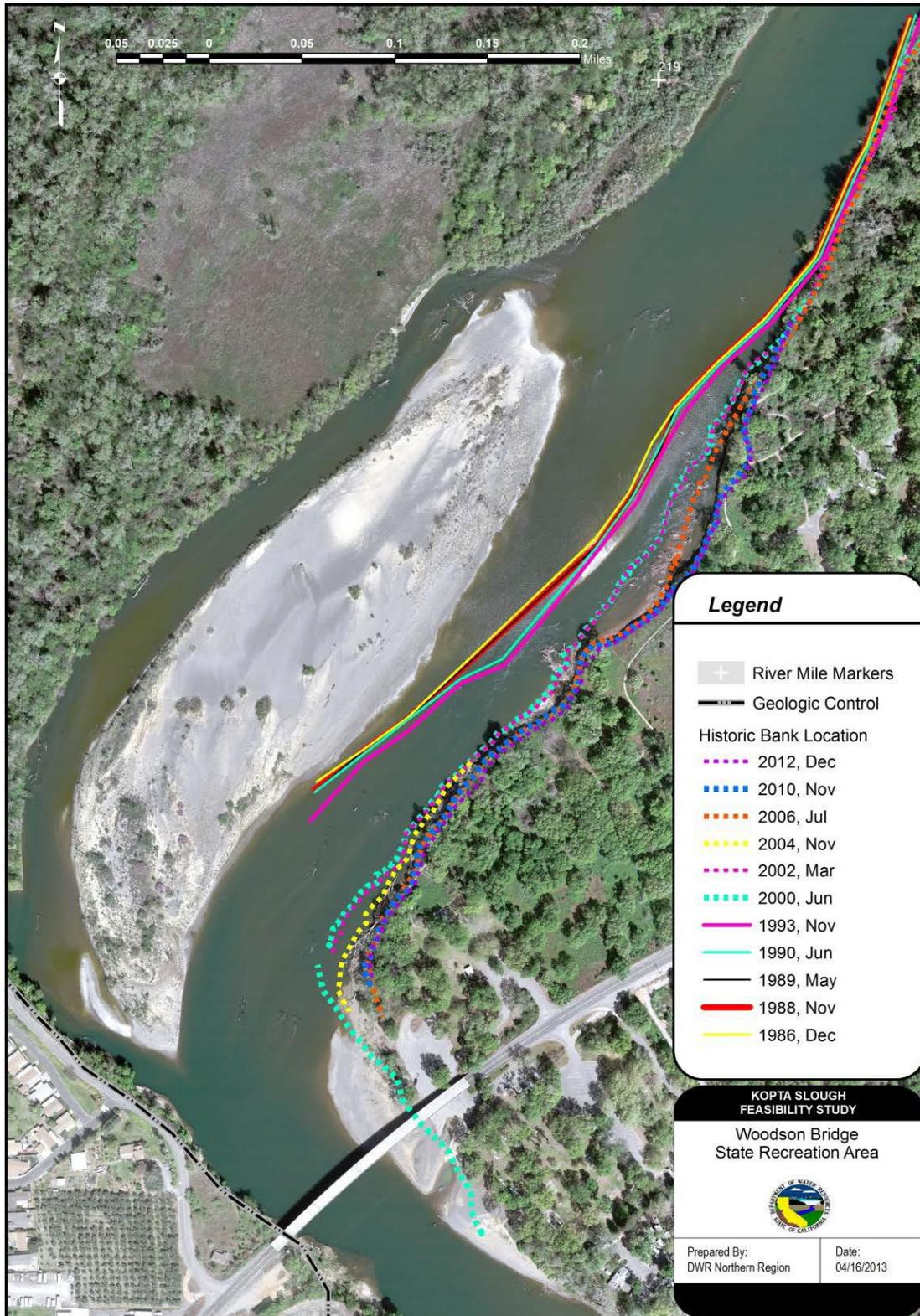
Comment 3-2: *If one considers the downstream extent of the existing revetment shown on page 2-2 of the Meander Modeling report, the "2063 With Revetment" predicted river centerline shown on page 4-39 seems questionable. It seems possible that the river flow is completely redirected by the revetment to a straight alignment, and that the "2013" digitized centerline more closely approximates the future flow path immediately*

downstream of the revetment, if the revetment were to remain in place. The predicted flow paths discussed in this paragraph may affect the proponent's conclusion that the project would cause no negative effects to the adjacent park and the Woodson bridge.

