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Sent via electronic mail: No hardcopy to follow

Alameda County Public Works Agency
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399 Elmhurst Street
Hayward, CA 94544

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Draft Initial Study / Mitigated Negative Declaration Arroyo Road at Dry Creek Bridge Replacement Project*, Alameda County, California SCH No. 2023080141

Dear Ms. Lo:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Draft Initial Study / Mitigated Negative Declaration Arroyo Road at Dry Creek Bridge Replacement Project* (ISMND). The ISMND analyzes the potential environmental impacts associated with replacing the structurally deficient Arroyo Road over Dry Creek Bridge with a new bridge that meets current County, American Association of State Highway and Transportation Officials, and Caltrans design criteria and standards. The new bridge will be a cast-in-place, reinforced, concrete, single span, slab bridge that will accommodate two travel lanes plus shoulders and traffic-rated vehicular barriers. The bridge will also accommodate a 12-foot-wide Class I bike path separated from traffic by an interior vehicular traffic rated barrier. The replacement structure will be 34-feet long and will be supported by integral diaphragm type abutments on deep foundations. The roadway profile will be raised approximately two feet to meet hydraulic and geometric requirements. To accommodate the raised profile, wider bridge structure, and longer span, the roadway centerline at the bridge will be shifted to the southwest to maintain traffic throughout construction while balancing impacts from slopes encroaching upon agricultural land (winery) to the northwest, a park to the southwest, grazing land to the northeast, and a recreational facility to the southeast. We have the following comments on the ISMND.

Summary. The ISMND does not quantify the net increase in new hardscape placed within waters of the State at the Project site or provide specific mitigation measures for the Project's impacts to waters of the State. In addition, the ISMND does not include a discussion of post-construction stormwater runoff treatment measures for the modified roadway segments and the new bridge.

Comment 1. The ISMND does not clearly present the extent of net fill in waters of the State associated with Project implementation.
Along creek channels, waters of the State extend from top of bank to top of bank. Any net increase in hardscape within waters of the State requires mitigation. The discussion of the new bridge in Section 3.2 of the ISMND does not clearly state whether the Project will result in a net increase or decrease in direct impacts to waters of the State. The Elevation inset in Figure 3.2-2 indicates that the abutments for the new bridge may not extend as far into the channel of the Creek as the abutments of the existing bridge. But it is difficult to make out the profile of the new abutments in the Elevation inset of Figure 3.2-2. In addition, the proposed new rock riprap armoring at the new abutments appears to extend further into the channel than the current abutments. While the Elevation inset in Figure 3.2-2 shows a profile view of the proposed new rock riprap abutment armoring, the Plan inset in Figure 3.2-2 does not show the new rock riprap. Please revise figures in the ISMND to clarify the extent of existing hardscape within the channel banks and the proposed extent of new hardscape within the channel banks associated with Project implementation. The text of the ISMND should be revised to clarify the net increase or decrease of fill within the channel banks.

Comment 2. The extent of Project impacts to the channel of Dry Creek associated with bridge widening appears to be understated in Section 4.4-2 of the ISMND.
Section 4.4-2 includes the discussion of impacts to biological resources. Impacts to Riparian habitat are discussed under Impact BIO-2, which starts on page 53 of the ISMND. This discussion includes the following text:

> The project will result in direct permanent impacts to 0.11 acres and 148 linear feet of ephemeral stream habitats through construction of the new bridge, which will include placement of fill, piles, wing walls, abutments and RSP. The project will also result in direct temporary impacts to 0.07 acres and 96 linear feet of ephemeral stream habitat due to construction access, movement of equipment and personnel, and construction of cofferdams and stream bypass structures. Indirect impacts could include interruption or alteration of hydrology to waters downstream of the project, or reduction in water quality downstream of the project if water is present in the channel of Dry Creek and mitigation measures are not employed.

Based on text in other sections of the ISMND, the existing 30-foot wide bridge will be replaced with a 58-foot wide bridge. The discussion of impacts for Impact BIO-2 states that 148 linear feet of the channel will be permanently impacted by the Project. The location and nature of these linear impacts are not clear from the figures and text in the ISMND. Please revise the ISMND to clarify the nature and extent of the Project's impacts.

