



County of San Diego

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MITIGATED NEGATIVE DECLARATION

October 5, 2021

Project Name: 13th Street Bridge Project

Project Number(s): 1015839

This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Attached extended studies for air quality, aquatic resources, biological resources, cultural resources, greenhouse gases emissions, hazardous materials, land use and community impacts, noise, traffic, and visual resources
1. California Environmental Quality Act Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period, and; on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project will have a significant effect on the environment.
 2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

A. BIOLOGICAL RESOURCES

1. A qualified biologist approved by the Carlsbad Fish and Wildlife Office (CFWO) will be on site: a) during all vegetation clearing; and b) weekly during project construction within 500 feet of least Bell's vireo (LBVI) habitat to monitor compliance with all measures. The biologist will supervise construction activities, including installation of exclusion fencing, construction and grading activities, and contractor education. The qualified biologist will conduct pre-construction surveys for any nesting bird species potentially occurring within the habitats within the project area; including pre-construction surveys for LBVI and other nesting avian species. The biologist will be available during pre-construction and construction phases to address protection of sensitive biological resources, monitor ongoing work, and maintain communications with construction personnel to facilitate the appropriate and lawful management of issues relating to biological resources.

An employee education program will be developed and implemented by the biologist. Each employee (including temporary, contractors, and subcontractors) will receive a training/awareness program prior to working on the proposed project. They will be advised of the potential impact to the listed species and the potential penalties for taking such species. At a minimum, the program will include the following topics: occurrence of the listed and sensitive species in the area (including photographs), their general ecology, sensitivity of the species to human activities, legal protection afforded these species, penalties for violations of Federal and State laws, reporting requirements, and project features designed to reduce the impacts to these species and promote continued successful occupation of the project area

2. All permanent and temporary direct impacts to sensitive habitat, vegetation communities, and jurisdictional wetlands or waters will be mitigated on-site consistent with the ratios in the County's Guidelines and through coordination with the resource agencies. A Conceptual Mitigation Plan was prepared to address the mitigation requirements associated with the project impacts. A total of 0.80 acres of impacts to LBVI habitat, 0.11 acres of impacts to disturbed wetland, 0.80 acres of impacts to southern cottonwood-willow riparian forest, 0.05 acres of impacts to Diegan coastal sage scrub, 4.38 acres of impacts to non-native grassland, 0.03 acres of impacts to non-wetland waters of the U.S. and State/unvegetated streambed, 0.24 acres of impacts to wetland waters of the U.S. and State/vegetated streambed, and 0.36 acres of impacts to California Department of Fish and Wildlife (CDFW) streambanks and associated riparian canopy will be mitigated on-site.

Temporary impacts to LBVI habitat will be mitigated in place at a 1:1 ratio, temporary impacts to vegetation communities will be mitigated in place at a 1:1 ratio (with the exception of non-native grassland at a 0.5:1

ratio) through onsite restoration, and temporary impacts to jurisdictional resources will be mitigated in place at a 1:1 ratio, via restoration following construction.

Permanent impacts to LBVI habitat will be mitigated at a 3:1 ratio, permanent impacts to southern cottonwood-willow riparian forest will be mitigated at a 3:1 ratio, permanent impacts to Diegan coastal sage scrub will be mitigated at a 1:1 ratio, permanent impacts to non-native grassland will be mitigated at a 0.5:1 ratio, and permanent impacts to jurisdictional resources will be mitigated at a 3:1 ratio, through restoration or creation of wetland or riparian habitats.

Based on these mitigation ratios, a total of 0.88 acres of LBVI habitat, 0.11 acres of disturbed wetland, 0.88 acres of southern cottonwood-willow riparian forest, 0.05 acres of Diegan coastal sage scrub, 2.20 acres of non-native grassland, 0.03 acres of non-wetland waters of the U.S. and State/unvegetated streambed, 0.24 acres of wetland waters of the U.S. and State/vegetated streambed, and 0.46 acres of CDFW streambanks and associated riparian canopy will be required to be mitigated onsite to offset project impacts.

A Mitigation Monitoring Plan will be prepared pursuant to regulatory agency standards to address the project's onsite mitigation requirements.

3. Prior to initiating project work, three preconstruction surveys will be conducted within all suitable LBVI habitat in or within 500 feet of the project footprint, within 30 days prior to initiation of vegetation removal activities, to verify that no more than 1 LBVI pair will be harmed as a result of the project. A map showing the distribution of LBVI relative to the project footprint and an estimate of the number of LBVI that will be impacted by the project, or confirm in writing that the number of pairs that will be impacted by the project remains correct. CFWO will be notified of the area of LBVI habitat cleared within 30 days of completing removal of LBVI habitat.
4. The clearing and grubbing of native habitats for the project will be conducted between September 16 and February 14 to avoid the combined LBVI (March 15-August 31) and avian species (February 15-September 15) breeding season (or sooner than September 16 if the biologist demonstrates to the satisfaction of the CFWO that all nesting is complete).

