

San Francisco Bay Conservation and Development Commission

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Governor's Office of Planning & Research

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Transmitted Via Email

STATE CLEARING HOUSE

California Department of Transportation, District 4
P.O. Box 23660, MS 8B
Oakland, CA 94623
ATTN: Maxwell Lammert, Senior Environmental Scientist

SUBJECT: Comments on the Initial Study with Proposed Mitigated Negative Declaration for the State Route 12 Major Pavement Rehabilitation (2R) Project

Dear Mr. Lammert:

Thank you for the opportunity to comment on the Initial Study with Proposed Mitigated Negative Declaration for the State Route 12 Major Pavement Rehabilitation (2R) Project (Project). This opportunity allows the San Francisco Bay Conservation and Development Commission (BCDC or Commission) to comment on aspects of the Project that we would be required to approve or deny through the exercise of our own regulatory authority under the McAteer-Petris Act, Suisun Marsh Preservation Act, and the California Code of Regulations.

I. PROJECT DESCRIPTION SUMMARY

Project. Caltrans proposes rehabilitation of approximately 6.4 miles of State Route 12 in Solano County. The proposed work includes replacing asphalt concrete surfacing and overlay, replacing temporary barriers located in the median with permanent concrete barriers, replacing shoulder and centerline rumble strips, replacing metal beam guardrail with Midwest guardrail system, upgrading crash cushions to current standards, upgrading drainage systems, widening shoulders, removing, and replacing the existing asphalt concrete dikes, and providing erosion control. In addition, the Project proposes to upgrade the bridge railings at the Union Creek bridge and Denverton Creek bridge to be consistent with current Caltrans standards.

Location. The Project site is located along State Route (SR) 12 from Post Mile (PM) 7.7 to PM 14.1 from approximately 0.5 miles east of Walter Road/Lawler Ranch Parkway (westernmost end) to 0.5 miles east of Shiloh/Lambie Road (easternmost end) in Solano County. Project activities will occur in the primary and secondary management areas of Suisun Marsh.



The San Francisco Bay Conservation and Development Commission (BCDC) is a responsible agency with discretionary approval power over aspects of the Project and will rely on the IS/MND when it considers the Project during permitting. BCDC is a State planning and regulatory agency with permitting authority over San Francisco Bay, the Bay shoreline, and Suisun Marsh, as established in the McAteer-Petris Act and the Suisun Marsh Preservation Act. While the Commission itself has not reviewed the IS/MND, BCDC staff have prepared comments outlining specific Commission issues or policies that should be addressed either in the final IS/MND or through the Commission permitting process as appropriate. As we receive additional details on the project, we will be able to provide more detailed responses and can work closely with the project proponents to ensure the project is consistent with Commission laws and policies.

The comments below are based on the McAteer-Petris Act, the Commission's San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act, and the Commission's Suisun Marsh Protection Plan. Commission staff has initially identified and summarized several policies and policy areas that are likely to apply to the project, however we also encourage you to review the McAteer-Petris Act and Bay Plan directly to ensure the project design complies with all relevant sections of these documents.

Per the McAteer-Petris Act, BCDC is responsible for granting or denying permits for any proposed fill; extraction of materials; or substantial changes in use of any water, land, or structure within the Commission's jurisdiction (Government Code Section 66632). Additionally, BCDC establishes land use policies for the Bay as a resource and for development of the Bay and shoreline in the Bay Plan, which provides the basis for the Commission's review and actions on proposed projects. Additionally, pursuant to the Suisun Marsh Preservation Act, BCDC is responsible for issuing marsh development permits for all development occurring within the primary management area of Suisun Marsh (Government Code Section 29500 and 29501) and on the basis that such development is consistent with the Suisun Marsh Protection Plan.

II. BCDC Policies

The project as proposed incorporates several areas of impacts that overlay with the McAteer-Petris Act, the Bay Plan, the Suisun Marsh Preservation Act and Suisun Marsh Protection Plan, which BCDC staff will use to evaluate the Project for a BCDC permit. The following policy areas are not exhaustive, but would benefit from further consideration in assessing the project impacts and finalizing the IS/MND. The policies of both the Bay Plan and the Suisun Marsh Protection Plan apply in Suisun Marsh, but the Suisun Marsh Protection Plan is a more specific application of the general, regional policies of the Bay Plan and for the unique characteristics of the Suisun Marsh. In any cases where there may be conflict between the policies of the two plans, the policies of the Suisun Marsh Protection Plan control.

