M e m o r a n d u m

Date: May 22, 2024
To: Dennis Palacios
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From: Susan Stewart, Environmental Scientist / Caltrans Liaison, North Coast Regional Water Quality Control Board (RWB)
Subject: Salmon Creek Sandblast Waste Abatement Remedial Action Plan (SCH# 202403073)

Dear Dennis Palacios,

On March 21, 2024, the North Coast Regional Water Quality Control Board (RWB) received a draft Initial Study and Proposed Negative Declaration (draft IS/ND) from the Department of Toxic Substances Control (DTSC) for the Salmon Creek Sandblast Waste Abatement Remedial Action Plan (Project), in Mendocino County, California. The draft IS/ND reviews and evaluates the remediation of lead-impacted shallow soil in the State right-of-way (ROW) and on the privately-owned parcels located east of the Salmon Creek Bridge. The draft IS/ND had an extended comment period for comments to be submitted no later than May 22, 2024. The Regional Water Board hereby submits the following comments.

Project Description
The Project proposes excavation of shallow soil within the State right-of-way (ROW) and portions of Parcels 6 and 8 adjacent to the Salmon Creek Bridge that have been impacted by lead-containing sandblast waste at concentrations above the regulatory cleanup goals. The proposed Project would implement the Targeted Removal - Preserve Natural Slopes alternative, as described in the Remedial Action Plan. This includes removal of vegetation prior to removal of lead-impacted shallow soils; however, the targeted removal would preserve vegetation on steep, difficult to access slopes. Excavation depths would vary from 0.5 feet to 1.5 feet, and excavated materials would be staged onsite and temporarily stockpiled. Following excavation and analytical testing, the remedial excavations would be backfilled with clean imported soil. The completed excavation and backfilled areas would also require revegetation, sensitive community restoration, and monitoring for a period defined by the regulatory permit requirements. Areas where lead-impacted soils are removed will be restored by placement and contouring of imported material, amendment of soils as needed, erosion control, revegetation, and wetland restoration.

Regional Water Board Permitting

The proposed Project will require a Water Quality Certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) for activities related to the Project within or affecting waters of the U.S. and waters of the State.

Regional Water Board comments:

Summary of Mitigation - On page 9, the IS/ND acknowledges, "*DTSC has determined mitigation measures would not be required beyond those incorporated as part of the Proposed Project to ensure that impacts would be less than significant*."

RWB Comment 1): The Regional Water Board recommends the environmental document should be a Mitigated Negative Declaration due to the potential for significant impacts to aquatic resources related to extensive disturbance of soils and potential for erosion.

Biological Resources, "Waters of the U.S. and State and Riparian Habitat" heading, on pages 29-30, aquatic resources are identified as Scrub-Shrub Wetlands, Emergent Wetlands, Coastal Wetlands, Tidal Waters (Salmon Creek), Perennial Streams, Intermittent Streams, Ephemeral Streams, and Riparian Habitat.

RWB Comment 2): When submitting a 401 application, appropriate jurisdiction will need to be clarified as a Water of the U.S., and Water of the State or Riparian Habitat, including temporary and permanent impacts to each aquatic resource.

Methodology section of the Biological Resources – On page 34, the IS/ND states the Project's avoidance and minimization measures are not mitigation measures because they (a) *are the result of standard laws and regulations*; (b) are "*prescriptive and sufficiently standardized*;" and (c) "*predate the Project's proposal and apply to all similar projects*."

RWB Comment 3): Per Lotus vs. Department of Transportation (2014) 223 Cal.App.4th 645 (Lotus) and California Code of Regulations, Title 14 Section 15370, significance determinations should be made prior to inclusion of avoidance and minimization measures. If a Project's impact is considered significant, mitigation measures are applied to reduce impacts to be less-than-significant. Avoidance and minimization measures should only be used when the impacts addressed are not inherently significant.

Biological Resources, Water Quality and Stormwater Runoff – On pages 34-35, the second paragraph of WQ-1, discusses requirements of both the Construction General Permit and a Water Pollution Control Program. The document further states that the stormwater document requirement for the Project will be based on the proposed ground disturbance acreage.

RWB Comment 4): The Project will be over one acre in size; therefore, the Regional Water Board recommends describing the Construction General Permit as the appropriate pathway.

Impact Analysis - On page 38 The IS/ND states, "*The proposed project would permanently impact approximately 1.185 acres of jurisdictional wetlands resulting from contaminated soil removal and access road widening activities*."

RWB Comment 5): This level of permanent impacts to an aquatic resource in a concentrated area that outlets to the Pacific Ocean should be considered a significant impact and include the incorporation of appropriate mitigation measures to reduce impacts. Reliance on general avoidance and minimization measures for these extensive impacts is inadequate.

RWB Comment 6): A Mitigation, Monitoring, and Reporting Plan will be required to detail performance standards and mitigation measures that will be implemented to reduce the significant impacts and mitigate permanent impacts to aquatic resources.