If work is proposed to start during the breeding season, a pre-activity nesting bird survey will be conducted by a qualified biologist within 7 days prior to starting work to identify any nesting birds within 500 feet of

the project area. If work stops for more than 7 days, the pre-activity survey will be repeated before restarting work during the breeding season. If there are no nesting birds (includes nest building or other breeding/nesting behavior) within this area, vegetation trimming, and other project activities will be allowed to proceed.

If nesting birds are found, the qualified biologist will flag the active nests and project activities will avoid active nests until nesting behavior has ceased, nests have failed, or young have fledged and/or the biologist determines that no impacts are anticipated to the nesting birds or their young. Project activities within 300 feet of a nest (500 feet for raptors) that could generate noise in excess of 60 A-weighted decibels (dBA) or ambient sound level, if it is higher than 60 dBA, at the edge of occupied habitat, will either (1) be postponed until a qualified biologist determines the nest(s) is no longer active or until after the respective breeding season; or (2) not occur until a temporary noise barrier or berm is constructed at the edge of the development footprint and/or around the piece of equipment to ensure that noise levels are reduced to below 60 dBA or ambient sound level. Buffer distances may be adjusted as recommended by the qualified biologist depending on the sensitivity of the species.

5. If project construction is necessary during the combined LBVI and avian species breeding season (February 15–September 15) that will generate noise in excess of 60 dBA hourly Leq, or ambient noise levels, whichever is greater, within LBVI nesting habitat, measures will be implemented to reduce noise disturbance to LBVI. A noise abatement plan will be submitted to the CFWO for review and approval 30 days prior to commencing project work. The qualified biologist will oversee implementation of the noise abatement plan and may conduct noise monitoring and LBVI surveys as needed, based on their judgment and knowledge of the species, site, and proposed activities, to minimize noise impacts to LBVI.

B. GEOLOGY AND SOILS

1. In accordance with the Grading Ordinance, if a fossil or fossil assemblage of greater than twelve inches in any dimension is encountered during excavation, all excavation operations in the area where the fossil or fossil assemblage was found shall be suspended immediately, the Resident Engineer and the County's Environmental Planning Manager shall be notified, and a Qualified Paleontologist shall be retained by the applicant to inspect the find to determine if it is significant. A Qualified Paleontologist is a person who has:

- A Ph.D. or M.S. or equivalent in paleontology or closely related field (e.g., sedimentary or stratigraphic geology, evolutionary biology, etc.);
- Demonstrated knowledge of southern California paleontology and geology; and
- Documented experience in professional paleontological procedures and techniques.

If the Qualified Paleontologist determines that the fossil or fossil assemblage is significant; a mitigation program involving salvage, cleaning, and curation of the fossil(s) and documentation shall be implemented. If no fossils or fossil assemblages of greater than 12 inches in any dimension are encountered during excavation, a “No Fossils Found” letter will be submitted to the County Department of Public Works identifying who conducted the monitoring and that no fossils were found. If one or more fossils or fossil assemblages are found, the Qualified Paleontologist shall prepare a report documenting the mitigation program, including field and laboratory methodology, location and the geologic and stratigraphic setting, list(s) of collected fossils and their paleontological significance, descriptions of any analyses, conclusions, and references cited.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

A. BIOLOGICAL RESOURCES

1. All native or sensitive habitats outside and adjacent to the construction limits will be designated as Environmentally Sensitive Areas (ESAs) on project maps. ESAs will be temporarily fenced during construction with orange plastic snow fence, orange silt fencing, or in areas of flowing water, with stakes and flagging. Signage will be posted identifying the excluded areas as ESAs. No personnel, equipment, or debris will be allowed within the ESAs. Temporary ESA fencing and flagging will be installed in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. If work occurs within LBVI habitat beyond the fenced or demarcated limits of impact, all work will cease until the problem has been remedied to the satisfaction of the CFWO. Temporary ESA fencing and markers will be maintained in good repair until the completion of project work and removed upon completion of project work.

