
San Francisco Bay Regional Water Quality Control Board

February 17, 2022

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Alameda County Community Development Agency
ATTN: Albert Lopez, Planning Director (albert.lopez@acgov.org)
224 West Winton Avenue, Suite 110
Hayward, CA 94544



Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Draft Environmental Impact Report for the Monte Vista Memorial Gardens in Alameda County, California* (PLN 2017-00194)
SCH No. 2020069045

Dear Mr. Lopez:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Draft Environmental Impact Report for the Monte Vista Memorial Gardens* (DEIR). The DEIR describes the proposed Monte Vista Memorial Gardens Project (Project) and the potential environmental impacts associated with implementing the Project.

Project Summary. The proposed Project is located at 3656 Las Colinas Road, Livermore, CA in unincorporated Alameda County. Development of the Project would occur on 47 acres in the southern portion of Assessor's Parcel Number 099-0015-016-03, just north of the City of Livermore, between the North Livermore Avenue and North First Street exits from I-580. The property bordering the Project site to the east of Arroyo Las Positas supports an existing residence and several roadways, while the area west of Arroyo Las Positas is undeveloped and is currently used for grazing and farming. The Project site is accessed on the southeastern corner of the property from Las Colinas Road.

The Project includes a funeral home with crematorium, burial lots, an entry plaza, internal roadways, parking, landscaping, new wetlands, lakes, and other associated infrastructure and improvements.

Access to the project is hampered by the lack of direct access to the site from an improved County or City right-of-way. An easement over County property (currently configured as an unnamed road) connecting the Project site to Las Colinas road will serve as the only access to the site. This County owned property lies between two

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

private properties in County jurisdiction which are subject to active Cleanup and Abatement Order No. R2-2017-1021, issued by the San Francisco Bay Regional Water Quality Control Board. A representative of the applicant has been named in said Order as a “Discharger” due to unauthorized fill placed into jurisdictional waters on these sites. Due to adjacencies of the privately owned properties and access to the site over County owned property, resolution of the Order will be analyzed as one of the EIR alternatives, and resolution of the Order will be required prior to project approval and issuance of any grading, building, or other construction-related permits. The applicant has acknowledged that their representative was a Discharger and had done so to facilitate access to the site.

On July 27, 2020, Water Board staff provided four comments on the Notice of Preparation (NOP) for the DEIR. We start our comments on the DEIR with follow up comments on those four comments and then provide comments on two other topics.

Summary of Comments. Water Board comments cover the following topics: improvements to the offsite portion of the Project’s access road must not impact Water Board-required mitigation features on the property east of the Project Site; mitigation for impacts to wetlands at the Project site must be provided concurrently with the impacts; the DEIR lacks appropriately-sized setback buffers between land uses and wetlands that provide habitat for listed species; the assessment of impacts to jurisdictional waters at the Project site is based on a flawed delineation; the DEIR does not include proposed mitigation measures for impacts to waters of the State; the DEIR does not demonstrate that the Project has been designed to provide the water quality treatment and hydromodification mitigation required for compliance with the Municipal Regional Permit (MRP) for the management of stormwater runoff; the potential presence of aquatic special status species at the Project site has not been adequately assessed; and the leach field for the Project’ septic system may be impacted by an existing channel and/or a proposed mitigation wetland. The missing information is sufficiently significant to require the preparation and circulation of a revised DEIR, rather than proceeding to a Final EIR at this time.

Comment 1. Cleanup and Abatement Order No. R2-2017-1021 remains unresolved.

Cleanup and Abatement Order No. R2-2017-1021 (CAO) was issued in 2017. The CAO required removal of unpermitted fill, restoration of waters of the State that were filled without permits, and the creation of compensatory mitigation for illegally filled wetlands. Three years after issuance of the CAO, the violations had not been resolved, and the Water Board issued a Notice of Violation (NOV) on August 6, 2020, for failure to respond to the CAO in a timely manner. To account for the temporal loss of wetlands associated with the three-year delay in restoring impacted wetlands and providing mitigation wetlands, the NOV increased the required amount of mitigation wetlands to be created at the Project site from 0.75 acres to 1.35 acres. If the Dischargers continue to defer compliance with the CAO, the required amount of mitigation may increase further. At this time, Water Board staff have reviewed a mitigation proposal that was submitted to the Water Board on February 2, 2022, and will provide comments to the Dischargers in February 2022.

