



Contra Costa County
Public Works
Department

Brian M. Balbas, Director

Deputy Directors
Stephen Kowalewski, Chief
Allison Knapp
Warren Lai
Carrie Ricci
Joe Yee

July 9, 2019

Governor's Office of Planning & Research

JULY 09 2019

STATE CLEARINGHOUSE

Gregg Erickson
Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Ste 100, Fairfield, CA 94534

RE: Response to Comment Letter on CEQA Mitigated Negative Declaration
Fred Jackson Way First Mile/Last Mile Connection Project
County CEQA No.: 17-30

Dear California Department of Fish and Wildlife (CDFW),

Thank you for your comments on the Fred Jackson Way First Mile/Last Mile Connection Project.

The Contra Costa County Works Department (CCCPWD) received your comments on the California Environmental Quality Act (CEQA), Mitigated Negative Declaration (MND) for the Fred Jackson Way First Mile/Last Mile Connection Project (Project). The Project will construct street improvements and streetscape enhancements along Fred Jackson Way. Our responses follows the order of your comments, as numbered within the text of your attached comment letter.

Comment 2-1: Removal of vegetation may pose a significant impact to native and special-status wildlife species as a loss of cover, nesting habitat, and/or foraging habitat. CDFW recommends addressing these impacts in a mitigation measure that clearly indicates methods of vegetation removal, measures to minimize impacts, compensatory actions (e.g. revegetation ratios), and compensatory mitigation success criteria.

Response 2-1: Trees planned for removal include two eucalyptus trees, which are currently in poor condition. Up to 14 landscape trees (identified as common walnut) may be removed if the construction of a sidewalk interferes with the root zones. The

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255 Glacier Drive Martinez, CA 94553-4825
TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

sidewalk will be designed to retain the landscape trees to the extent feasible.

Mitigation Measures Bio-1, Bio-2, and Bio-3 are general measures that will reduce the potential for temporary construction impacts to Biological Resources to less than significant levels. CCCPWD will follow these Mitigation Measures and additional policies for vegetation removal that will minimize impacts. For example, tree removal will occur, to the extent possible, outside of nesting bird season (i.e. no removal to occur during February 1 to August 31). If tree or vegetation removal must occur during nesting bird season, a nesting bird survey will be conducted within five days prior to removal. Best Practices will be followed to reduce impacts to vegetation, including using clean cuts on exposed branches and roots. As noted in the IS/MND, habitat for special status species occurs in the vicinity of the Project (Wildcat Creek) but not in the Project site. Therefore, long-term potential for significant impacts to special status species resulting from Project implementation is low because of the urban built-up nature and lack of habitat in and immediately adjacent to the Project Site. Nevertheless, planting of street trees is currently part of the Project. It is anticipated that the Project will plant approximately 52 street trees and 172 shrubs.

Comment 2-2: CDFW recommends clarifying the Project description to clearly identify drainage modifications and all associated impacts and mitigation measures.

Response 2-2: The Project description was written at a level of detail to allow for slight changes to the drainage modifications as Project plans are developed. Drainage modifications will include the relocation of storm drain inlets, potential green infrastructure facilities, and a potential short culvert installation within the drainage ditch on the east side of the road.

- Relocation of storm drain inlets will occur at the intersections of Grove Avenue, Silver, and Market Avenue to accommodate the new sidewalk bulb-outs. The bulb-outs will require the curb to be reconstructed; therefore any existing inlets along the curb would be relocated depending on drainage hydrology and tied to the existing drainage system. A drainage inlet near the intersection of DaVilla will be relocated to accommodate the sidewalk construction on the east side of the road.
- Potential green infrastructure facilities are being evaluated, and may be placed at the bulb-outs or installed with the street trees in the southern segment of the Project. Features could include bioswales or a type of stormwater management system (for example, StormTree(c)). A design consultant has been selected and may propose additional green infrastructure improvements.
- In the northern segment of the Project from Wildcat Creek to Brookside Drive, the Project will construct a five-foot wide pedestrian path on the east side of the roadway. In order for the end of the pedestrian path to tie back into the road, a

culvert may be placed in the ditch to serve as a bridge. The length of the culvert would be minimized to what is necessary to support the width of the pedestrian path, and the ditch would not be further modified.