A. Tidal Marsh Protection

The policies of the Suisun Marsh Protection Plan require that: "[t]he diversity of habitats in the Suisun Marsh and surrounding upland areas should be preserved and enhanced wherever possible to maintain the unique wildlife resource, the seasonal marshes, and



lowland grasslands are critical habitats for marsh related wildlife and are essential to the integrity of the Suisun Marsh..." and the "existing uses should continue in the upland grasslands and cultivated area surrounding the critical habitats of the Suisun Marsh in order to protect the marsh and preserve valuable marsh-related wildlife habitats. Where feasible, the value of the upland grasslands and cultivated lands as habitat for marsh-related wildlife should be enhanced." Additionally, the policies of the Bay Plan also require protection and that projects minimize impacts to tidal marshes and tidal flats.

The Project as described would have an anticipated 0.002 acres of temporary and 0.005 acres of permanent impacts to the Northern Claypan Vernal Pool, which function as critical habitat for special-status species vernal pool Branchiopods. Additionally, the Project would temporarily impact 0.22 acres and permanently impact 0.07 acres of potentially jurisdictional wetlands, and temporarily impact 0.52 acres and permanently impact 0.04 acres of potentially jurisdictional other waters within the Project footprint. It is not clear how much of the impact areas are within the Commission's jurisdiction at this time, but this should be quantified and provided to the Commission as part of the application and permitting process.

In addition to habitat impacts described above, several special-status species may be present within or adjacent to the project site. The impacts resulting from Project activities may include, but are not limited to, the following:

- Temporary impacts to California tiger salamander grassland breeding habitat;
- Temporary and permanent direct impacts to brackish marsh habitat for the salt marsh harvest mouse and the Suisun Shrew resulting from replacing culverts, widening shoulders, and the Union Creek bridge construction activities;
- Temporary impacts to special-status bird species with potential occurrence in the project site include: Swainson's Hawk, Western Burrowing Owl, Northern Harrier, California Ridgway's Rail, California Black Rail, and Tricolored Blackbird

To offset these impacts, the proposed mitigation measure MM-BIO-1 will require that Caltrans compensates for wetland and waters of the United States that are filled or disturbed to ensure no net loss of habitat functions and values. To this end, a Mitigation and Monitoring Plan will be developed, in consultation with BCDC and other regulatory agencies. BCDC will work with Caltrans to identify appropriate mitigation for these impacts. The Bay Plan policies on Mitigation direct that mitigation should first and foremost be provided onsite or nearby and should be in-kind. If this is not possible, then there is the potential to consider other options. In the final IS/MND, please provide additionally details on any proposed mitigation options and where these would occur.

B. Fish, Other Aquatic Organisms and Wildlife

The Bay Plan and Suisun Plan contain several findings and policies designed to protect and enhance habitat connectivity. Bay Plan Tidal Marsh Policy 5, states that “[t]o the greatest extent feasible, habitat projects should be sustained by natural processes; increase habitat connectivity; restore hydrological connections; provide opportunities for endangered species recovery; and provide opportunities for landward migration of Bay habitats.” Bay Plan Tidal Marsh Policy 6 requires, in part, that “[d]esign and evaluation of the project should include an analysis of: ... j) how the project adheres to regional restoration goals; (k) whether the project would be sustained by natural processes; and (l) how the project restores, enhances, or creates connectivity across Bay habitats at a local, sub-regional, and/or regional scale.” Additionally, the Suisun Marsh Protection Plan Utilities Facilities and Transportation Finding 4 states that “[h]ighways and roads, especially those bordered by chainlink fences, form barriers to movement of terrestrial Marsh wildlife. In addition, traffic on highways and roads creates intermittent noises which may alarm Marsh wildlife, although the actual effects of noise upon wildlife have not been determined.” All of these policies should be considered in the development of the designs of for the Project.

The Project proposes to replace temporary median barriers with permanent concrete 60M type median barriers. In addition, construction activities include relocating concrete dikes, and replacing an estimated six culverts (253 linear feet). Although the Project as described would not “construct any new permanent barriers to wildlife movement or otherwise interfere with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites from existing conditions”, the IS/MND acknowledges that “the highway hinders movement and dispersal of small animals due to high traffic volumes and concrete barriers in the median.” Please provide further consideration of the impacts to wildlife crossings across the roadway and what impacts the median barrier may pose. These impacts should be minimized or mitigated.

C. Water Quality and Erosion Control

The Project should be designed and constructed in a manner that minimizes the adverse impacts that would result from stormwater runoff and other non-point source pollution entering Suisun Marsh. All necessary best management practices, including hydroseeding, covering stockpiled materials, installing concrete washout facilities, temporary silt fences, fiber rolls, and other necessary measures, should be employed to assure that soil, sediments, or other materials will not be washed, blown, or fall beyond the project site during or after construction. A stormwater management plan should be provided ensuring compliance with requirements of the Regional Water Quality Control Board, San Francisco Bay Region.

