Initial Study/Mitigated Negative Declaration
San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project
File No. PP19-073

RESPONSES TO PUBLIC COMMENTS AND TEXT CHANGES

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

October 2021

TABLE OF CONTENTS

Attachments

Attachment A. Comment Letters

CHAPTER 1
Introduction

1.1 Purpose of this Document

This document provides a summary of the environmental review process, a list of persons, organizations, and agencies commenting on the Initial Study for the San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project (Project), responses to comments received during the public review period, and necessary revisions to the Initial Study.

1.1.1 Organization of This Document

The document is organized in five sections as follows:

Chapter 1, *Introduction*, describes the contents and purpose of this document, contents of the document, and the environmental review process.

Chapter 2, *Agencies, Organizations, and Individuals Commenting on the Initial Study*, contains a list of those who submitted comments on the Initial Study during the public review period.

Chapter 3, *Responses to Initial Study Comments*, provides verbatim individual comments from each commenter, followed by a written response

Chapter 4, *Revisions to the Initial Study*, contains a list of changes to the text of the Initial Study. Revisions (new text is underlined; deletions are shown in ~~strikethrough~~) generally update the text to clarify or amend the text in response to public or agency comments.

Copies of original comments (letters and emails) are included in Attachment A to this document.

1.2 Environmental Review Process

As described in Initial Study, Chapter 2, the City of San José (City), as the Lead Agency, prepared an Initial Study for the Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations [CCR] §15000 et. seq.) and the regulations and policies of the City of San José, California.

Publication of the Initial Study marked the beginning of a 30-day public review and comment period. During this period, the Initial Study was made available for review to local, state, and federal agencies and to interested organizations and individuals. Following the conclusion of the public review period, the City will consider the adoption of the Initial Study/Mitigated Negative

Declaration (IS/MND) for the Project at a regularly scheduled meeting. The City shall consider the IS/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with Project approval actions.

1.2.1 Public Review of the Document

The IS/MND for the San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project, dated April 2021, was circulated to affected public agencies and interested parties for a 30-day review period which began on April 14, 2021, and ended on to May 13, 2021.

The City undertook the following actions to inform the agencies and the public of the availability of the Initial Study:

- The Initial Study was provided to the State Clearinghouse on April 14, 2021, with a Notice of Completion, and the Clearinghouse forwarded the Initial Study to various governmental agencies; and
- Copies of the Initial Study were made available on the City's website and hard copies were made available upon request.

During the public comment period on the Initial Study, the Department of Building, Planning and Code Enforcement received 3 comment letters or emails, each of which is included in Attachment A to this document. Individual comments in each of these letters and emails are responded to in this document.

This page intentionally left blank

CHAPTER 2

Agencies, Organizations, and Individuals Commenting on the Initial Study

The Initial Study for the San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project, dated April 2021, was posted to the City's website, and a Notice of Intent (NOI) was circulated to affected public agencies and interested parties for the 30-day review period from April 14, 2021 through May 13, 2021. In accordance with CEQA Guidelines Section 15073, **Table 2-1** lists the agencies, organizations, and individuals who provided comments on the Initial Study during the public review period, and it provides the letter code that is used to identify each comment letter (or email).[1]

TABLE 2-1
COMMENTERS ON THE INITIAL STUDY

Letter Code	Commenter	Letter Date
Regional and Local Agencies		
SCC Parks	County of Santa Clara Parks and Recreation Department	5/11/21
Organizations and Individuals		
CCCR/ SCVA	Citizens Committee to Complete the Refuge and the Santa Clara Valley Audubon Society	5/13/21
KKLLC	Kanyon Konsulting, LLC	4/16/21

[1] Each comment letter has been assigned a letter code based on the name of the commenter or the agency/organization's acronym. For example, the code for first comment letter from the County of Santa Clara Parks and Recreation Department is "SCC Parks".

CHAPTER 3
Responses to Initial Study Comments

3.1 Introduction

This document includes verbatim written responses to comments received by the City of San José on the Initial Study. All comments are organized under headings containing the source of the comment letter (or email) and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following, including cross references to the master responses where applicable. Each comment letter has been assigned a letter code based on the name of the commenter or the agency or organization's acronym. Individual comments within each letter have been assigned an alphanumeric comment identification code based on the letter code and comment number; for example, the first comment in the letter from the County of Santa Clara Parks and Recreation Department is "SCC Parks-1. Copies of the letters and emails received by the City of San José are included in their entirety in Attachment A to this document.

Where revisions to the Initial Study are made in response to a comment, those revisions are provided in the response and are also compiled in Chapter 4, *Revisions to the Initial Study*, of this document.

3.2 Comments and Responses

3.3.1 Regional and Local Agencies

SCC Parks County of Santa Clara Parks and Recreation Department

Comment SCC Parks-1

The County of Santa Clara Parks and Recreation Department (County Parks Department) is submitting the following comments on the Draft Mitigated Negative Declaration: San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project (Project).

In regard to the Project, the County Parks Department's review is primarily focused on potential impacts related to the Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan), an element of the County General Plan (adopted by the Board of Supervisors on November 14, 1995), relative to countywide trail routes, public access and regional parks. There are two Countywide Trails Plan trail routes in the vicinity of the Project:

Juan Bautista de Anza National Historic Trail (R1-B)- a hiking and off-road bicycle route. This trail connects Nogales, AZ to the San Francisco Bay Area.

San Francisco Bay Trail (R4)- a hiking and off-road bicycle route. This trail provides a regional connection along the San Francisco Bay shoreline.

The City of San Jose has also identified these proposed Countywide Trails Plan trail routes in various documents, including the "*Highway 237 Bikeway Trail Feasibility Study and San Francisco Bay Trail Alignment Confirmation*" (March 2020). This Feasibility Study shows the revised location of proposed routes in the Project vicinity that coincide with the Countywide Trails Plan routes referenced above. These segments are located along Grand Boulevard, Los Esteros Road, the eastern boundary of the San Francisco Bay National Wildlife Refuge Educational Center (near the Marsh View Trail) and the levee on the northern boundary of the Project.

The Mitigated Negative Declaration should describe these Countywide Trails Plan routes and evaluate the potential impacts to these routes as a result of the Project. We also recommend that the City of San Jose consider any opportunities provided by the Project to further the regional public access envisioned as part of the Countywide Trails Plan routes in this area.