Text in the middle of page 53 states:

> Potential shading effects upon vegetation growth are expected to have a negligible effect. Although the new bridge will be slightly longer and wider than the existing vehicle and pedestrian bridges, the river bottom currently consists of sands and gravel with some cobbles of varying sizes and the area is largely devoid of vegetation. Thus, no in-channel wetlands within the BSA will be lost due to shading in the area of the new bridge deck, as none currently exist.

However, the cover photograph of the ISMND shows dense, riparian shrubs adjacent to the downstream side of the existing bridge. This mature riparian habitat will be impacted when the width of the bridge is extended in the downstream direction, and shading of this area by the new bridge will prevent the recovery of this riparian vegetation.

Text on the bottom of page 53 states:

> The project will result in 0.17 acres of permanent impacts to riparian grasslands in the BSA due to construction of the new bridge, including realignment of the roadway and placement of fill, piles, wing walls, abutments and RSP outside of the ordinary high water marks of Dry Creek but below the top of bank. An additional 0.13 acres of riparian grassland would be temporarily impacted due to staging of equipment and personnel and equipment access. **No riparian trees will be removed as a result of project activities, and impacts to other woody vegetation, such as shrubs, are expected to be very limited, as only a few small woody shrubs are present in the permanent impact areas [emphasis added]**. Impacts to herbaceous vegetation are expected to be limited as well, due to the somewhat low quality and sparse cover of herbaceous vegetation in these areas. Since no riparian trees (and only, potentially, a very small number of small shrubs) will be removed, no effects from loss of riparian shading are expected. The 0.17 acres of riparian grassland habitat that will be permanently impacted within the BSA represents only a small fraction of this habitat type present along Dry Creek. Further, since no riparian trees will be impacted, and effects on other vegetation will be limited to primarily sparse, non-native grasses and a few small shrubs, no substantial effects on the functions and values of the riparian corridor are anticipated.

As was noted above, the cover photograph of the ISMND shows dense, riparian shrubs adjacent to the downstream side of the existing bridge. This mature riparian habitat will be impacted when the width of the bridge is extended in the downstream direction. In addition, mature riparian trees appear to be present immediately adjacent to the southeast end of the existing bridge. It does not appear to be possible to remove the existing bridge and construct the longer and wider replacement bridge without impacting these mature riparian trees. Appendix D, Hydrologic and Hydraulic Analysis, includes Photos 1 and 2, which show patches of California poppies growing in and adjacent to the low flow channel of the Arroyo. The additional shade created by the wider bridge is likely to prevent the recovery of these stands of poppies after Project implementation.

Please revise the discussion of impacts to riverine habitat to address the questions raised in the preceding paragraphs. The discussion of Impact BIO-2 attempts to minimize the significance of the Project's impacts to riparian habitat by comparing the impacts to the extent of unimpacted habitat upstream and downstream of the bridge crossing. This does reduce the County's obligation to provide mitigation for the Project's impacts to riparian habitat. As is noted below in Comment 3, the ISMND does not propose mitigation that would be sufficient to allow the Water Board to issue Clean Water Act Section 401 Certification (Certification) and/or Water Discharge Requirements (WDRs) for Project implementation.

Comment 3. The mitigation measures proposed for the Project's impacts to waters of the State in Section 4.4-2 of the ISMND are not sufficient to support the issuance of a Certification and/or WDRs for Project implementation.
The discussion of mitigation measures for Impact BIO-2 includes MM BIO-2.12.

> The project will provide compensatory mitigation for permanent loss of riverine habitat. According to the EACCS, such mitigation is typically provided based on the standards (e.g., EACCS mitigation ratios) set for focal species that occur in the riverine habitat to be impacted. Because riverine habitat in the Project footprint provides dispersal and foraging habitat for California red-legged frog but is outside of designated critical habitat for the species, the mitigation ratio for the impacts would be 2.5:1, as determined by the EACCS requirements for focal species (ICF International 2010). Such mitigation may take the form of the purchase of credits in a mitigation bank and/or project-specific mitigation. Additionally, the project would comply with all mitigation requirements based on the conditions of permits from the USACE, RWQCB, and CDFW required for these impacts.

