



File: 30747
Guadalupe River

November 22, 2010

Ms. Janis Moore
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

Subject: Bay Trail Reach 9/9B Public Project, Mitigated Negative Declaration
City File PP09-182

Dear Mr. Moore:

The Santa Clara Valley Water District (District) has reviewed the Initial Study (IS) and Mitigated Negative Declaration (MND) for the Bay Trail Reach 9/9B Project received by the District on October 29, 2010.

The proposed project will include improvements on District right of way and flood protection facilities which will require discretionary approval by the District under the District's Water Resources Protection Ordinance and the District to be a Responsible Agency under CEQA.

Based on our review of the project MND and IS we have the following comments:

1. The description of the bridge construction on page 13 should include the compaction grouting noted in the geotechnical report to strengthen the soils at the bridge pier and abutment locations and a discussion of any impacts that may be associated with this work.
2. Figure 3b and page 13 note placement of temporary bridge supports within the low flow channel and notes that the supports would be removed upon completion of the bridge. The MND does not provide any discussion of the type of supports proposed, installation method, or removal method. The preliminary plans dated October 2008 note that temporary pile supports would be installed using vibratory methods. It is unclear how removal of the temporary supports, in particular piles, would be completely removed from the channel and how that would be accomplished without equipment entering the low flow channel. Further discussion, including any associated impacts, regarding the proposed temporary support installation and removal after completion of the bridge needs to be included in the MND.
3. Page 14 notes that the City will obtain a temporary construction access agreement for use of District property. The District will allow temporary access as part of the encroachment permit issued for the project, and no separate agreements will be required.
4. On page 14 under Trail Operations the MND notes that security lighting will be installed under the UPRR bridge and will operate 24 hours a day, though the trail operating hours are sunrise to one hour after sunset. The document should further discuss why the lighting is



- planned for after hours and how this may impact the riparian habitat. In addition the impact discussion on page 27 does not discuss habitat impacts from the lighting within the channel.
5. Page 14 under Trail Operation incorrectly states the UPRR Bridge safety canopy is existing.
 6. Page 16 incorrectly states that a District permit is required for any "project within 50 feet of the top of bank of SCVWD facilities." The permit requirement noted in the MND is from the District's Ordinance 83-2 which was repealed and replaced in 2006 with the Water Resources Protection Ordinance (WRPO). The WRPO requires a permit for any work done on District right of way or on District facilities. In addition to a permit, the project will require a Joint Trails Agreement (JTA) be developed between the City and the District for use of the District's property for the operation of a trail prior to issuance of a District permit. Please revise discussion regarding the District's permitting authority and the requirement for a JTA.
 7. Under "Environmental Consequences" on pages 92 and 93 it is stated that the "project would be constructed on an existing in-channel maintenance road." The existing depressed maintenance road is located upstream of Gold Street. The portion of the trail from the upstream side of the Gold Street bridge to the Bay Trail Reach 7a connection is not located on an existing depressed maintenance road.
 8. Page 93 states that "project design features would minimize runoff into adjacent waterways. For instance, the trail would be generally sloped at a 2 percent grade towards the waterways... and vegetated strips would run adjacent to the outboard side of the trail to collect stormwater runoff to allow percolation into the natural substrate." It is not clear how sloping the trail toward the waterway minimizes runoff to the waterway. In addition the preliminary plans do not include any vegetated buffers on the outboard side of the trail, which for the most part in this reach is located at the toe of the levee. For areas of the trail at the top of the levee there is limited, if any, opportunity for vegetated buffers along the outboard trail edge. Also, in general overbank drainage to waterway is to be avoided.
 9. Page 94 states that the existing levee is surfaced with aggregate base and that "similar paving would be added at the bridge approach ramp on the northern and southern sides of the Alviso Slough and along the maintenance ramp continuing along the toe of the northern levee." According to the preliminary plans provided the trail will be paved with concrete in all areas except the top of levee where asphalt will be used. Please revise the description of the trail paving for consistency with the plans.
 10. Mitigation Measure HYDRO-2b on page 94 notes the project will comply with Provision C.3 of NPDES CAS0299718. The Regional Water Quality Control Board issued a new Municipal Regional Stormwater NPDES permit on October 14, 2009 with an implementation date of December 1, 2011. Depending on the project schedule, it appears that the project may be required to follow the provisions in the new permit. The MND should discuss the new NPDES and its applicability to this project, which may be dependent on the project start date.
 11. The UPRR Bridge safety canopy should be included in the list of project elements that encroaches into the floodplain on page 95 as the supports for the canopy will be located within the channel conveyance area. The discussion should state if the canopy supports were included in the hydraulic analysis and whether debris loading on the supports was considered.