The February 2, 2022, mitigation proposal would create all required mitigation wetlands on the properties located at Alameda County Assessor's Parcel Numbers (APNs) 902-0008-005-05 and 902-0008-005-09. As is described in Section 2.3.2 of the DEIR, access to the Project site will be via a County-owned property that runs between the properties at APNs 902-0008-005-05 and 902-0008-005-09. Text in Section 2.3.2 states that improvements to the access road (i.e., curbs, gutters, and lighting) could affect some areas of the adjacent wetlands. The loss of any wetlands along the access route will require mitigation. The DEIR should also note that any mitigation wetlands associated with the February 2, 2022, mitigation proposal, if that proposal is found to be acceptable by the Water Board, may not be impacted by improvements to the access road. All mitigation wetlands are to be preserved in perpetuity.

Comment 2. The EIR should assess the feasibility of creating self-sustaining mitigation wetlands at the Project site.

Figure 2 in the NOP indicated that mitigation wetlands were proposed to be created in an area of the Project site west of Arroyo Las Positas and immediately north of I-580. Our Comment 2 on the NOP requested that the DEIR assess the feasibility of creating self-sustaining wetlands in this area of the Project site. Mitigation wetlands must have a sufficiently large watershed to support the required acreage of mitigation wetlands, without anthropogenic management to provide the hydrology necessary to sustain the wetlands.

In the time since the circulation of the NOP, it appears that the Project no longer intends to provide mitigation wetlands on the Project site to resolve the outstanding CAO and NOV for unauthorized fill of waters of the State at the property located at APNs 902-0008-005-05 and 902-0008-005-09, which are adjacent to the southeast border of the Project site. However, some of the proposed seasonal wetlands on the Project site may be necessary to provide mitigation for the Project's impacts to waters of the State. As is discussed below under Comment 3, the wetland delineation summarized in the DEIR may not have identified the full extent of seasonal wetlands and other waters of the State at the Project site. Therefore, impacts to jurisdictional waters of the State are likely to be greater than indicated in the DEIR. The Project may need to provide onsite mitigation, since there currently are no mitigation banks with available wetland mitigation credits that include the Project site in their service area.

The DEIR states that the new wetlands are to be created in Phase 2 of the Project. Phase 1 of the Project would cover activities east of Arroyo Las Positas and would be implemented over five years. Phase 2 would be constructed west of Arroyo Las Positas and would be constructed over about 100 years. However, any impacts to waters of the State that occur in Phase 1 of Project implementation will require mitigation prior to or concurrent with the impacts. Therefore, mitigation wetlands for Phase 1 activities must be implemented in Phase 1.

Text in the discussion of Impact 3.8.3 states that 2.6 acres of wetlands will be created to the west of Arroyo Las Positas in Phase 2 of the Project. However, the delineation in the DEIR states that only 0.245 acres of seasonal wetlands are currently present to the

west of Arroyo Las Positas at the Project site. The DEIR does not explain how it will be possible to create 2.6 acres of seasonal wetlands at a site that currently only supports 0.245 acres of seasonal wetlands.

Text in Section 2.3.4 of the DEIR refers to a stabilized outfall structure from the new wetlands to Arroyo Las Positas. This outfall will impact the right (west) bank of Arroyo Las Positas and require compensatory mitigation. Text in Section 2.3.2 of the DEIR refers to treatment of runoff from impervious surfaces in Phase 1, prior to the discharge of the runoff to the east (left) bank of Arroyo Las Positas. Discharge of treated runoff from Phase 1 will require a new stabilized outfall to Arroyo Las Positas, which will require compensatory mitigation.

We also requested that the DEIR discuss the establishment of buffers around the mitigation wetlands to minimize impacts to the wetlands associated with the operation of the cemetery (e.g., pesticide or herbicide drift from managed areas of the cemetery, seed spread from landscaping at the cemetery, leach fields for septic systems). Figure 2 in the NOP indicated that a walkway may transit the area with the proposed mitigation wetlands. We requested that the walkway be designed to avoid the mitigation wetlands. Figure 2-2 in the DEIR continues to show a walkway through the proposed wetlands.

Mitigation Measure 3.3.3a, in the DEIR states that the Project “would include establishing appropriate development setbacks from Project uses and Arroyo Las Positas and the uses that could affect the seasonal wetlands.” However, the DEIR does not propose sizes for appropriate setbacks. Therefore, the DEIR is unresponsive to Water Board comments on the NOP. At this time in the analysis of biological resources at the Project site, the Project proponent should have sufficient information to propose appropriate development setbacks to prevent impacts to the use of the proposed wetlands by listed species. The proposed setback dimensions, as well as the rationale for selecting setback dimensions, should be included in the DEIR so that stakeholders can assess the sufficiency of the proposed setbacks.