Overall, the Project will include street improvements that will not substantially alter the existing drainage. Minor modifications to the planned design may occur during the final design phase. Any changes resulting from the Project will be negligible and would not change overall drainage patterns or hydrology of the area. Standard BMPs will be implemented during construction activities to minimize sediments or pollutants from accidentally entering the drainage inlets and the creeks. These BMPs are described in Mitigation Measure Bio-2c, along with further erosion control measures and construction-waste containment measures. Mitigation Measure Bio-2c will comply with the National Pollution Discharge Elimination System (NPDES) requirements associated with construction activity as required under Section 402 of the Clean Water Act.

Comment 2-3: CDFW recommends submitting Formal notification through the LSA Program for activities that will modify the earthen drainage ditches as described in pages 15 and 19 of the MND, and/or are likely to impact Wildcat and San Pablo creeks either through riparian tree modification or new storm drain discharge points.

Response 2-3: There will be no riparian tree modification or new storm drain discharge points. As described in Response 2-2 above, a short culvert may be installed in the earthen ditch on the east side of Fred Jackson Way to serve as a pedestrian bridge. The short culvert will not change the hydrology of the ditch, and is located over 750 feet from San Pablo Creek and 1,750 feet from Wildcat Creek. The BMPs referenced above will reduce potential for unintended impacts to storm water during construction. Therefore, impacts to the creeks are not likely. The earthen ditches will not otherwise be modified. An aquatic resources delineation study found that the earthen ditches do not exhibit wetland characteristics. The Project will not conduct any activities that are subject to the LSA Program.

Comment 2-4: Mitigation measure BIO-1b, 2 (page 16) indicates nesting bird surveys will be conducted no more than 14 days prior to the initiation of construction activities. For many birds, 14 days is more than enough time to establish a nest and begin rearing young. Therefore, CDFW recommends that nesting bird surveys are also conducted no more than 5 days prior to the initiation of construction.

Response 2-4: Mitigation Measure BIO-1b, 2 is a general measure. CCCPWD has more specific policies that will be followed. CCCPWD typically conducts a reconnaissance survey approximately 14 days in advance of construction activities to assess the level of

wildlife activity. A nesting bird survey will be conducted within 5 days of initiation of construction.

Comment 2-5: Mitigation measure BIO-1b, 3 (page 16) suggests a 50-foot non-disturbance buffer for migratory birds and a 500-foot non-disturbance buffer for raptors, to be determined by a qualified biologist. Depending on the species, nest stage, and site conditions, 50 to 500 feet may be insufficient to prevent disturbance-related nest failure. If nests are found on or near the Project area, CDFW staff is available to provide guidance on establishing appropriate buffers to minimize the potential for take and to reduce potential impacts to less-than-significant. As such, CDFW recommends BIO-1b, 3 be revised to require nest buffer approval from the State's trustee for fish and wildlife (CDFW) prior to Project construction and when any nest is discovered.

Response 2-5: CCCPWD appreciates that CDFW staff is available to provide guidance on no-disturbance buffers around active bird nests. CCCPWD acknowledges that while the disturbance buffers stated in the CEQA document are standard measures, they should be set according to the condition in the field. Mitigation Measure Bio-1b, 3 states that if an active bird nest is identified with the Project Site, a qualified biologist will monitor during construction activities and establish a no-disturbance buffer to ensure compliance with Fish and Game code 3503, and if deemed necessary by the qualified biologist consultation with CDFW will be conducted.

Comment 2-6: CDFW recommends revising [measure BIO-2a] to explicitly exclude the use of erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area.

Response 2-6: CCCPWD acknowledges that plastic monofilament netting can negatively impact wildlife. Project specifications will dictate to the contractor that monofilament netting, or similar material, will not be allowed on the Project Site. Acceptable substitutes will include coconut coir matting or tackified hydroseeding compounds.

Comment 2-7: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB).

Response 2-7: CCCPWD will follow the procedures outlined to submit any special-status and natural communities detected during Project activities to the CNDDDB.

Should you have any questions, please contact me at (925) 313-2015.