Response SCC Parks-1

Consistent with CEQA, the IS/MND evaluates the effects of implementing the Project compared to the existing environment. The IS/MND describes the existing trails, which include the Mallard Slough Trail, the New Chicago Marsh Trail, and the Marsh View Trail, and which are the primary publicly accessible locations from which the Project area could potentially be seen in Section 2.2.1, Aesthetics, and Section 2.2.16, Recreation. These trails are also shown on Figure 1-2 of the IS/MND.

The IS/MND evaluates the potential for the Project to affect these existing trails in Section 2.2.1, Aesthetics, and Section 2.2.16, Recreation. As described in the IS/MND Section 2.2.1, under criterion c), recreationists using the nearby recreational trails may see the construction equipment on the project site during the construction period. However, these views would be temporary in nature and limited to the six month-long construction period. In addition, views of the bridge from the trails are partially obstructed by vegetation and an existing chain-link fence; tall metallic electrical towers, which are similar to the bridge's architectural makeup, are part of the existing environment and view of the outfall bridge from the trails. The new bridge would be consistent with the infrastructure and the existing visual character of the site as part of the water treatment facility and surrounding partially developed landscape. Therefore, the Project would not degrade the existing visual character or quality of public views of the site and its surroundings. As described in the IS/MND Section 2.2.16, under criterion a), the Project would not permanently affect any existing recreational uses of nearby features and would only temporarily and minimally be noticeable by recreational users of the facilities west of the outfall channel. The Project would not result in new housing developments or other activities that would increase use, alter usage patterns, or increase demand for existing recreational facilities, thereby causing increased or accelerated physical deterioration of recreation related facilities.

The nearest portion of the certified Juan Bautista de Anza National Historic Trail to the Project site is located approximately 1.1 miles west. The Project site would not be visible from this trail due to existing topography (i.e., levees and berms) and vegetation. The portion of the existing San Francisco Bay Trail closest to the Project site follows the same route as the Marsh View Trail. The Marsh View Trail was discussed in the IS/MND sections 2.2.1 and 2.2.16. The nearest future proposed Countywide Trails Plan trail routes to the Project site would be the along the planned levee on the northern boundary of the Project.[2] Recreational users of this future trail may see the construction equipment during the construction period. However, the new bridge would be consistent with the infrastructure and the existing visual character of the site as part of the wastewater treatment facility and surrounding partially developed landscape, and views of the bridge from the future trail would be partially obstructed by vegetation and an existing chain-link fence. The discussion regarding the proposed future trail has been added to the Initial Study. The revised text is included in *Chapter 4, Revisions to the Initial Study* of this document. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

3.3.2 Organizations and Individuals

Citizens Committee to Complete the Refuge and the Santa Clara Valley Audubon Society

Comment CCCR/SCVA-1

> For some two and a half years both the Citizens Committee and SCVAS participated in the Community Advisory Group for the San Jose-Santa Clara Regional Wastewater Facility Master Plan, an exposure on which we draw when considering this project. We recognize that the Project is an action that is essential and critical to the operations of the RWF in service to residents, businesses and institutions in eight cities as well as certain unincorporated areas of Santa Clara County.
>
> PRIMARY CONCERNS:
>
> The DMND neglects to consider the Don Edwards National Wildlife Refuge. Seven days a week, year-round, the Refuge's Environmental Education Center staff prepares and presents environmental education and interpretation programs to the public. We are concerned with the failure to identify and evaluate significant construction impacts of noise and airborne particulates on Refuge programs and staff. *The DMND should discuss the Refuge programs and how the participating public and staff working in offices may be impacted.*

Response CCCR/SCVA-1

The following response summarizes the Project-related air quality (airborne particulates) and noise effects described in the IS/MND with regard to the employees and visitors at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center.

[2] Bay Trail | Trail Systems | City of San Jose (sanjoseca.gov)

As discussed in the IS/MND Section 2.2.3, Air Quality, the average daily construction exhaust emissions would not exceed the Bay Area Air Quality Management District (BAAQMD)'s significance thresholds. As shown in Table 2-1, respirable particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5}$) emissions associated with construction of the Project would be less than one pound per day each. At these emission levels, short-term construction activities extending over a duration of 6 months would not lead to a new significant increase in health risk from exposure to diesel particulate matter (DPM). According to the California Air Resources Board (CARB), sensitive receptors are children, elderly, asthmatics and others who are at a heightened risk of negative health outcomes due to exposure to air pollution. The locations where these sensitive receptors regularly congregate are considered sensitive receptor locations. Sensitive receptor locations include hospitals, schools, and day care centers, and such other locations as the air district board or CARB may determine (California Health and Safety Code § 42705.5(a)(5)). The Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center hosts field trip programs for schools, and scout and youth groups. Most programs are approximately 2 hours long[3] , so any exposure to air pollution from the Project's construction activities will be limited to at most a day (8 hours). According to California Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments (HRAs), which determine the lifetime exposure of sensitive receptors to toxic air contaminant emissions such as DPM, should be based on a 30-year exposure period when assessing toxic air contaminant that have cancer or chronic non-cancer health effects. The exposure duration for the students at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center is a very small fraction of this 30-year exposure duration. Employees at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center are not currently subject to extended exposure durations like residential receptors experience, nor would they be during Project construction, which is expected to last six months.

As described in the IS/MND Section 2.2.3 under criterion b), emissions of fugitive dust would also be generated by construction activities associated with grading and earth disturbance, travel on paved and unpaved roads, etc. For all projects, the BAAQMD recommends the implementation of its Basic Construction Mitigation Measures, to reduce fugitive dust impacts. These are included as Mitigation Measure AIR-1: BAAQMD Basic Construction Mitigation Measures in the IS/MND Section 2.2.3. This measure requires the Project to post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints.

