
San Francisco Bay Regional Water Quality Control Board

August 8, 2020

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Governor's Office of Planning & Research

Aug 10 2020

City of Pleasanton, Operation Services Department
ATTN: Rita Di Candia (rdicandia@cityofpleasanton.gov)
P.O. Box 520
Pleasanton, CA 94566

STATE CLEARINGHOUSE

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Draft Initial Study / Mitigated Negative Declaration for the Pleasanton Stream Maintenance Project*, City of Pleasanton, Alameda County, California
SCH No. 2020070183

Dear Ms. Di Candia:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Initial Study / Mitigated Negative Declaration for the Pleasanton Stream Maintenance Project* (Draft ISMND). The Draft ISMND evaluates the potential environmental impacts associated with implementing a city-wide Stream Maintenance Project (SMP) to sustain the hydraulic capacity of channels and basins in the City of Pleasanton that are managed to provide flood control for surrounding neighborhoods and infrastructure (Project).

Project Summary. The City of Pleasanton is developing a SMP that will guide periodic routine maintenance in the City's stream corridors and detention basins to improve stormwater conveyance and quality, and to prevent flooding during storm events. The routine maintenance is proposed for 17 stream sections and eight stormwater detention ponds located throughout the City in a myriad of settings, including a concrete drainage basin between Pimlico Drive and Interstate 580, a naturalized stream running through Mission Park, and a detention basin in the Bernal Community Park. All proposed maintenance sites are contained within and owned by the City of Pleasanton, including channel corridors, detention basins, and adjacent roads, with the exception of four channels and three detention basins, which are located on private property and accessible via City of Pleasanton easements. Maintenance actions will include sediment, rock, and vegetation removal in and adjacent to stream corridors and detention basins.

Summary. As is discussed below, the Draft ISMND lacks an adequate discussion of potential mitigation measures for the Project's impacts to waters of the State.

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

Comment 1. Please extend the prohibition on the use of plastic monofilament netting in erosion control products from sites at which special status species may be present to all sites that will be covered by the SMP.

Erosion control products that use plastic monofilament netting are a known entrapment hazard for reptiles and amphibians. The ISMND appropriately prohibits the use of monofilament netting at locations that may provide habitat for special status amphibians. Mitigation Measure BIO-5 prohibits the use of monofilament netting in potential California tiger salamander habitat and Mitigation Measure BIO-6 prohibits the use of monofilament netting in potential California red-legged frog habitat.

Mitigation Measure BIO-7 consists of measures to be implemented to prevent take of the Alameda Whipsnake. This mitigation measure should be revised to include a prohibition on the use of plastic monofilament netting at sites that provide potential habitat for Alameda Whipsnake.

Because plastic monofilament netting is also a threat to reptiles and amphibians that are not special status species, its use should be prohibited at all sites that will be covered by the SMP. Mitigation Measure HYDRO-1 requires the use of effective sediment control measures at Project sites. Please add the prohibition on the use of erosion control measures with plastic monofilament netting to Mitigation Measure HYDRO-1.

Comment 2. The ISMND should be revised to include actual mitigation measures and to remove mitigation measures that are not currently feasible for the SMP's impacts to waters of the State at maintenance sites.

Mitigation measures for impacts to riparian woodland and aquatic resources are covered in Mitigation Measures BIO-11 and BIO-12.

Mitigation Measure BIO-11 states:

If any Project activity results in the permanent impact of sensitive riparian habitat it shall be replaced at a replacement-to-loss ratio of 3:1 (three acres of riparian habitat created for each acre disturbed). Mitigation would occur either through the purchase of mitigation credits from a local riparian mitigation bank or pursuant to a site-specific mitigation plan. At a minimum, this plan shall identify mitigation areas, a planting plan, and success criteria, along with remedial measures to compensate for lack of success.

Mitigation Measure BIO-12 states;

Project specific mitigation for impacts to features jurisdictional to state and federal agencies will be determined during the wetland permitting process with a minimum of 1:1 required. Mitigation could include land conservation and management in perpetuity, onsite habitat enhancement and restoration, payment of in-lieu fees to authorized conservation organizations, or a combination of these measures. Habitat enhancement and restoration would require a mitigation and monitoring plan to ensure environmental impacts are

mitigated and the sensitive habitats are returned to a natural state after the project is complete

At this time there are no riparian mitigation banks or in-lieu fee programs with service areas that include the Project sites included in the SMP, so these proposed mitigation measures should be deleted from the Draft ISMND.

Mitigation Measures BIO-11 and BIO-12 do not actually include a mitigation plan; these mitigation measures defer the development of actual mitigation plans to sometime in the future. 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 current text of the Draft ISMND does not demonstrate that it is feasible to mitigate all potentially significant impacts to waters of the State that may result from project implementation to a less than significant level. Impacts to the jurisdictional waters at Project sites, as well as proposed mitigation measures for such impacts, will require review under CEQA before the Water Board can issue permits for those proposed impacts. The current text of the Draft ISMND does not appear to be sufficient to support issuance of a permit by the Water Board for the proposed Project.

We strongly encourage the City of Pleasanton to develop concrete mitigation proposals for the Project's likely impacts to waters of the State and riparian habitat and to recirculate the Draft ISMND with these mitigation measures incorporated in the Draft ISMND. One of the advantages of developing a SMP, as opposed to permitting individual maintenance projects under individual permits, is the opportunity to consolidate the mitigation for many projects with individually small impacts into consolidated mitigation sites that are more efficient to manage and can provide a more significant environmental benefit than a larger number of small, isolated mitigation actions.

The current Draft ISMND includes a detailed evaluation of the potential impacts associated with maintaining channels and basins to sustain flow conveyance and provide flood control to adjacent neighborhoods. A similar level of effort must be applied to proposed mitigation measures for the SMP's impacts. Please review City-owned properties for opportunities to develop consolidated mitigation projects for the SMP's anticipated impacts to waters of the State and riparian habitat.

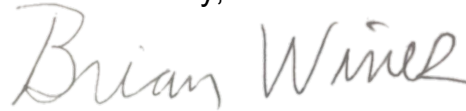
Conclusion

The ISMND should be revised to provide specific mitigation measures for all impacts to waters of the State and riparian habitat. These mitigation measures should be in-kind mitigation measures to the maximum extent possible. The amount of proposed mitigation should include mitigation for temporal losses of any impacted waters of the State. If mitigation is out-of-kind and/or off-site, then the amount of the proposed mitigation should be increased. Proposed mitigation measures should include a monitoring and maintenance plan for tracking the success of the mitigation measures.

If the ISMND is adopted without providing concrete mitigation proposals for impacts to waters of the State, it is possible that the ISMND will not be adequate to support the issuance of a CWA Section 401 certification for the Project.

If you have any questions, please contact me at (510) 622-5680, or via e-mail at brian.wines@waterboards.ca.gov.

Sincerely,

A handwritten signature in grey ink that reads "Brian Wines". The signature is written in a cursive, flowing style.

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

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)
CDFW, Marcia Grefsrud (marcia.grefsrud@wildlife.ca.gov)