The ISMND proposes to provide mitigation for impacts to waters of the State through the mitigation provided by EACCS. However, as is noted in Section 5.5.6, Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act, of the East Alameda County Conservation Strategy Document:

> The Conservation Strategy does not include certifications under Clean Water Act Section 401 or waste discharge requirements under the Porter-Cologne Water Quality Control Act. These authorizations, if required, must be obtained separately from the Regional Water Quality Control Board (Water Board). The Water Board is charged with maintaining the beneficial uses of waters of the state in the San Francisco Bay Region, as presented in the San Francisco Bay Basin Water Quality Control Plan (Basin Plan), which is the Board's master water quality control planning document (http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml#2004basinplan). Project proponents implementing activities that comply with the terms of the Conservation Strategy should find their permit process streamlined with the Water Board for projects that may impact waters of the

> State with the assigned Beneficial Use of preservation of rare and endangered species, because this Conservation Strategy provides a comprehensive means to address the needs of threatened and endangered species in the study area.
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> Project proponents should also consult Appendix G (Water Quality Objectives for Use in Designing and Implementing Projects with Impacts to Creeks or Wetlands) for guidance in designing projects in a manner that minimizes impacts to waters of the State.
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> Project proponents are encouraged to contact the SFRWQCB early in the development of mitigation proposals. Guidance on developing mitigation for impacts on waters of the State is provided on the SFRWQCB's web site, at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/401_ certs/fact_sheet_wetland_projects_12-1-06.doc. **In general, mitigation for impacts on waters of the state will focus on creating, restoring, enhancing, and/or preserving waters of the state, with less emphasis on the upland components of habitat that are addressed in mitigation measures developed for compliance with CDFG and USFWS oversight of impacts on special-status species [emphasis added]**. It is often possible to provide mitigation for impacts on waters of the state within mitigation lands that also satisfy the habitat requirements of the CDFG and USFWS. Early consultation with the SFRWQCB may assist project proponents in identifying parcels that satisfy SFRWQCB mitigation requirements, in addition to the mitigation requirements of CDFG and USFWS.

Please revise the ISMND to provide specific mitigation proposals for the Project's permanent and temporary impacts to waters of the State. Currently, proposed mitigation for the Project's impacts to waters of the State consists of this sentence:

> Additionally, the project would comply with all mitigation requirements based on the conditions of permits from the USACE, RWQCB, and CDFW required for these impacts.

This sentence is insufficient to satisfy the requirements of CEQA. 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

ISMND does not demonstrate that it is feasible to mitigate all of the potentially significant impacts of the Project on waters of the State to a less than significant level. The ISMND lacks proposed mitigation measures at a sufficient level of detail to allow an assessment of the feasibility of the proposed mitigation. Such 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. Please revise the ISMND to include specific mitigation proposals for the Project's impacts to waters of the State.

Comment 4. The discussion of impacts to water quality in Section 4.10, Hydrology and Water Quality, of the ISMND does not discuss post-construction treatment of runoff from the Project's new and or replaced impervious surfaces.
Any Project requiring a permit from the Water Board should include a discussion of treatment of stormwater runoff from new and/or replaced impervious surfaces. While the Municipal Regional Stormwater NPDES Permit (MRP) specifies that projects that create and/or replace more than 5,000 square feet of impervious surface must provide treatment for stormwater runoff, Projects that require individual permits from the Water Board may be required to provide stormwater treatment, even if the amount of new and/or replaced impervious surfaces is less than 5,000 square feet (Please note that paving installed on the elevated approaches to the higher bridge, as well as the concrete surfaces of the new bridge, will count toward the 5,000 square feet threshold). Please revise the ISMND to include a discussion of water quality treatment for post-construction runoff from the Project's new and/or replaced impervious surfaces.

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

Sincerely,

Brian K. Wines

Brian Wines
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South and East Bay Watershed Section

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)