As discussed in Section 2.2.13 of the IS/MND, the City of San José General Plan has policies that establish the thresholds to be used in the determination of the significance of environmental impacts related to noise and vibration. The General Plan's Noise Element includes land use compatibility guidelines which state that the City's normally acceptable exterior noise level is 60 A-weighted decibels (dBA) day-night noise level (DNL) or less for most institutional land uses. Pursuant to Policy EC-1.7 in City of San José General Plan and Municipal Code Section 20.100.450, the City considers construction noise impacts to be significant if a project is located within 500 feet of residential uses or 200 feet of commercial or office uses. The Don

[3] https://www.fws.gov/refuge/Don_Edwards_San_Francisco_Bay/Environmental_Education.html

Edwards San Francisco Bay National Wildlife Refuge (Refuge) Environmental Education Center is located approximately 500 feet west of the Project site. In addition, the City's normally acceptable exterior noise standard for institutional land uses is 60 dBA and 65 dBA for outdoor recreation areas.[4] The drill rig that would be operated at the Project site during construction would generate the highest noise levels of any piece of equipment: 85 dBA, Lmax[5] at 50 feet. At 500 feet, this would attenuate to an exterior noise level of 53 dBA, Leq[6] at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center, which would be below the City's noise standards.

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-2

> In addition, we are concerned with a significant deficiency of analysis and inadequate mitigation of potentially significant and irreversible impacts related to the installation of permanent flood lights at the Bridge and an increase in ambient lighting. Neither the lighting change proposed nor lighting options have been analyzed with respect to impact avoidance on the very sensitive ecological function of Artesian Slough and surrounding environs. Without additional avoidance and mitigation measures, the change to LED floodlights can be expected to increase adverse impacts of Artificial Light At Night. Without proper avoidance and mitigation measures, the impacts will remain significant and unavoidable, and an Environmental Impact Report is needed.

Response CCCR/SCVA-2

Existing lighting for the bridge is currently provided by a single light post mounted on the concrete eastside abutment. There are also four floodlights attached near the roofline of the SO_2 building and a light mounted on a post on the concrete eastside abutment. These lights operate continuously. Proposed new lighting at the bridge will consist of two lights mounted on 20-foot-tall posts on the levee on either side of the existing bridge. The new lights would be on all the time during night hours to provide safe operator access to the bridge. A light mounted on a 20-foot-tall post would also be provided at the Daylight Station with motion detectors in addition to manual switches. There would also be lights underneath the shade cover over the electrical panels; these would be on a manual switch and only operated if access is needed to the electrical panel at night. A revised and expanded description of the proposed lighting at the bridge, as well as information on existing lighting at the bridge, has been supplemented in the IS/MND Chapter 2. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document.

As discussed in the IS/MND Section 2.2.4, Biological Resources, the Project would be required to comply with the San José Riparian Corridor Protection and Bird-Safe Design Policy (Policy 6-34). As described in the IS/MND Section 2.2.4 under criterion e), the new LED floodlights would

[4] City of San José, 2011. Envision San José 2040 General Plan, November 2011.

[5] The instantaneous maximum noise level measured during the measurement period of interest.

[6] The equivalent sound level is used to describe noise over a specified period of time, in terms of a single numerical value.

avoid or minimize up-lighting or spotlights and would be designed such that the lights minimize light spillage toward the sky and adjacent wildlife habitat while providing adequate lighting for workers to safely approach and work from the outfall bridge at night. The new light fixtures would be oriented away from Artesian Slough and would shine onto the bridge and the east and west levees south of the bridge, to provide a safe approach for staff. The existing light fixture on the east abutment of the outfall bridge (which will be removed as part of the Project) and the existing floodlights on the north, west and south sides of the SO_2 building (which will remain as part of the Project), which shine over the channel, currently operate from dusk until dawn and are not shielded. Pole-mounted light fixtures currently illuminate the Refuge parking lot directly west of the outfall bridge. The analysis in Section 2.2.4 of the IS/MND foun that the increase in lighting levels from the two new light fixtures on the east and west abutments of the outfall bridge would not significantly impact the behavior of birds migrating at night or nocturnal wildlife moving in the vicinity of the bridge compared to existing lighting because the new fixtures will be enclosed in a solid black fixture (i.e., shielded) and will direct light at the work area (i.e., bridge and levees), limiting the potential for light spillage into the sky or adjacent tidal marsh habitat.

With regard to the effects of light on people, because there are no residences or other active nighttime uses in the immediate vicinity of the Project, there would be no lighting or glare-related impacts from construction or on-going Project operations that would adversely affect daytime or nighttime views in the area. Consequently, impacts would be less than significant and no mitigation is required.

Regarding the commenter's concerns about lighting effects on species, the analysis in the Section 2.2.4, *Biological Resources*, has been revised and expanded. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document.

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-3

> Biological Memo Section 1.1 methods
> Please include in the Biological Database the number of migratory bird species that can be found in the vicinity, based on eBird reports for the Don Edwards NWR--Env. Ed. Ctr. (EEC)[1] and nearby upland areas and iNaturalist[2] records. Please list migratory bird and insect species in the document, since migratory bird and insect species could potentially be harmed by the project.
>
> 1 eBird; Don Edwards NWR Env.Ed.Ctr. (EEC) and nearby upland areas; citizen science bird sighting data: https://ebird.org/hotspot/L7797854
>
> 2 iNaturalist; Don Edwards San Francisco Bay National Wildlife Refuge, Alviso, CA, USA; citizen science data: https://www.inaturalist.org/places/don-edwards-san-francisco-bay-national-wildlife-refuge

Response CCCR/SCVA-3

The IS/MND Section 2.2.4, Biological Resources, is based on the Biological Technical Memorandum (IS/MND Appendix B) that was prepared for the Project. As discussed in the

IS/MND Section 2.2.4, a list of special-status plant and animal species that could occur in the study area was compiled based on results of the following data: (1) available biological resource surveys and relevant biological literature of the Project site and surrounding vicinity; (2) special-status species lists derived from the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and the California Native Plant Society (CNPS); and (3) a field reconnaissance survey of the Project site conducted on August 14, 2019 to record current conditions. Detailed descriptions of each special-status species and their potential to occur in the study area are included in Table 1 of the Biological Technical Memorandum (IS/MND Appendix B) and Table 2-4 in the IS/MND. No special-status insects were included on the list and none are believed to be potentially harmed by the project, (e.g., there is no roosting habitat for overwintering monarch butterflies present in the vicinity of the Project).