Compensatory Mitigation – On page 39, the Impact Analysis introduces the use of compensatory mitigation with the following, "*However, for impacts to wetlands that cannot be compensated for onsite, compensation would be required at an approved mitigation bank or property prior to Project implementation. Caltrans would also implement the conditions and requirements of federal and state permits as part of the permitting process with the USACE, CCC, CDFW, County of Mendocino, and North Coast RWCQB.*"

RWB Comment 7): The compensation is not identified as any type of measure (mitigation or avoidance and minimization) or best management practice (BMP). Compensatory mitigation should be presented as mitigation measures because aquatic resources would be permanently impacted, and the Project is proposing to reduce these significant impacts with offsite compensation. The potential compensatory mitigation does not address the location in terms of watershed or whether mitigation banking options are available. The Regional Water Board recommends adding a discussion about the availability of compensatory mitigation within the specific watershed(s) where project activities are proposed to occur.

RWB Comment 8): While the IS/ND states restoration is an integral part of the Project, it does not fully describe which wetland types will be restored or quantify acreage(s).

NMFS Critical Habitat and Essential Fish Habitat (page 30 and 39) - Extensive soil disturbance and unstable soil post-replacement at the stream bank and upslope of Salmon Creek is a potential threat to water quality due to siltation and sedimentation from stormwater runoff within areas identified as NMFS Critical Habitat and Essential Fish Habitat, and could impair MIGR, SPWN, RARE and WILD beneficial uses.

RWB Comment 9): The Regional Water Board recommends a more extensive evaluation and analysis of stormwater runoff and soil erosion in the applicable Impact Analysis sections, and proposal of specific best management practices (BMPs) to reduce the potential for stormwater runoff and soil erosion to impact water quality in these sensitive areas.

Biological Resources, Impact Analyses and Conclusions, pages 37-39: Of the stated "excavation area", the document provides the following impact information for aquatic resources:

Third paragraph (page 37) of section (a) states, "*Permanent impacts to 0.081 acre of small-fruited bulrush would occur during removal of lead contaminated soil in areas in the project ESL. Although proposed restoration activities aim to restore small-fruited bulrush areas to their original condition following the removal of contaminated soils, it is speculated that the restored areas would not be functionally equivalent to the impacted community*."

RWB Comment 10): Explore the extent that wetland creation be accomplished as onsite mitigation to offset permanent impacts to wetlands. Explain why "restored areas would not be functionally equivalent to the impacted community."

Second paragraph (page 38), section (b) states, "*The proposed project would result in approximately 0.839 acre of temporary impacts to riparian habitat resulting from contaminated soil removal and access road widening associated with the lead abatement activities*." The Project proposes restoration onsite and compensatory mitigation offsite for "potential permanent impacts".

RWB Comment 11): Please clarify if impacts to riparian habitat may be considered as permanent impacts due to temporal loss or degradation of ecological condition.

First paragraph, section (c) (page 38) states, "*Several jurisdictional wetlands were documented within the BSAs, including CWA 404 jurisdictional emergent wetlands and scrub-shrub wetlands and CCA jurisdictional coastal emergent wetlands and coastal scrub-shrub wetlands. The proposed project would permanently impact approximately 1.185 acres of jurisdictional wetlands resulting from contaminated soil removal and access road widening activities*."

RWB Comment 12): Please identify the three-parameter wetlands jurisdictional to the 401 and 404 permitting agencies separately from wetlands jurisdictional to the California Coastal Commission. To meet the "no net loss" policy, restoration of these permanently impacted wetlands would require establishment of wetlands meeting three-parameter wetland criteria.

Geology and Soils Impact Analyses (page 51) – This section describes substantial erosion and loss of topsoil. Revegetation is cited as reducing the risk of soil erosion or loss of topsoil. However, revegetation would occur (as proposed) the year following ground disturbing activities. Therefore, freshly disturbed soil would be exposed during the wet season directly following construction.

RWB Comment 13): The Regional Water Board recommends further discussion and evaluation regarding how impacts could occur and would be prevented in the first wet season.

Hydrology and Water Quality, Environmental Setting (Baseline), page 63, first paragraph, “The Project site is located entirely within the Big Salmon Creek watershed,”

RWB Comment 14): The document identifies bordering watersheds, but Hydrologic Unit information, beneficial uses, and waterbody impairment status are not identified.

Hydrology and Water Quality, Environmental Setting (Baseline) (page 63), third paragraph states, “Wetlands are present in topographically low areas adjacent to Salmon Creek and within depressions fed by channelized drainages or subsurface seeps along terrace slopes. Smaller earthen ditches that convey run-off are also present along some of the dirt roads within the Project area.”

RWB Comment 15): The Appended NES briefly discusses the types of waters present and provides a wetland map, but the Aquatic Resources Delineation is not available. The aquatic resources delineation needs to be available with this Negative Declaration.

RWB Comment 16): Impacts to aquatic resources are not fully characterized, and the IS/ND refers to the Natural Environment Study (NES) that was not included for detailed information.

Mandatory Findings of Significance - Cumulative Impacts – 21(b) On page 99 the IS/ND states, “*The project does not have impacts that are individually limited but cumulatively considerable. (“Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.*)”

RWB Comment 17): The IS/ND makes no mention of the Salmon Creek Bridge Replacement Project, currently scheduled to start construction in 2030. The document should evaluate the bridge replacement project in the cumulative impact section.

Thank you for providing the opportunity for the Regional Water Board to comment on this draft IS/ND. If you have any questions or comments or would like to discuss these

recommendations, please contact Environmental Scientist, Susan Stewart at (707) 576-2657 or by email at Susan.Stewart@waterboards.ca.gov.

Best regards,

Susan Stewart

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