Sincerely,

Laura Cremin

Laura Cremin
Environmental Analyst
Environmental Services

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C: Mo Nasser, Design/Construction



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 2, 2019

Ms. Laura Cremin
Environmental Analyst I
Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553

Subject: Fred Jackson Way First Mile/Last Mile Connection Project, Mitigated Negative Declaration, SCH #2019069019, Contra Costa County

Dear Ms. Cremin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Contra Costa County Department of Conservation and Development (County) for the Fred Jackson Way First Mile/Last Mile Connection Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant or wildlife resources. CDFW is also considered a Responsible Agency if a project requires discretionary approval, such permits issued under the California Endangered Species Act (CESA) and the Native Plant Protection Act, Lake and Streambed Alteration (LSA) Agreements, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Contra Costa County Public Works Department

Objective: The purpose of the Project is to improve roadway and sidewalk facilities along Fred Jackson Way for pedestrians and bicyclists.

Location: The Project is located along Fred Jackson Way between Grove Avenue and Brookside Drive, North Richmond, West Contra Costa County.

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.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Tree Removal

The Project description states that "potential tree removal includes but is not limited to two eucalyptus trees and is not to exceed 16 trees" (page 2). Removal of vegetation may pose a significant impact to native and special-status wildlife species as a loss of cover, nesting habitat and/or foraging habitat. CDFW recommends addressing these impacts in a mitigation measure that clearly indicates methods of vegetation removal, measures to minimize impacts, compensatory actions (e.g. revegetation ratios), and compensatory mitigation success criteria.

— 2-1

Drainage Modifications

The Project description in the MND states that both segments of the Project "will include drainage modifications;" however, it is unclear what these modifications are or where they will occur. CDFW recommends clarifying the Project description to clearly identify drainage modifications and all associated impacts and mitigation measures. Please note that any Project activities which may substantially divert or obstruct the flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or 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, require notification pursuant Fish and Game Code 1602 et. seq. CDFW recommends submitting formal notification through the LSA Program for activities that will modify the earthen drainage ditches as described in pages 15 and 19 of the MND, and/or are likely to impact Wildcat and San Pablo creeks either through riparian tree modification or new storm drain discharge points.

— 2-2

— 2-3

Nesting Bird Buffers

Mitigation measure *BIO-1b*, 2 (page 16) indicates nesting bird surveys will be conducted no more than 14 days prior to the initiation of construction activities. For many birds, 14 days is more than enough time to establish a nest and begin rearing young. Therefore, CDFW recommends that nesting bird surveys are also conducted no more than **5 days** prior to the initiation of construction. If construction activities lapse for a period of 7 days or more during the nesting bird season, another nesting bird survey should be conducted no more than 5 days prior to the re-initiation of construction activities.

— 2-4

Mitigation measure *BIO-1b*, 3 (page 16) suggests a 50-foot non-disturbance buffer for migratory birds and a 500-foot non-disturbance buffer for raptors, to be determined by a qualified biologist. Depending on the species, nest stage, and site conditions, 50 to 500 feet may be insufficient to prevent disturbance-related nest failure. If nests are found on or near the Project area, CDFW staff is available to provide guidance on establishing appropriate buffers to minimize the

— 2-5

Ms. Laura Cremin
Contra Costa County Public Works Department
July 2, 2019
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potential for take and to reduce potential impacts to less-than-significant. As such, CDFW recommends *BIO-1b, 3* be revised to require nest buffer approval from the State's trustee for fish and wildlife (CDFW) prior to Project construction and when any nest is discovered.

- 2-5

Erosion Control Measures

Mitigation measure *BIO-2a* (page 17) indicates that "temporarily disturbed areas will be properly protected from washout and erosion using appropriate erosion control devices." CDFW recommends revising this measure to explicitly exclude the use of erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area. Such materials pose substantial risk entanglement, injury, and/or mortality to amphibians and reptiles.

- 2-6

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDDB at the following email address: cnddb@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

- 2-7

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Jennifer Rippert, Environmental Scientist, at (707) 428-2069 or Jennifer.Rippert@wildlife.ca.gov; or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at (707) 944-5579 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2019069019)