We also noted that a restrictive covenant (e.g., conservation easement or deed restriction) must be placed over the mitigation wetlands in perpetuity. We requested that the DEIR describe the restrictive covenant to be used at the Project site and the third party that will be responsible for holding the covenant. This request has not been addressed in the DEIR.

The Project summary provided with the NOP stated that the created wetlands would provide habitat for special status species. Special status species that may currently use the Project site include the California red-legged frog (CRLF) and the California tiger salamander (CTS). The Project proposes to create two artificial lakes and a water channel between the lakes as part of the Project’s landscaping. Permanent water bodies provide habitat for bullfrogs and crayfish; these species prey on CRLF and CTS. We requested that the DEIR assess the compatibility of the proposed landscaping for the Project with the ability to sustain special status species in the created wetlands. The DEIR does not address this concern.

Comment 3. The EIR should include a wetland delineation for the entire Project site, including portions of Arroyo Las Positas that will be impacted by the new access bridges and any new stormwater outfalls to Arroyo Las Positas.

As we noted in our comments on the NOP, a wetland delineation was not available for the Project site at that time. To support the discussion of impacts to biological resources, we requested that a wetland delineation be prepared for the entire Project site, including any areas of Arroyo Las Positas that may be impacted by the new access bridges or new stormwater outfalls. We also requested that the DEIR include an evaluation of alternatives that would avoid impacts to waters of the State and that the DEIR provide mitigation for all unavoidable impacts to waters of the State. The NOP proposed two new bridges over Arroyo Las Positas to provide access to the cemetery. Bridges impact waters of the State via fill associated with abutments and piers, including any rock riprap armoring to protect abutments and piers from scour, and by shading waters of the State. We requested that the DEIR evaluate design options that use a single bridge over Arroyo Las Positas. The DEIR does not include the requested evaluation.

The DEIR included a wetland and other waters delineation, but it appears that the field work was conducted in October of 2020, which was at the end of the dry season following a drought year. A delineation conducted at that time is likely to miss seasonal wetlands that are present at the end of a typical water year. In addition, the Appendix on Biological Resources did not include the field forms on which data were collected during the delineation. Therefore, we are not able to peer review the data or assess whether or not a sufficient number of sample points were used in performing the delineation at the Project site.

Section IV.A.2.a of the *State Wetland Definition and Procedures for Discharges of Dredged and Fill Material to Waters of the State* states that Water Board staff may require, on a case-by-case basis, supplemental field data from the wet season to substantiate dry season delineations.

2. Additional Information Required for a Complete Application

a. If required by the permitting authority on a case-by-case basis, supplemental field data from the wet season to substantiate dry season delineations, as is consistent with the 1987 Manual and Supplements.

Generally, wet season delineations are more likely to be necessary in areas where wetland indicators are difficult to resolve. The ideal time to delineate a wetland is during the wet portion of the growing season of a normal climatic period. Otherwise, indicators provided in the Corps' delineation manuals must be relied on to identify wetland boundaries. Collection of supplemental information in certain situations is an accepted practice and is consistent with recommendations presented in the Corps regional supplements for wetland delineation, which recommends that practitioners return to the delineation site, if possible, during the "normal wet portion of the growing season" (Arid West Regional Supplement, pp. 58, 87, 104; Western Mountains, Valleys, and Coast Regional Supplement, pp. 66, 100) to resolve wetland indicators

that were unresolved during the dry-season delineation. To avoid the risk of unanticipated project delays, applicants may consult with the appropriate Water Board regarding whether supplemental data may be necessary prior to submitting an application.

Appendix D, Biological Resources, to the DEIR provides more information on the wetland delineation used to prepare the DEIR. In Appendix D, Figure 5, Project Area Wetlands and "Other Waters of the U.S.", shows the extent of federal waters at the Project site. However, Figure 5 is based on an aerial photograph that includes channels that were identified in Figure 3, California Aquatic Resources Inventory (CARI) Wetland. These channels may consist of intermittent or seasonal channels. Even if the U.S. Army Corps of Engineers does not currently take jurisdiction over these features, they remain jurisdictional waters of the State. A wet season delineation should be performed to determine if the features visible in Figures 3 and 5 are waters of the State. If these features are waters of the State, the Project should be redesigned to avoid them or permittee-responsible mitigation should be provided for any impacts to these channels. Permittee-responsible mitigation for impacts to those channels will ideally be provided by the creation of channels.