Response 3-2: The comment is noted. The current trend of erosion on the east bank along the Woodson Bridge State Recreation Area campground and Tehama County River Park is actively monitored by Tehama County Public Works, TCFCWCD, State Parks, and DWR. A map of the erosion over time along the two parks is illustrated on Page 18 of the *Kopta Slough Flood Damage Reduction and Habitat Restoration Project Feasibility Study*, which is incorporated by reference in the IS/MND. Figure 2.7 of that study, "Bank erosion along the Woodson Bridge State Recreation Area between 1986 and 2007," is included below. The figure shows that if the current trend of erosion continues, there is potential to cause negative effects to the adjacent park(s), Woodson Bridge, or South Avenue.

The following response refers to Appendix E to the IS/MND, "Meander Modeling for the Kopta Slough Flood Damage Reduction and Habitat Restoration Project." Figure 2, "Historic Sacramento River Channels," on page 2-3 shows the recent history of channel movement as the channel meanders across the floodplain in this reach. The history of channel locations is described in on page 2-1. The 2063 modeling results described in Figure 24, "Meander Model Revetment Comparison, Future Results – Project" are consistent with the trend shown by comparing the difference between the 1981 and 2013 centerlines in the figure. The 2063 modeling results show the channel will continue to migrate with or without revetment from below the downstream extent of the current revetment on the west bank and along east bank adjacent to the Woodson Bridge State Recreation Area campground and Tehama County River Park. Channel migration in the river is an ongoing process in that reach and is expected to continue. Based on meander modeling and as stated in Response 2-1, the proposed project is not expected to cause negative effects to the adjacent park(s), Woodson Bridge, or South Avenue.

Figure 2.7 Bank erosion along the Woodson Bridge State Recreation Area between 1986 and 2012



From: Clark, Cherie D@DOT <cherie.clark@dot.ca.gov>
Sent: February 3, 2023 8:45 AM
To: Lyons, Amy@DWR <Amy.Lyons@water.ca.gov>
Cc: Grah, Kathy M@DOT <kathy.grah@dot.ca.gov>; Battles, Michael@DOT <Michael.Battles@dot.ca.gov>; Caruso, Brenda@DOT <Brenda.H.Caruso@dot.ca.gov>
Subject: RE: Teh-99-6.1_Kopta Slough Multi-Benefit Project

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Good Morning Amy,

I realize the date for comments has passed but wanted to pass on one more I received regarding Woodson Bridge.

PPM:

The Woodson Bridge has serious foundation and scour issues, any negative impact due to this project may accelerate the deterioration and worsen the critical scour issues. This concern is also highlighted in the Caltrans annual bridge report for Woodson Bridge.

Thank you,
Cherie

Response to Comments from the California Department of Transportation Correspondence Dated February 3, 2023

Comment 2-3: *The Woodson Bridge has serious foundation and scour issues, any negative impact due to this project may accelerate the deterioration and worsen the critical scour issues. This concern is also highlighted in the Caltrans annual bridge report for Woodson Bridge.*

Response 3-3: Although the comment was received after the comment period closed, it was accepted because the agency had already submitted comments on time and the comment was similar to others already received. Comment is noted and understood to highlight current scour critical conditions under existing conditions, which is noted in routine (Caltrans) bridge inspection reports for Woodson Bridge (owned and maintained by the Tehama County Public Works). It is logical for an inspection report to recommend reducing factors that can exacerbate an existing, ongoing problem. However, as described above in Responses 2-1 and 2-2, the meander model output does not indicate that the proposed project would increase channel migration rates.