As discussed in the IS/MND Section 2.2.4, the Fish and Game Code Sections 3503 and 3503.5, and the Migratory Bird Treaty Act protect raptors and passerines and their eggs and nests from incidental "take". These protections apply to special-status birds identified in Table 2-4 of the IS/MND and other resident or migratory birds that may occur. As discussed in the IS/MND Section 2.2.4, under criterion a), the Project could have a substantial adverse direct or indirect impacts on special-status wildlife species that are known to occur or have a moderate or high potential to occur in the Project study area. Mitigation measures would reduce or eliminate those impacts, including the following:

- Mitigation Measure BIO-1: General Construction Measures, which provides broad protection measures for sensitive resources within and adjacent to the Project site, including birds protected by the Migratory Bird Treaty Act.

- Mitigation Measure BIO-4: Special-status Bird Species Protection Measures, which requires avoidance of construction-related work during the nesting bird season. If avoidance of the nesting season is not possible, then pre-construction nesting bird surveys and establishment of no-construction buffer zones around active bird nests would avoid or minimize the potential for this impact to occur. This mitigation measure would apply all nesting birds whether special-status or not, so long as they are protected by the Migratory Bird Treaty Act.

- Mitigation Measure BIO-5: Western Burrowing Owl Protection Measures, which would avoid disturbance to western burrowing owl and any occupied burrows, stopping work and conducting a survey if western burrowing owls are encountered during construction, and providing a protective avoidance buffer if surveys determine presence of western burrowing owl within 250 feet of the project area.

Ebird currently lists 206 bird species observed at the Don Edwards National Wildlife Refuge Environmental Education Center hotspot. Similarly, iNaturalist lists 151 confirmed bird species observations at Don Edwards San Francisco Bay National Wildlife Refuge in Alviso. The addition of information on these species to the IS/MND would not change the analysis of impacts to nesting birds. The vast majority of the species reported on the eBird and iNaturalist lists above are protected by the Migratory Bird Treaty Act, and impacts to these species would be avoided and mitigated through implementation of Mitigation Measure BIO-4: Special-status Bird Species

Protection Measures. With implementation of the three mitigation measures listed above, impacts to birds protected by the Migratory Bird Treaty Act would be less than significant.

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-4

Biological Memo Section 2.1 Environmental Setting

Please describe the setting as it relates to the wildlife, activities and operations of Don Edwards National Wildlife Refuge, including the wetlands as well as facilities and the interpretive center.

The sensitive location of the outfall bridge cannot be understated. The neighboring land and wetlands form the largest urban National Wildlife Refuge in the country, a destination for birds on the Pacific Flyway, eco-tourists from anywhere and local residents. The outfall bridge is separated from Mallard Slough only by a levee. Just downstream from the project, the flows of both channels mix at the point opposite the Refuge's floating dock.

Waterways like Artesian Slough are preferred by wildlife as corridors for migration or foraging, movement hidden from potential predators. Any added illumination will further reduce wildlife safety and movement, a fact that is recognized in the City of San Jose's Riparian Policy (DMND, pp.2-45,2-46). We can expect a wide range of biological and behavioral impacts to result from the change in lighting.

Response CCCR/SCVA-4

Section 2.1 of the Biological Technical Memorandum (IS/MND Appendix B) describes the regional setting, including the San Francisco Estuary, which includes the Don Edwards National Wildlife Refuge. The local setting included in Section 2.1 of the Biological Technical Memorandum describes the biological resources setting specific to the Project location. The Project study area, which encompasses all of the individual Project components listed above plus a buffer, is approximately 25 acres, as show in Figure 1-4 of the IS/MND. The vegetation communities and sensitive biological resources within the study area, including wetlands, are described in the IS/MND Section 2.2.4.

As discussed in the IS/MND Section 2.2.4 under criterion d), during Project construction, birds will continue to fly over or around the Project area due to the small size of the project impact area relative to the open space surrounding it. As described in Response CCCR/SCVA-2, the new light fixtures are designed to minimize light spillage into the sky and adjacent terrestrial wildlife habitats. The new light fixtures would be oriented away from Artesian Slough and would shine onto the bridge and the east and west levees south of the bridge, to provide a safe approach for staff. The narrow bands of tidal marsh in Artesian Slough present a low-quality habitat for nocturnal animals such as the salt marsh harvest mouse and salt marsh wandering shrew due to its fragmented nature and lack of connectivity to high quality tidal marsh habitat, and these species would likely use on a transient basis, if at all. The nearest high quality marsh habitat likely to

provide primary habitat for salt marsh harvest mouse and salt marsh wandering shrew is east of the SO_2 building. This marsh is separated from Artesian Slough by upland habitat between the SO_2 Building and east bridge abutment, areas that are currently illuminated from dusk until dawn by the existing lighting; therefore, the new lighting is unlikely to affect the animals' current behavior. In addition, the new light fixtures on the east and west abutments will be shielded and directed at the outfall bridge and levees south of the outfall bridge, away from Artesian Slough. The narrow bands of tidal marsh in Mallard Slough also provide marginal habitat for salt marsh harvest mouse and salt marsh wandering shrew and the new light fixture on the west abutment of the outfall bridge will be directed away from the slough. Because of the low likelihood that salt marsh harvest mouse and salt marsh wandering shrew are present in Mallard Slough, and the because the new light fixture on the west abutment will be shielded and directed at the bridge and levee, the new lighting is not expected to significantly impact these species. Salt marsh harvest mouse and salt marsh wandering shrew may be present in the marsh approximately 120 feet east of the outfall bridge's east abutment. The new light fixture at the east abutment will include a shield; its light will be directed at the levee access to the bridge and the bridge itself. The SO_2 building will block direct light from this fixture reaching , the east marsh, resulting in minimal light spillage at the edge of the marsh. The edge of the east marsh is already subject to light spillage from the existing fixtures on the outfall bridge's east abutment and the SO_2 building; therefore, nocturnal wildlife likely already avoids the western edge of the east marsh. In addition, Project construction is expected to last a relatively short duration of 6 months. Therefore, the Project would not substantially interfere with the movement of any resident nocturnal species.

On July 23, 2021, Catherine Borrowman from City's Environmental Services Department, as well as biologists from the City's CEQA consultant, met with the USFWS to discuss the proposed new lighting and USFWS requested that the project description include additional details regarding the proposed lighting and a description of pre-existing lighting,[7] which in part is being incorporated into IS/MND Chapter 2. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. On August 10, 2021, Catherine Borrowman from City's Environmental Services Department, as well as a wildlife biologist from the CEQA consultant met with Chris Barr, Deputy Director for the San Francisco Bay National Wildlife Refuge Complex, and Matt Brown, Refuge Manager for the Refuge to discuss the lighting for the Project. Refuge staff agreed that the proposed lighting would have little to no impact on wildlife that use the Refuge since the proposed new lighting would be directed away from Artesian Slough. [8]

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-5

> The project description provides, "lighting for the bridge is currently provided by a single light post mounted on the concrete eastside abutment" and "the single remaining light is

[7] Minutes from July 23, 2021 meeting with USFWS, City staff and CEQA consultant. Available upon request from the City of San José.