12. Page 96 incorrectly state that the most current FIS for the project area as having an effective of October 26, 2006 and Figures 10a and 10b show the FIRM also dated October 26, 2006. The most current FIS and FIRM for the area have an effective date of May 18, 2009.
13. The impact discussion regarding exposure of people to flooding on page 96 states that Alviso is subject to flooding and "vulnerable to high tides in San Francisco Bay which could result in trail flooding." Mitigation Measure HYDRO-3 does not address trail flooding and protecting people from entering the trail when flooded. The discussion on flooding also does not address the issue of sea level rise.
14. The word "watercourses" should be replaced with "water resources" in the following statement found on page 100 "The SCVWD manages watercourses within Santa Clara County by providing a reliable supply of healthy and clean water" found on page 100.
15. The MND includes as mitigation for habitat impacts, payment into a local mitigation bank or participation in an ongoing restoration project in the local watershed. Based on the discussion in the MND it appears that no specific mitigation banks or projects have been identified for potential mitigation opportunities. The mitigation options noted may not exist locally, so it is unclear if this mitigation measure is feasible and implementable, particularly at the mitigation ratio of 1:1 noted. If local watershed mitigation opportunities are unavailable the costs to mitigate for habitat impacts could be considerable and an obstacle to construction of the project.
16. Some of the descriptions of the surface treatment of the existing maintenance road and proposed trail are unclear. The word "paved" is used to describe the existing unpaved aggregate base maintenance road and then the word "paved" is used to describe the proposed trail that will be primarily paved with concrete with limited areas of asphalt. For examples of this please see pages 5, 6 and 94.
17. It is not clear from the MND whether the proposed work areas are located within the areas inundated during the daily high tides. The MND does not discuss any impacts that may occur when preparing staging areas that may be inundated during high tide or discuss any measures to prevent working in tidally inundated areas. Noting the daily mean high tide elevation in the document text and on Figure 3B would be helpful in visualizing the tidal areas in relation to the proposed work.
18. The MND lacks a discussion of potential impacts from the potential uncovering and release of legacy mercury in Alviso Slough sediments encountered during construction of the bridge piers and trail.
19. The MND does not list related projects including the District's Alviso Slough Restoration Project and the Pond A8 notch constructed as part of the South Bay Salt Ponds Restoration Project. Additional information on the Alviso Slough Restoration Project can be found at the District's website <http://www.valleywater.org/services/AlvisoSlough.aspx>. There may be cumulatively considerable construction-related impacts if the construction period overlaps with the Slough Restoration project. Please note that the District as part of the Alviso Slough Restoration Project is also looking at obtaining rights to APN: 015-03-029 for maintenance access. Also, it is not clear if the revised hydrology resulting from the operation of the Pond A8 notch is considered in the long-term stability of the proposed trail north of the bridge.

Ms. Janis Moore
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Please forward responses to the above comments and the final certified MND when available. Reference District File Number 30747 on further correspondence regarding this project.

If you have any questions or need further information, you can reach me at (408) 265-2607 extension 2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: S. Tippets, C. Haggerty, M. Martin, File

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