



Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

March 6, 2014

Walt Sadler  
North San Joaquin Water Conservation District  
PO Box E  
Victor, CA 95253

Subject: NSJWCD Water Right Change Petitions and Tracy Lake Groundwater Recharge Project  
SCH#: 2014022009

Dear Walt Sadler:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on March 5, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency



STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

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



JENNIFER LUCCHESI, Executive Officer  
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California Relay Service From TDD Phone 1-800-735-2929  
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Contact Phone: (916) 574-1900  
Contact FAX: (916) 574-1885

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March 5, 2014

RECEIVED  
File # 2014022009  
MAR 05 2014  
STATE CLEARING HOUSE

Mr. Walt Sadler  
North San Joaquin Water Conservation District  
916 213 2300  
PO Box E  
Victor, CA 95253

**Subject: Mitigated Negative Declaration (MND) for the North San Joaquin Water Conservation District (NSJWCD) Water Right Change Petitions and Tracy Lake Groundwater Recharge Project, San Joaquin County**

Dear Mr. Sadler:

The California State Lands Commission (CSLC) staff has reviewed the subject MND for NSJWCD Water Right Change Petitions and Tracy Lake Groundwater Recharge Project (Project), which is being prepared by NSJWCD. The NSJWCD, as a 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 CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

**CSLC Jurisdiction and Public Trust Lands**

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 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.

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

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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.

Section 6327 of the Public Resources Code provides that the "Commission may, upon written application, grant a permit for the use and occupancy of state lands under the jurisdiction of the Commission for the installation of facilities for procurement of fresh-water from and construction of drainage facilities into navigable rivers, streams, lakes and bays, except that if such applicant obtain the required permit for such use from the local reclamation district, the Reclamation Board, the Department of Water Resources, the California Debris Commission or the Corps of Engineers of the United States Army, then such application shall not be required by the State Lands Commission."

Upon review of the information contained in the MND, we understand NSJWCD currently has diversion facilities on the Mokelumne River (River) and the Project would add two new points for diversion of water from the River. One point of diversion would use the existing Woodbridge Irrigation District diversion at Lodi Lake diverting water to the Lodi Water Treatment Plant. The other point of diversion would include the construction of a new diversion facility 5 miles downstream of Lodi Lake within the River, which at this location is State-owned sovereign land under the jurisdiction of the CSLC. The Project would divert this water to the existing Tracy Lake for groundwater recharge and direct use for agricultural irrigation. This type of project would fall within Public Resources Code section 6327 and, therefore, a lease and formal authorization from the Commission is not required provided the NSJWCD provides a copy of one of the above-listed permits. Should this be the case, the CSLC should be removed from the list provided under Project Information on page 10 of the MND.

### **Project Description**

The Project involves NSJWCD's requests for approval from the State Water Resources Control Board (1) for an extension of time to 2040 to put water under NSJWCD's Permit 10477 to beneficial use, (2) to expand the permitted place of use to NSJWCD's current boundaries, (3) to add underground storage as a purpose of use, and (4) to add two new points of diversion, one of which would be for small water transfers to the City of Lodi for use in Lodi, and the other for the Tracy Lake Groundwater Recharge Project. These changes are part of NSJWCD's plan to maximize surface water use in NSJWCD.

### **Environmental Review**

CSLC staff requests that the NSJWCD consider the following comments on the Project's MND.

#### **Air Quality/Greenhouse Gas (GHG)**

1. Page 25 of the MND states that "Emissions from construction equipment during construction of the diversion pump station and pipeline will result in short-term air quality impacts;" however, the MND does not quantify what the anticipated

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emissions would be. In addition, page 113 states that the Project "would result in only a minimal amount of short-term and temporary construction-related emissions of potential GHGs." A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the MND. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to less than significant. Therefore, staff suggests that the Project's emissions be quantified and included in the MND to provide a stronger basis for the less-than-significant determination.

#### Cultural Resources

2. Title to Resources: The MND should also mention that the title to all abandoned 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 CSLC. CSLC staff requests that NSJWCD consult with Senior Staff Counsel Pam Griggs (see contact information below) should any cultural resources on be discovered on lands under the jurisdiction of the CSLC (as described above) during construction of the proposed Project.

Thank you for the opportunity to comment on the MND for the Project. Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or via e-mail at [cynthia.herzog@slc.ca.gov](mailto:cynthia.herzog@slc.ca.gov). For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at [Pamela.Griggs@slc.ca.gov](mailto:Pamela.Griggs@slc.ca.gov). For questions concerning CSLC leasing jurisdiction, please contact Marlene Schroeder, Public Land Management Specialist, at (916) 574-2320, or via email at [Marlene.Schroeder@slc.ca.gov](mailto:Marlene.Schroeder@slc.ca.gov).

Sincerely,



Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
Marlene Schroeder, LMD, CSLC  
Cynthia Herzog, DEPM, CSLC  
Eric Milstein, Legal, CSLC