The date of field work for the wetland delineation is not clearly stated in the DEIR, but the delineation appears to have been conducted in October of 2020. Unlike most wetland delineation reports, Appendix D did not include the field data sheets for the delineation; these data must be incorporated into a revised DEIR. At this time, the DEIR lacks sufficient data to support the alleged extent of wetlands and other waters at the Project site.

October of 2020 was the end of the dry season in a drought year. Therefore, seasonal wetland vegetation was not likely to be visible and the extent of wetlands would have been smaller than in a normal water year. For arid regions, we require that wetland delineations be conducted near the end of the wet season. Therefore, a wetland delineation must be conducted at the end of a normal wet season. Without this follow-up delineation, the data are insufficient to establish the full extent of wetlands and other waters at the Project site that may be impacted by Project implementation. In the absence of a valid delineation, the DEIR does not assess the full extent of Project impacts to jurisdictional waters of the U.S. and waters of the State. In addition, the wetland delineation in Appendix D does not appear to be sufficient to support the issuance of a Certification for impacts to waters of the State at the Project site.

The wetland delineation should be repeated late in the wet season of a year with typical rainfall to ensure that the full extent of wetlands subject to regulation as waters of the State have been identified. Without a wet-season delineation with a sufficient number of data points, it is not possible to establish with sufficient certainty that the Project will avoid impacts to waters of the State. This is especially appropriate at the Project site, since the DEIR acknowledges that the amount of wetlands delineated in the October 2020 delineation was less than the amount indicated by other sources of data for the Project site. During a site visit at the property immediately east of the southern portion of the Project site on January 4, 2017, Water Board staff observed a channel that

flowed southwest until reaching I-580 and then flowed directly west along I-580, until a confluence with Arroyo Las Positas at the I-580 bridge over Arroyo Las Positas. The downstream end of this channel does not appear to have been reviewed in the October 2020 delineation.

In our comments on the NOP, we noted that the required amount of mitigation for any unavoidable impacts to waters of the State depends on the similarity of the impacted waters to the waters in the mitigation proposal, the uncertainty associated with successful implementation of the mitigation project, and the distance between the site of the impact and the site of the mitigation water. In-kind mitigation for the fill of waters consists of the creation of new waters. If the mitigation consists of restoration or enhancement of waters, the amount of mitigation will be greater than if the mitigation consists of creation.

In our comments on the NOP, we noted that, In a CEQA document, a project's potential impacts and proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation measures would be improperly exempted from the process of public and governmental scrutiny which is required under the California Environmental Quality Act.

The proposed mitigation measure for impacts to jurisdictional waters in the DEIR is Mitigation Measure 3.3.3b.

Mitigation Measure 3.3.3b: A Section 404 permit from the U.S. Army Corps of Engineers and a Section 401 water quality certification from the Regional Water Quality Control Board may be required if there are any activities affecting wetlands. The Project shall communicate with the San Francisco Bay Regional Water Quality Control Board (RWQCB) to determine whether CA Dredge & Fill Procedures (aka Waste Discharge Requirement; WDR) permitting would be required and with the California Department of Fish & Wildlife to inquire about a possible 1602 Lake & Streambed Alteration Agreement (LSAA).

Any resource permitting with these agencies could also require mitigation of wetland habitat loss through purchase of equivalent wetland credits at an approved Mitigation Bank within the Project's service area.

At this time, there are no approved mitigation banks offering seasonal wetland mitigation credits with a service area that includes the Project site. Therefore, permittee-responsible mitigation proposals should have been included in the DEIR. In the absence

of a detailed, permittee-responsible mitigation proposal, the information provided in the DEIR does not demonstrate that impacts to waters of the State resulting from Project implementation can be mitigated to less than significant levels.

Comment 4. The EIR should describe how the Project will comply with the stormwater management requirements of the Municipal Regional Permit (MRP) for the management of stormwater runoff.

As we noted in our comments on the NOP, projects requiring permits from the Water Board are required to provide documentation that they will provide stormwater runoff treatment and hydromodification mitigation that is consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP) for the management of stormwater runoff (Order R2-2015-0049; NPDES Permit No. CAS612008). The DEIR should describe how the Project will provide the required water quality treatment and the required mitigation for hydromodification impacts associated with the Project's new and recreated impervious surfaces.