[8] Minutes from August 10, 2021 meeting with Refuge staff, City staff and CEQA consultant. Available upon request from the City of San José.

insufficient for the intended purpose of providing a safe environment for Facility staff during nighttime operations. Water quality measurements for dissolved oxygen (DO) and pH are regularly recorded from this location." This description is inadequate and should provide detail on the existing lighting as well as the timing of staff activities at the site.

Response CCCR/SCVA-5

As indicated in Response CCCR/SCVA-2, supplemental information has been provided regarding existing lighting at the outfall bridge; inclusion of the supplemental text did not materially alter conclusions presented in the Draft IS/MND regarding impact significance. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-6

Added LED floodlights have the potential of permanently changing the site and may cause great harm to biological resources and the environment. The DMND description of the LED floodlights to be installed on the bridge is superficial and the analysis is inadequate throughout the document. On page 1-19, it describes the lights as "four pole mounted fixtures on the bridge" that would be on during all night hours "to provide safe operator access." The only implied mitigation is: "Lighting would be designed to minimize glare outside the work area." Similar description occurs elsewhere in the DMND. On p. 2-45 it adds: "New permanent lighting would be brighter than existing conditions to adequately accommodate Facility staff."

Response CCCR/SCVA-6

Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-7

The DMND leaves many questions outstanding, some but not all of them listed here:

- What kind of safety hazards are faced by RWF staff at the bridge location?
- What work tasks at the bridge require light?
- What is the usual duration of time needed to complete task at the bridge at night?
- How frequently does Facility staff visit the bridge? Daily? Weekly?
- How long does it take to complete tasks performed at night at the bridge?
- Why can't lights be turned on and off each time staff works at the bridge?

Response CCCR/SCVA-7

This comment requests additional detail regarding the project operations. Operational information in the Draft IS/MND has been supplemented. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. This revised text does not result in new CEQA analysis, new

significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-8

- What is the difference in illumination from the existing condition and illumination that would be provided by the proposed lights?

Response CCCR/SCVA-8

The description of existing and new lighting at the bridge in the Draft IS/MND has been updated. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. Please refer to Response CCCR/SCVA-2 above regarding operational lighting associated with the Project. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-9

- How tall are the posts on which the lights are mounted? Will they include adaptation to keep avian predators from using them?
- Must they be floodlights i.e. having a wide beam of light? Could they be fixed spotlights?

Response CCCR/SCVA-9

The description for the new lighting presented in the Draft IS/MND has been supplemented with more information (e.g., lighting type, brightness, spectrum). The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. The type of light was specifically selected because of the width of its light beam, which will allow illumination of the levee access and the bridge. Fixed spotlights would not provide the type of light that is needed for the safety of the Facility staff. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-10

- Is permanent lighting required? Could staff carry mobile lights e.g. lights on helmets?

Response CCCR/SCVA-10

The operations associated with the Project are described in IS/MND Section 1.6. The new lighting for the bridge is described in the IS/MND Section 1.4.1. The description for the new lighting presented in the Draft IS/MND has been supplemented with more information (e.g., lighting type, brightness, spectrum). The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. Permanent lighting is required to allow Facility staff to safely visually inspect the area around the bridge prior to exiting their vehicle, to access the bridge and the surrounding area at all times, and to carry out their responsibilities to maintain instruments,

take measurements or read the water level gauge from the bridge. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-11

- What wavelength, spectrum and brightness will be used?
- What is the correlated color temperature of the proposed lighting?

Response CCCR/SCVA-11

This comment requests additional detail regarding the lighting on the new bridge. The description of the new lighting for the bridge presented in the Draft IS/MND has been supplemented with more information (e.g., lighting type, brightness, spectrum). The revised text is included in Chapter 4 of this document, *Revisions to the Initial Study*. Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-12

> When the Zanker MRF was expanded, the City of San Jose required that it build berms tall enough to shield the same wild wetlands from lights needed by the operation's night crew.[3] That action provided avoidance of impacts to wildlife.
> It also helped preserve "Night Skies" public programs held at the EEC. The Project should similarly implement strong avoidance and mitigation measures for lighting.
> 3 City of San Jose, PDC06-120; First Amendment to the Draft Environmental Impact Report, Zanker Materials Recycling Facility, p.8; January 2008

Response CCCR/SCVA-12

Please refer to Response CCCR/SCVA-2 above, which indicates that lighting at the bridge would be shielded and directed downward. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-13

> The evidence that Artificial Light At Night (ALAN) causes pervasive harm to our health, our ecosystems and our planet is overwhelming. A recent scientific publication in the journal Frontiers in Neuroscience, titled "Exposure to Artificial Light at Night and the Consequences for Flora, Fauna, and Ecosystems"[4] shows the devastating impacts to all living things. All taxa, with no exception. Fish, mammals (including endangered rodents), reptiles, birds, amphibians, insects. All animals respond to light.
> 4 J.Falcon et al; Exposure to Artificial Light at night and the Consequences for Flora, Fauna and Ecosystems; frontiers in Neuroscience, November 16, 2020: https://www.frontiersin.org/articles/10.3389/fnins.2020.602796/full#h1

Last year more than 950 people took part in an online workshop[5] titled "Dark and Quiet Skies for Science and Society." The workshop explained the science-based need to eliminate excessive night lighting and noise pollution. A report[6] compiled by over 80 scientific experts was published earlier this year. Its Bio Environment chapter covers impacts to a wide range of taxa and makes recommendations for outdoor lighting in all areas and particularly in protected dark sky locations. In addition, the International Dark Sky Association adopted a new resolution[7] this year focused on Principles for Responsible Outdoor Lighting

The recommendations produced should apply to any project adjacent to water features, open space and other biological habitat. This is a summary of recommendations relevant here.