2. A construction Storm Water Pollution Prevention Plan (SWPPP) and soil erosion and sedimentation plan will be developed to identify best management practices (BMPs) that will be implemented during construction to minimize erosion, prevent sediment and debris from entering drainages, and maintain water quality. Sediment will not be stockpiled in areas where material could be washed into drainages by rainfall. Erosion and sediment control devices used for the proposed project, including fiber rolls and bonded fiber matrix, will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement hazard. In addition, the project has incorporated storm drain systems to facilitate meeting water quality requirements and for stormwater management, which will minimize erosion and degradation of habitat downstream of the bridge.
3. Standard fugitive dust BMPs, e.g., a water truck, are recommended to reduce effects of construction-generated erosion and sedimentation into the adjacent ESAs. Impacts from fugitive dust will be minimized through watering and other appropriate measures. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities will be restricted to designated areas located within previously disturbed upland. They will be located such that runoff from the designated areas will not enter vireo habitat. The project site will be kept as clear of debris as possible. All food-related trash items will be enclosed in sealed containers and regularly removed from the site. Project personnel will be prohibited from bringing domestic pets to construction sites to ensure that domestic pets do not disturb or depredate wildlife in adjacent native habitats. Fire suppression equipment, including extinguishers and shovels, will be available on-site during construction.
4. During project construction all invasive species included on the National Invasive Species Management Plan, the State of California Noxious Weed List, and the California Invasive Plant Council's Invasive Plant Inventory list (Cal-IPC 2006) found growing within the project impact area will be identified and removed at least once a month. Special care will be taken during transport, use, and disposal of soils containing invasive weed seeds and all weedy vegetation removed during construction will be properly disposed of to prevent spread into areas outside of the construction area. All heavy equipment will be washed and cleaned of debris prior to entering a new area to minimize the spread of invasive weeds.

BMPs will be implemented to ensure invasive plant material is not spread from the project site to other areas by disposal off-site or by tracking seed on equipment, clothing, and shoes. Equipment/material imported from an area of invasive plants must be identified and measures implemented to prevent importation and spreading of non-

native plant material within the project site. All construction equipment will be cleaned with water to remove dirt, seeds, vegetative material, or other debris that could contain or hold seeds of noxious weeds before arriving to and leaving the project site. Weeds removed will be appropriately bagged and disposed of in a sanitary landfill.

B. CULTURAL RESOURCES

1. A qualified archaeologist and Kumeyaay Native American monitor will be provided during initial project-related ground disturbing activities. If inadvertent discoveries of cultural resources are made, the County, project archaeologist, and appropriate Native American representative shall divert or temporarily halt ground disturbance operations in the area of discovery to assess the significance of the resources and confer regarding the appropriate treatment (i.e., preservation, avoidance, and/or mitigation for the resources). As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency shall make provisions for historical or unique archaeological resources inadvertently discovered during construction.

Consistent with California Public Resources Code Section 21083.2(b) and Assembly Bill 52 (Chapter 532, Statutes of 2014), avoidance shall be the preferred method of preservation for cultural resources. Work could continue in other parts of the project site while historical or unique archaeological resource mitigation takes place. The project archaeologist, in consultation with the County staff archaeologist, shall determine the significance of the discovered resources. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the archaeologist and approved by the County staff archaeologist, then carried out using professional archaeological methods.

2. A qualified archaeologist and Kumeyaay Native American Monitor will be provided during initial project-related ground disturbing activities. If human remains are encountered, consistent with California Health and Safety Code Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin of the remains. Further, consistent with California Public Resources Code Section 5097.98(b), human remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made.

If the County Coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) shall be contacted within twenty-four (24) hours. The NAHC shall immediately identify the "most likely descendant(s)" (MLD) and notify them of the discovery. The

MLD shall make recommendations within forty-eight (48) hours after being allowed access to the site, and engage in consultations with the landowner concerning the treatment of the remains. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further construction activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed.

C. HAZARDS AND HAZARDOUS MATERIALS

1. A dewatering study will be conducted and depending on the results, groundwater generated during construction may require treatment prior to disposal. Prior to conducting site dewatering activities, all necessary permits should be filed with the Regional Water Quality Control Board and/or other state or local governing agencies prior to the start of construction.
2. If impacted material is encountered during construction, the excavated materials should be handled and disposed in accordance with applicable regulations, and the appropriate health and safety measures should be implemented prior to and during construction to ensure the safety of field personnel handling impacted materials. Procedures for handling impacted material (including soil) shall be described in the project's Health and Safety Plan and Soil Management Plan prepared by the contractor prior to construction and provided to the Department of Public Works' project engineer.
3. A Debris Containment and Removal Work Plan and Lead Compliance Plan will be completed prior to commencement of the 13th Street Bridge Project, which should include a discussion and procedures for the removal, containment, storage, and disposal of any painted surfaces within the proposed project area.
4. Treated wood waste such as roadside wooden utility poles and signposts should be handled properly in accordance with applicable regulations and may require removal, handling, and disposal.
5. Suspect lead-based paint associated with painted curbs and protective bollards within the proposed project area boundary should be sampled and handled in accordance with applicable regulations to ensure worker safety and for classification purposes.
6. Illegally dumped materials and trash within the project area should be removed and properly disposed during project construction activities.

ADOPTION STATEMENT: This Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

DPW Environmental Services Unit