We requested that the EIR identify the locations of stormwater management features and demonstrate that sufficient surface area has been set aside for the construction of the required stormwater treatment and hydromodification mitigation infrastructure. Figure 2 in the NOP identifies an area west of Arroyo Las Positas and north of I-580 as "seasonal wetlands/water quality treatment". In our comments on the NOP, we noted that water quality treatment areas must be maintained separately from mitigation wetlands. To facilitate their maintenance, stormwater treatment features installed for conformance with the MRP are not regulated as waters of the State. Since they are not waters of the State, they cannot provide mitigation for impacts to waters of the State. We requested that the DEIR indicate the locations on the Project site at which the proposed water quality treatment measures are to be constructed and the locations on the Project site at which mitigation wetlands will be established. The requested information was not provided in the DEIR.

The discussion of stormwater management for Phase 1 refers to collecting runoff from the parking lot in cisterns and then filtering the runoff in a biotreatment device prior to discharging the runoff to the east (left) bank of Arroyo Las Positas. However, sizing calculations and designs are not provided for the proposed treatment system. And the description of stormwater management in Phase 1 does not clearly state if all runoff from new impervious surfaces in Phase 1 will be collected in the proposed cisterns for treatment prior to discharge. In addition, the DEIR does not include a design or location for the proposed new outfall to Arroyo Las Positas. Please revise the DEIR to provide this information. In the discussion of post-construction stormwater treatment in Impact 3.8.1 of the DEIR, only treatment of runoff from the new parking lot is specifically mentioned. The DEIR should be revised to include treatment for runoff from all new or recreated impervious surfaces (e.g., roofs, bridges, sidewalks, and access roads) and to provide designs for the treatment measures proposed for runoff from these new impervious surfaces and the calculations used to determine the appropriate sizes of those treatment measures. The DEIR should include site maps that demonstrate that sufficient surface area has been set aside for compliance with the treatment requirements of the MRP for all new impervious surfaces. In addition, the DEIR has not

addressed the need to mitigate the hydromodification associated with the new impervious surfaces that will be created by the Project. The DEIR must be revised to address mitigation for hydromodification impacts associated with Project implementation.

In the discussion of Phase 2, the DEIR does not explain how stormwater treatment measures will be kept separate from created wetlands. The DEIR also lacks sizing calculations for the proposed Phase 2 stormwater treatment measures or designs for these measures, including required hydromodification mitigation for Phase 2's new impervious surfaces. The description of Phase 2 activities also does not include a design or location for the new stormwater outfall to the west (right) bank of Arroyo Las Positas. Please revise the DEIR to provide this information.

Finally, the discussion of changes in runoff rates as a result of Project implementation focusses exclusively on flood control issues associated with peak runoff events. The MRP requires that post-Project hydrographs match pre-Project hydrographs from 10 percent of the two-year storm to the 10-year storm event. Therefore, the DEIR does not address compliance with the hydrographic modification measures in the MRP. The DEIR should be revised to address this deficiency.

Comment 5. The DEIR should acknowledge that the Water Board is tasked with protecting beneficial uses of waters of the State that are identified in the Basin Plan, and these beneficial uses include the preservation of rare and endangered species.

In Section 3.3, Biological Resources, Section 3.3.1, Setting, includes a discussion of the Porter-Cologne Water Quality Control Act and the use of the basin plans required by the Porter-Cologne Water Quality Control Act to guide protection of waters of the State. The DEIR notes the water quality standards in the basin plans, but the text in Section 3.3.1 should be expanded to cover the beneficial uses assigned to waters of the State in the *Water Quality Control Plan for the San Francisco Bay Basin* (Basin Plan). The Basin Plan designates the following beneficial uses for Arroyo Las Positas: groundwater recharge, cold freshwater habitat, fish migration, preservation of rare and endangered species, spawning, warm freshwater habitat, wildlife habitat, contact water recreation, and non-contact water recreations (These beneficial uses are acknowledged in Section 3.8.1 of the DEIR). Therefore, any permits issued for the Project by the Water Board must support those beneficial uses, including supporting the special status species that are discussed in Impact 3.3.1 of the DEIR.