- Sensitive environments should be kept dark and regions surrounding these sites should only make use of lighting that emits no light at wavelengths shorter than 520 nanometers.
- The correlated color temperature of lighting used in most outdoor applications should not exceed 2200 Kelvin, and where light with a larger fractional emission of short wavelengths is desired, it should be carefully controlled through stringent application of the other Lighting Principles, such as lower intensity, careful targeting, and reduced operation time.
- Over-lighting relative to task-oriented needs should be prevented by maintaining illuminances as close as possible to minimum levels.
- All outdoor lighting should be actively controlled through means such as dimmers and motionsensing switches so as to reduce illuminances or extinguish lighting altogether when light is not needed.

Specific to this Project, we suggest:

- Avoid work at night to eliminate the need for lighting
- Use headlamps to avoid lighting installations if lighting cannot be eliminated.
- Restrict the time of night work and use timers to restrict lighting to those work hours.
- Avoid permanent lighting. Use technology (a switch?) to allow light to be triggered only when work is conducted on site and only for the duration that light is needed for the work to be completed.
- Do not use floodlights. Use dim lighting (potentially in combination with headlamps) to provide lighting adequate for the work.
- The correlated color temperature of lighting should not exceed 2200 Kelvin.

5 Online workshop organized by the United Nations Office of Outer Space Affairs (UNDOSA)and the Intenational Astronautical Federation; Hosted at the Instituto de Astrofisica de Canarias; Support from the National Science Foundation's NOIRLab

6 Scientific and Technical Subcommittee, Committee on Peaceful Uses of Outer Space, Recommendations to Keep Dark and Quiet Skies for Science and Society; April 2021: https://www.iau.org/static/publications/uncopuos-stsccrp-8jan2021.pdf

7 A Values-Centered Approach to Nighttime Conservation; International Dark-Sky Association; March 23, 2021: https://www.darksky.org/values-centered-lighting-resolution/

Response CCCR/SCVA-13

Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. As indicated in Response CCCR/SCVA-10, permanent lighting is required to allow Facility staff to safely carry out their responsibilities. The suggestions in this comment are either not possible (e.g., avoiding or restricting night work; the Facility provides essential public health and environmental protection and must operate 24 hours per day, seven days per week),

would create unsafe working conditions (e.g., reliance on headlamps instead of using lighting installations; avoiding permanent lighting or using dim lighting), or are not warranted to reduce a significant impact identified in the IS/MND. Where feasible, the Project is following best practices for outdoor lighting to be protective of wildlife habitat and dark skies. These practices include using the minimum amount of light needed to safely conduct work at the outfall bridge, targeting the light to the work area and access routes, and reducing light spillage and glare outside of the work area by using shields and directing lighting downward. The operational information associated with the Project, including the description of the new lighting for the bridge, has been supplemented with more information (e.g., lighting type, brightness, spectrum) in the IS/MND Chapter 2. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-14

> In the Initial Study, Section 2.2.4 finds no biological impacts that cannot be mitigated to less than significant level. We provided scientific information that shows that the impact of lighting cannot be mitigated to that degree. Based on substantial scientific evidence, we maintain that there remains a significant unavoidable impact of Artificial Light At Night on all species including endangered species.

Response CCCR/SCVA-14

The commenter references several studies (listed above in Comment CCCR/SCVA-13) that indicate that light pollution is documented to have adverse impacts for a range of wildlife and habitats and includes recommendations for best practices to minimize light pollution. The IS/MND (Section 2.2.4, *Biological Resources)* acknowledges that the new lighting would be brighter than the existing lighting; however, implemented in the manner described, the new lighting is not expected to significantly impact the behavior of biological species compared to existing lighting in the SO_2 building area. Response CCCR/SCVA-13 describes the best practices that are being implemented by the project to minimize the impacts of night lighting. Please also refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. On August 10, 2021, Catherine Borrowman from City's Environmental Services Department, as well as a wildlife biologist with the City's CEQA consultant, met with Chris Barr, Deputy Director for the San Francisco Bay National Wildlife Refuge Complex, and Matt Brown, Refuge Manager for the Don Edwards National Wildlife Refuge to discuss the lighting for the proposed Project. Refuge staff indicated that the proposed lighting would have little to no impact on wildlife that use the Refuge since the proposed new lighting would be directed away from Artesian Slough.[9]

Regarding the commenter's concerns about lighting effects on species, the analysis in the Section 2.2.4, *Biological Resources*, has been revised and expanded. The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. This comment does not result in new

[9] Minutes from August 10, 2021 meeting with Refuge staff, City staff and CEQA consultant. Available upon request from the City of San José.

CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-15

> We are especially concerned with the analysis in Appendix B, Biological Resources (pp. 10-11) regarding the Federally Endangered salt marsh harvest mouse (SMHM). The DMND suggests it is unlikely that the mouse would migrate between the small but suitable marsh near the Daylight Station to or from the Refuge's New Chicago Marsh, citing barriers like a road. However, the Appendix's vegetation analysis and map places pickleweed marsh along almost all of the eastern slope of the A18 levee to a point across from New Chicago Marsh. For a small, nocturnal, endangered species, the permanent floodlights may curtail that habitat connectivity and migration and dispersal routes. For this species, seeing the light is a deterrent in itself. Flood lighting at the site should be considered a significant unavoidable impact.

Response CCCR/SCVA-15

The description of the new lighting at the bridge presented in the Draft IS/MND has been supplemented with more information (e.g., lighting type, brightness, spectrum). The revised text is included in Chapter 4, *Revisions to the Initial Study* of this document. Please refer to Response CCCR/SCVA-4 above regarding wildlife movement corridors. Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-16

> ANALYSIS OF IMPACTS ON REFUGE PROGRAMS, STAFF OFFICES AND OTHER USE OF THE EEC: The DMND includes the following statements:
>
> > Section 2.2.1, Aesthetics, p. 2-3: "The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) Environmental Education Center is located approximately 500 feet west of the Project site."
> >
> > Section 2.2.3 Air Quality, p.2-14: "The nearest off-site sensitive receptors are located approximately 3,400 feet from the Project site."
> >
> > Section 2.2.13, Noise, p. 2-98: "There are no noise sensitive receptors (e.g., residences, schools) in the immediate vicinity of the Project area."
>
> Given that the EEC is within 500' of the Project and on weekdays it provides indoor/outdoor programs, offices for staff and hosts other Refuge activities, it is a sensitive location during construction. That same sensitivity will also impact drop-in visitors that arrive daily for outdoor exploration.
>
> EEC Activity: Data from the Refuge's Visitors Services records[8] for calendar year 2019 is informative: 3,240 elementary, middle, high school and college students were present on 88

weekdays for indoor and outdoor lab, presentation, field and tour education. In elementary school programs, students are usually present at the EEC for most of their school day.

