
San Francisco Bay Regional Water Quality Control Board

March 4, 2025

Sent via electronic mail: No hardcopy to follow

Alameda County Planning Department
ATTN: Michael Flemming, Planner (michael.flemming@acgov.org)
2224 West Winton Ave, Room 111
Hayward, CA 94544

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Draft Initial Study / Mitigated Negative Declaration George Ranch Land Improvements Project*, Alameda County, California
SCH No. 2025020478

Dear Mr. Fleming:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Draft Initial Study / Mitigated Negative Declaration George Ranch Land Improvements Project* (ISMND). The ISMND analyzes the potential environmental impacts associated with implementing the Project, which includes correcting grading violations, removing two existing dwelling units, constructing a single-family dwelling, and constructing an agricultural caretaker unit (ACU). The first component of the project will correct earlier violations necessitating enforcement action from the Water Board and the U.S. Fish and Wildlife Service (USFWS) as a result of grading without a valid grading permit issued through the Alameda County Public Works Agency, Grading Division. The second portion of the Project will remove two existing dwelling units located to the north west of where the new home will be constructed.

Summary. The ISMND uses an outdated version of the CEQA checklist and does not provide specific mitigation measures for the Project's impacts to waters of the State.

Comment 1. The ISMND uses an out-of-date version of the biological impacts CEQA checklist.

The discussion of impacts to Biological Resources in Section IV c) refers to impacts to:

Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

This sentence is out-of-date. CEQA review should assess impacts to waters of the State, which cover more areas than waters subject to the jurisdiction of the Clean Water Act. Along creek channels, waters of the State extend from top of bank to top of bank. Waters of the State also include ephemeral and intermittent creek channels. Any placement of in hardscape within waters of the State should be quantified as an impact that requires mitigation.

Text on page 64 of the ISMND refers to Sections 401 and 404 of the federal Clean Water Act and Section 1600 of the Fish and Wildlife Code. This text should be revised to include the authority of the Water Board pursuant to the Porter-Cologne Water Quality Act.

Comment 2. The ISMND inappropriately defers the identification of mitigation for impacts to waters of the State to the permitting phase of the Project.

Text in Mitigation Measure BIO-11 b) states that:

Prior to the placement of fill into regulated wetlands or drainages, the project sponsor shall obtain permits under Sections 401 and 404 of the Clean Water Act. These permits, administered by the San Francisco Bay Regional Water Quality Control Board (RWQCB) and ACOE, respectively, would identify specific mitigation measures that would be imposed on the project as permit conditions. At a minimum, the project sponsor shall implement Mitigation Measure BIO-10(d) or BIO-10(e).

This statement is incorrect. Applicants are responsible for identifying mitigation measures for impacts to the waters of the State and submitting those mitigation measures to the Water Board for review.

Mitigation Measure BIO-11 b) 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.

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 Wines

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

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