Table 3.3-2 in the DEIR acknowledges a high potential for occurrence of the California red-legged frog (CRLF) and the California tiger salamander (CTS) at the Project site, on the basis of habitat and CNDDDB records of observations within five miles of the Project site. Western pond turtle (WPT) Longhorn Fairy Shrimp (LFS) are said to have a low potential for occurrence at the Project site, despite the presence of suitable habitat and CNDDDB records of observations within five miles of the Project site. The alleged low potential for the presence WPT and LFS appears to have been based on a single site visit at the end of the dry season during a drought year (October of 2020). Further

studies of the presence of these species should be conducted during a normal wet season and used to update the discussion of these species in the DEIR.

Appendix D, Biological Resources, has its own Appendix D, which consists of the *California Tiger Salamander Sampling 90-Day Report* (Madrone Ecological Consulting, May 19, 2021). This report acknowledges that only one aquatic feature of the six aquatic features selected for inclusion in the sampling for CTS was not dry during the 2020-2021 wet season. Therefore, the 2020-2021 wet season was not a good season for conducting a CTS survey. To better assess the presence of CTS at the Project site, surveys should be conducted in a normal water year.

Comment 6. The proposed septic system appears to be close to an existing stream channel and a proposed mitigation wetland on the adjacent property.

In Section 3.8, Hydrology and Water Quality, the discussion of Impact 3.8.1: The Project could degrade surface or groundwater quality, describes the construction of the septic system for Phase 1 of the Project.

Phase I would include installation of a septic system for wastewater. The Alameda County Department of Environmental Health coordinates with the San Francisco Bay RWQCB to permit on-site wastewater treatment systems (OWTS's). Design for the septic system has been sent for review by the County and Final approval of the OWTS permit from the Alameda County Department of Environmental Health would be required prior to the construction of the on-site septic system proposed to support Phase I buildings. Approval of an OWTS permit would reduce potential impacts on water quality standards, waste discharge, or degradation of surface or groundwater quality to a less-than-significant impact.

The location of the new leach field is illustrated in Sheets C-2.1 and C-2.2 in the combined sheets provided with the DEIR. The leach field will be constructed along the southern boundary of the Phase 1 portion of the Project site and extend to the eastern property boundary. On the adjacent property, which is the subject of the CAO and NOV discussed above in Comment 1, a channel flows to the southeast corner of the Phase 1 site and a 0.99-acre mitigation wetland is proposed to be created immediately to the east of the Phase 1 site. Some figures appear to show this channel passing under I-580 just to the east of the Phase 1 site, but during a rainy day site visit by Water Board staff on January 4, 2017, some flow from this channel appeared to be traveling north of I-580 to a confluence with Arroyo Las Positas at the I-580 bridge over Arroyo Las Positas. The DEIR should include an assessment of potential impacts of the existing channel and the proposed mitigation wetland on the functioning of the leach field.

Conclusion

In its present form the DEIR lacks an adequate discussion of impacts and proposed mitigation measures to support the issuance of Section 401 Water Quality Certification and Waste Discharge Requirements. The DEIR should be revised and re-circulated. Re-circulation is necessary to allow for review and comment on the Project's impacts

and proposed mitigation. The following areas require further evaluation in a revised DEIR.

- A wetland delineation of the complete Project site must be performed at the end of a normal wet season.
- An assessment of all Project impacts to waters of the State, including impacts associated with an improved access road, new bridges, new outfalls, and other improvements, must be based on the new, wet season delineation.
- Proposed permittee-responsible mitigation plans must be provided for all impacts to waters of the State identified on the basis of the new, wet season delineation
- The Project's potential impacts on aquatic special status species should be assessed in detail. This assessment should include the impact of permanent water bodies in the Project's proposed landscaping plan in providing habitat for non-native predators of CRLF and CTS. And the assessment should propose buffer widths between Project activities and wetlands that are intended to provide habitat for special status species; a rationale for the proposed buffer widths should be provided for agency and public review. Also, the presence of special status species should be assessed in a normal water year.
- Post-construction stormwater treatment measures, including sizing calculations for those measures, should be included for agency and public review.
- The potential impact of channels and wetlands at the adjacent property on the proposed septic leach field should be assessed.

Since an EIR should provide both proposed impacts and proposed mitigation measures for public review, the DEIR should be revised to include an appropriate delineation and detailed mitigation proposal for public review. Provision of this information in a Final EIR is inappropriate, since this information would not have been subject to public review before the Final EIR was adopted.

If you have any questions, please contact me at brian.wines@waterboards.ca.gov.

Sincerely,



Brian Wines
Water Resources Control Engineer
South and East Bay Watershed Section

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