On other weekdays throughout the year the facility is a site for train-the-teacher programs, working offices for planning and preparation of programs, meeting site with peer agencies, and used for other Refuge management purposes. Outdoors, weekdays include volunteers working on habitat restoration and management. Every day of the year members of the public drop by this site to explore, exercise and enjoy.

Regarding noise the DMND states: "Based on the construction equipment likely to be used for the Project, operation of the drill rig would generate the highest noise. Drill rigs can generate noise levels of up to 85 dBA at 50 feet (FHWA, 2006)…" The DMND needs to analyze the dBA at 500' inside and outside the EEC including New Chicago Marsh where students participate in field work.

The DMND must be revised to analyze impacts to EEC Programs and staff and to implement measures that may minimize damaging effects. This analysis needs to include discussions with Refuge management. Contact Chris Barr (chris_barr@fws.gov), Acting Manager of the San Francisco Bay National Wildlife Refuge Complex.

Suggestions of potential mitigation, subject to discussions with Refuge staff include: Coordinate construction schedules with the EEC calendar of events. Avoid impacts to educational programs. Provide coordination for staff so they might schedule work from home/elsewhere on the worst days. Provide signage to the Refuge notifying incoming drop-in visitors about days when drilling is scheduled. Establish a dedicated communication method to provide alerts or for the Refuge to report problems.

8 Don Edwards San Francisco Bay Visitor Services monthly reporting (2019) for the Refuge Annual Performance Plan

Response CCCR/SCVA-16

This comment indicates that the Draft MND should be revised to analyze impacts to environmental education programs and staff at the Don Edwards National Wildlife Refuge and reprises several previous comments in this letter.

Please refer to Response CCCR/SCVA-1 above regarding air quality and noise exposure during construction.

As discussed in the IS/MND Section 2.2.1, Aesthetics, the Project site could be visible to visitors at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center. However, views of the bridge are partially obstructed by vegetation and an existing chain-link fence; tall metal electrical towers, which are similar to the bridge's architectural makeup are part of the existing environment and views of the outfall bridge from the trails. The new bridge would be consistent with the infrastructure and the existing visual character of the site, which is part of the wastewater treatment facility and surrounding partially developed landscape. The existing views of the adjacent landfill's heavy equipment would persist. The existing bridge is proposed to be replaced by a similarly-sized pedestrian bridge and would be consistent with the existing visual character of the site which is a part of the wastewater treatment facility, such as the SO_2 building. There are differences between the existing and proposed bridge in terms of the overall design (see Photos 1 and 2 in the Project Description). While the proposed aluminum bridge may stand out visually more than the existing wooden bridge due to the difference in

material, its presence is still consistent with the infrastructure at the site as part of the wastewater treatment facility and surrounding partially developed landscape. Views of the Project site during construction would be temporary in nature and limited to the six month-long construction period. Therefore, the Project would not degrade the existing visual character or quality of public views of the site and its surroundings.

The overall Project construction schedule is described in the IS/MND, Section 1.5.2. Construction activities would take place during daytime hours from 7:00 a.m. to 5:00 p.m., Monday through Friday (excluding holidays). Work is not expected to take place at night (with the exception of some early morning diver work) or on the weekends. The construction activity and types of equipment that may be required for construction are presented by Project component in the IS/MND Table 1-2.

As indicated in Response CCCR/SCVA-4, Catherine Borrowman from City's Environmental Services Department, as well as the City's CEQA consultant, has met with Chris Barr, Deputy Director for the San Francisco Bay National Wildlife Refuge Complex, and Matt Brown, Refuge Manager for the Refuge to discuss the Project. The City will also coordinate with Refuge staff as needed prior to construction to inform them of the activities that will be occurring at the project site.

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment CCCR/SCVA-17

> Goal ER-3 – Bay and Baylands
> Preserve and restore natural characteristics of the Bay and adjacent lands, and recognize the role of the Bay's vegetation and waters in maintaining a healthy regional ecosystem.
>
> Policies – Bay and Baylands
>
> > ER-3.1 Protect, preserve and restore the baylands ecosystem in a manner consistent with the fragile environmental characteristics of this area and the interest of the citizens of San José in a healthful environment.
> >
> > ER-3.4 Avoid new development which creates substantial adverse impacts on the Don Edwards San Francisco Bay National Wildlife Refuge or results in a net loss of baylands habitat value.
>
> There is no reference to the City's Goal ER-3, Bay and Baylands in the DMND. While reviewing these comments and possibly others received, this City goal and its policies should be guidance for all Project actions.

Response CCCR/SCVA-17

As described in the IS/MND Section 2.2.11, Land Use and Planning, because the Project would continue to support wastewater treatment activities, implementation of these improvements would

be consistent with the land use designations in the General Plan and the zoning districts. The Project would be consistent with existing zoning and land use policies in the General Plan, which recognize the continuing use of this area for wastewater treatment uses while establishing policies intended to limit or reduce impacts from wastewater treatment activities on nearby Baylands and maintain an open space character.

Comment CCCR/SCVA-18

> The Outfall Project DMND is flawed and inadequate in consideration of impacts to the Refuge. For lighting impacts it is inadequate and ignores at least one significant and unavoidable impact to an endangered species. We ask that you consider these comments and take all necessary actions required of environmental review even if that means a full Environmental Impact Report is needed.

Response CCCR/SCVA-18

This comment is general statement and does not identify any specific issues. Please refer to Response CCCR/SCVA-1 above regarding Project-related air quality (airborne particulates) and noise effects on employees and visitors at the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center.

Please refer to Response CCCR/SCVA-2 above regarding operational lighting impacts associated with the Project.

Please refer to Response CCCR/SCVA-4 above regarding wildlife movement corridors.

Please refer to Response CCCR/SCVA-16 above regarding aesthetics associated with new bridge.

Please refer to Response CCCR/SCVA-17 above regarding the Project's consistency with the City's goals and polices.