Further, no work should significantly alter water management, circulation or drainage patterns or otherwise adversely affect any salt pond, managed wetland, or other sensitive diked wetland resources. If there are any potential impacts to water management, these should be clearly identified and addressed in the final IS/MND.

D. Climate Change and Sea Level Rise

The IS/MND concluded that sea level rise is not expected to have direct impacts to transportation facilities as the proposed Project is outside the coastal zone and not in area subject to sea level rise. As the Project lies in and adjacent to wetland areas subject to tidal action, please consider further analysis on risks to State Route 12 from sea level rise. The Bay Plan policies on Climate Change recommend that a risk assessment be prepared by a qualified engineer to evaluate mid-century and end-of-century sea level rise projections, current and planned flood protection, including an inundation map, and identifying potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat. Please provide further details on the methods used in the referenced *“Caltrans District 4 Climate Change Vulnerability Assessment”* (2020) to justify the conclusion of no sea level rise impacts to the Project. Please note, that the Commission currently considers the best available science on sea level rise to be the 2018 Ocean Protection Council’s Sea Level Rise Guidance, and the methods recommended in this document should be used for assessing the risks of flooding for the Project in the future.

E. Transportation

The Bay Plan asserts that “a primary goal of transportation planning, from the point of view of preserving and properly using the Bay, should be a substantial reduction in dependence on the single-occupant vehicle.” Supporting policies include Bay Plan Transportation Policy 1 that directs the Commission to “...encourage alternative methods of transportation and land use planning efforts that support transit and that do not require fill” and Policy 4 requires that “[t]ransportation projects on the Bay shoreline and bridges over the Bay or certain waterways should include pedestrian and bicycle paths that will either be a part of the Bay Trail or connect the Bay Trail with other regional and community trails. Transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline.”

The proposed Project, as described in the IS/MND, states that it would conflict with Director’s Policy 37, “Complete Streets”, which would require that the Project provide facilities for pedestrians and bicyclists within the Project footprint. Please provide further consideration of the Project as to be in compliance with the Complete Streets policy, or justification for the non-assessment of project alternatives which would include those features. In addition, please provide further information in regards to how the proposed Project would align with past, current, and foreseeable future projects along the SR 12 corridor, as referenced in the IS/MND, including:

- Address 30.6 lane miles of pavement, asphalt pavement rehab, Class II Buffered bike lanes (SHOPP ID 23043);
- Address 16.1 lane miles of pavement, asphalt pavement rehab, Class I bike lane, crossing islands, new/modify crosswalks (SHOPP ID 20648); and
- Install flashing beacons, signal ahead warning signs and pavement markings, guard rails, and pedestrian access/sidewalks (SHOPP ID 22189, EA 0W110).

The Project includes fill or excavation within the Commission's jurisdiction. According to the Bay Plan Transportation Finding (e), fill for bridges and causeways are considered water-oriented uses, however solid fill (such as a levee or embankment) to accommodate a roadway is generally not considered a water-oriented use consistent with the McAteer-Petris Act. The Commission may not be able to approve fill in the Bay for expansion of the roadway sections on embankments. However, it is not clear from the IS/MND which portions of the fill are in which portions of the Commission's jurisdictions and a map may help clarify this. Please contact BCDC staff to help identify the specific Commission jurisdictions in the project area.

F. Appearance, Design, and Scenic Views

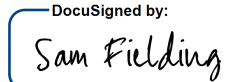
Although SR 12 in Solano County is not designated as a scenic drive in BCDC Bay Plan maps, it is worth considering the impact of Project design on the viewing of the Bay. Bay Plan policies on Appearance, Design, and Scenic Views emphasize that facilities "be located and designed so as not to impact visually on the Bay and shoreline" and "should be designed with views in mind." It is recommended that the height of median be taken into consideration for view impacts and be designed to minimize such impacts for bicyclists and motorists. In addition, please describe any impacts to scenic overlook signage on the side of the road which may result from shoulder widening.

G. Public Access

Please note that the Commission's law requires that all new development approved under the McAteer-Petris Act include maximum feasible public access consistent with the project. We noted that in our prior discussions with Caltrans staff, there were some ideas of improvements that Caltrans could consider adding to the Project to ensure that maximum feasible public access is included in the project. BCDC will continue having discussions with Caltrans staff on this issue, but it would be great if any potential public access improvements were also incorporated into the project description and analyzed in the final IS/MND.

Once again, thank you for providing BCDC an opportunity to comment on the Project. We hope these comments aid you in preparing the final IS/MND. If you have any questions regarding this letter or the Commission's policies and permitting process, please do not hesitate to contact me at (415) 352-3665 or via email sam.fielding@bcdc.ca.gov.

Sincerely,

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