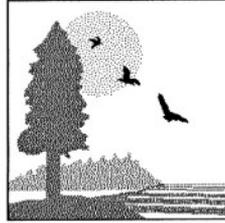


CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: (916) 574-1890
Contact FAX: (916) 574-1885

December 13, 2005

File Ref: SCH#2002092065

Ms. Nadell Gayou
The Resources Agency
901 P Street
Sacramento, CA 95814

Mr. Paul Marshall
Department of Water Resources
1416 9th Street
Sacramento, CA 95814

Dear Ms. Gayou and Mr. Marshall:

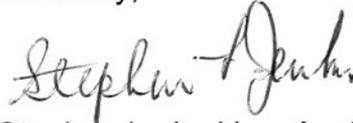
**Subject: Draft Environmental Impact Report for the South Delta
Improvements Program**

Staff of the California State Lands Commission (CSLC) has received the above referenced Draft EIR. Under the California Environmental Quality Act (CEQA), California Department of Water Resources is the Lead Agency and the CSLC is a Responsible and/or Trustee Agency for any and all projects which could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

The State acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all the people of the State for statewide Public Trust purposes which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. The landward boundaries of the State's sovereign interests in areas that are subject to tidal action are generally based upon the ordinary high water marks of these waterways as they last naturally existed. In non-tidal navigable waterways, the State holds a fee ownership in the bed of the waterway between the two ordinary low water marks as they last naturally existed. The entire non-tidal navigable waterway between the ordinary high water marks is subject to the Public Trust. The State's sovereign interests are under the jurisdiction of the State Lands Commission.

Old and Middle Rivers are under the Commission's jurisdiction. The Commission and the Department of Water Resources have entered into a Memorandum of Understanding (attached) concerning DWR's use of State sovereign lands for facilities of the Central Valley Water Project and the State Water Resources Development System. Please review the MOU and, if it does qualify, please submit the information to the Commission which is set forth in the MOU. If you have questions, please contact Diane Jones, Public Land Manager, at 916-574-1843.

Sincerely,



Stephen L. Jenkins, Asst. Chief
Division of Environmental Planning
and Management

enclosures

cc: Diane Jones

Memorandum

DEC 20 2005

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To : William F. Northrop
Executive Officer
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Date : OCT 22 1979

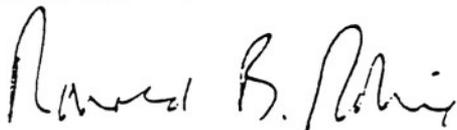
File No.:

Subject: Memorandum of
Understanding for DWR
Use of State Lands

Attention: Bob Faber

From : Department of Water Resources

Attached is a signed copy of our Memorandum of Understanding as transmitted by your memorandum of October 5, 1979. John Cape of our legal staff will work with you on developing appropriate forms and procedures for implementing the memorandum.



Ronald B. Robie
Director
8-485-6582

Attachment

RECEIVED
STATE LAND COMMISSION
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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
STATE LANDS COMMISSION
AND THE
DEPARTMENT OF WATER RESOURCES
FOR THE USE OF STATE LANDS
FOR FACILITIES OF
THE CENTRAL VALLEY PROJECT AND
THE STATE WATER RESOURCES DEVELOPMENT SYSTEM

The State Lands Commission (SLC) and the Department of Water Resources (DWR), in order to assure proper coordination in the process of DWR project formulation, authorization, construction and operation within the Central Valley Project (CVP) and the State Water Resources Development System (SWRDS), consider it desirable to agree upon a procedure to be followed when DWR facilities for said projects are proposed to be constructed on State lands. The parties therefore agree as follows:

I. General Understanding

Maximum coordination between SLC and DWR is necessary to achieve responsible management of the State's land and water resources.

II. Specific Objectives

SLC and DWR by this understanding will reduce potential conflicts between DWR activities in the CVP and SWRDS and other necessary uses of State lands in these areas.

III. Procedures

The following procedures will be followed by the parties to this memorandum with respect to DWR projects on State lands which are included in the scope of Water Code Sections 11130, 12931, and Public Resources Code Section 6327:

1. As provided by paragraph III, 4, below, DWR will involve SLC in the planning and project formulation process, along with representatives of other local, state, and federal agencies, within any administrative and legal constraint in order to accomplish a total public involvement in DWR programs which affect State lands.
- ② For activities undertaken pursuant to this Agreement, DWR will act as the lead agency and be responsible for coordinating all input required under NEPA or CEQA.
3. Comments prepared by SLC and other local, state, and federal agencies will be considered by DWR in the development of final plans for projects which will use State lands.
4. Except for emergency projects, DWR will submit to SLC, at least 90 days prior to use of State lands or the start of construction of a facility on State lands, a "Notice of Proposed Use of State Lands". This notice will include,

(a) a general plan of the facility to be constructed; (b) if available, specific right of way maps and legal descriptions of State lands DWR proposes to use for the facility; (c) the proposed operational criteria for the project; and (d) the expected duration of the use of the State lands affected by the project. For emergency projects DWR will notify SLC of all emergency actions and, if feasible, such notice will be provided prior to such actions. Such notice will describe the nature of the emergency, the action to be taken, or the facility to be constructed, the State lands affected, and the expected duration of the emergency use. For the purposes of this Agreement "Emergency" is defined as an unforeseen condition or circumstance which calls for immediate action to protect life or property. It includes but is not limited to circumstances resulting from earthquake, flood, and drought.

5. SLC will review DWR's notices submitted pursuant to paragraph 4 above and within 30 days advise DWR of any known, existing, or proposed facilities which may be in conflict with DWR's planned use. SLC will also recommend to DWR any restrictions or limitations on

DWR's use of the State land which it deems necessary for the health and safety of the public and preservation of the public trust or preservation of natural resource values and protection of the environment.

IV. Cooperation and Periodic Review

SLC and DWR agree that they will cooperate and mutually assist each other in all appropriate ways necessary to promote maximum effectiveness of the foregoing procedures. Periodically, the parties will review the procedures and consider revisions as desirable to promote the objectives identified in the memorandum.

V. Retained Leasing Power

DWR agrees that SLC may retain the authority to lease any land that is the subject of this agreement on the condition that said leasing is made after due notice to DWR and is not incompatible with the use to be made by DWR. DWR and its agents, contractors and cooperating entities may use the land as agreed but may not allow other public or private entities to use the land or facilities, described in this agreement, for purposes other than those included under Section 11130 and 12931 of the Water Code, without the consent of SLC.

VI. Liability for Damages or Injury

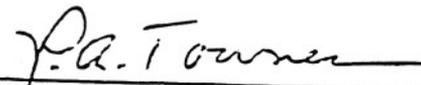
DWR hereby agrees to indemnify and hold SLC harmless from liability for property damage or personal injury arising from DWR's design, construction, and operation of activities on State lands pursuant to this memorandum and from the acts of DWR's employees, agents and contractors, excepting any damage or injury caused by the negligence or willful misconduct of SLC and its employees, agents, or contractors.

Dated: October 19, 1979

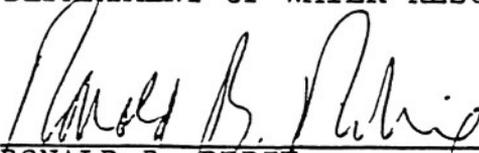
STATE OF CALIFORNIA
STATE LANDS COMMISSION


WILLIAM NORTHROP
Executive Officer

Approved as to legal form
and sufficiency:


Chief Counsel, Department
of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES


RONALD B. ROBIE
Director