This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Kanyon Konsulting, LLC

Comment KKLLC-1

> As this project's Area of Potential Effect (APE) overlaps or is near the management boundary of a recorded and potentially eligible cultural site, ….

Response KKLLC-1

The IS/MND Section 2.2.5, Cultural Resources, is based on the cultural resources study (IS/MND Appendix D) that was prepared for the Project. The APE for the Project is described in the IS/MND Section 2.2.5, Cultural Resources and Appendix D. The APE is the area, surface and

subsurface, that could experience ground disturbance as a result of Project activities, including construction areas, staging areas, and work areas. As discussed in the IS/MND Section 2.2.5, the nearest recorded archeological resource to the Project site is located approximately 0.7 mile southeast. This site is not within or adjacent to the APE. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

Comment KKLLC-2

> …. [W]e recommend that a Native American Monitor and an Archaeologist be present on-site at all times. The presence of a monitor and archaeologist will help the project minimize potential effects on the cultural site and mitigate inadvertent issues.
>
> Kanyon Konsulting, LLC has numerous Native Monitors available for projects such as this, if applicable, along with Cultural Sensitivity Training at the beginning of each project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on.
>
> Kanyon Konsulting, LLC believes in having a strong proponent of honoring truth in history, when it comes to impacting cultural resources and potential ancestral remains. We have seen that projects like these tend to come into an area to consult/mitigate and move on shortly after. Doing so has the strong potential to impact cultural resources and disturb ancestral remains. Because of these possibilities, we highly recommend that you receive a specialized consultation provided by our company as the project commences.
>
> As previously stated, our goal is to Honor Truth in History. And as such we want to ensure that there is an effort from the project organizer to take strategic steps in ways that #HonorTruthinHistory. This will make all involved aware of the history of the indigenous communities whom we acknowledge as the first stewards and land managers of these territories.
>
> Potential Approaches to Ingenious Culture Awareness/History:
> --Signs or messages to the audience or community of the territory being developed. (ex. A commerable plaque or as advantageous as an Educational/Cultural Center with information about the history of the land)
> -- Commitment to consultation with the native peoples of the territory in regards to presenting messaging about the natives/Indigenous history of the land (Land Acknowledgement on website, written material about the space/org/building/business/etc)
> -- Advocation of supporting indigenous lead movements and efforts. (informing one's audience and/or community about local present Indigenous community)

Response KKLLC-2

As discussed in the IS/MND Section 2.2.5, Cultural Resources, and Section 2.2.18, Tribal Cultural Resources, the Project has a low potential to uncover archaeological resources. The Project area is entirely within artificial fill over Bay Mud and is not sensitive for formation or preservation of archaeological materials. While unlikely, given the general sensitivity of the Project vicinity, the inadvertent discovery of redeposited or unrecorded archaeological resources or redeposited human remains cannot be entirely discounted, including in areas of artificial fill. In

the event of an inadvertent discovery of cultural resources, mitigation measures are specified in the IS/MND (Mitigation Measures CUL-1.1, CUL-1.2, and CUL-2) and are in place for this Project including contacting an archaeologist and a Native American representative depending on encountered finds, preservation in place, as feasible, and creation of a treatment plan, if needed. This comment does not result in new CEQA analysis, new significant impacts, or additional mitigation measures beyond those analyzed and disclosed in the IS/MND and associated appendices. No additional response or recirculation of the IS/MND is required.

This page intentionally left blank

CHAPTER 4
Revisions to the Initial Study

4.1 Initial Study Text Revisions

This chapter contains revisions to the text of the San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project Initial Study, dated April 2021. Revised or new language is underlined, while deletions are shown with ~~strikethrough~~ text, except where an entirely new passage of text is added, in which case no underlining or strikethrough text is used for ease of reading.

4.1.1 Chapter 1, Project Description

Last paragraph on page 1-5

Outfall Bridge

The existing outfall bridge is constructed of wood, a majority of which is pressure-treated boards, and serves as a structural element to facilitate crossing the outfall channel and a monitoring site for water quality compliance activities. The bridge is approximately 65 feet long and is supported on eight timber piers attached to the effluent channel weir. The bridge has two concrete wing wall abutments at the ends. The bridge and weir were built in 1969 and the bridge was retrofitted in 1999-2000. The bridge serves as a support structure for instrumentation that monitors the quality of the water discharged through the channel. Operators are accessing the bridge day and night to inspect and/or service the water quality monitoring instruments, and to collect grab samples of the effluent. A light fixture at the middle of the bridge was recently removed due to the degrading integrity of the bridge, so lighting for the bridge is currently provided by a single light post mounted on the concrete eastside abutment. However, the single remaining light is insufficient for the intended purpose of providing a safe environment[1] for Facility staff during nighttime operations. Water quality measurements for dissolved oxygen (DO) and pH are regularly recorded from this location. There are also four floodlights attached near the roofline of the SO_2 building and a light mounted on a post on the concrete eastside abutment. Two of the existing lights shine horizontally at a slight downward angle across the channel, the third shines South on the road, and the fourth shines North. One of the lights mounted to the SO_2 Building on its West side has a 70-watt High Pressure Sodium (HPS) bulb and the other has a 400-watt Metal Halide bulb. The lights

shining North and South each have a 70-watt HPS bulb. The ambient lighting level shining West from the SO2 Building is composed of approximately 3,700 mean lumens from the HPS bulb (equivalent to a 15-watt-20-watt LED) and 22,000 mean lumens (equivalent to a 135watt - 150watt LED) from the Metal Halide bulb, which illuminates the roadway in front of the SO_2 building, and shines towards the instrumentation on the existing bridge. The 400-watt Metal Halide floodlight provides a bright light close to the light fixture, which is mounted on the roof of the SO_2 building approximately 15 feet high. The HPS fixture is mounted 12 feet high on the side of the building. The light intensity of these existing lights does not provide enough light for safety on the East levee bridge access point, which is within 50 feet from the fixtures.

[1] The bridge lights allow the Facility staff to visually inspect the area around the bridge for boats, trespassers, and for wildlife such as coyotes or skunks before they leave the security of their vehicle. The bridge lighting also helps illuminate the channel and the bridge, which helps Facility staff safely carry out operations and maintenance activities.

First paragraph on page 1-19

Major components of the outfall bridge proposed improvements include: new bridge foundations 11-12 feet behind the existing weir abutments (piers drilled to a maximum of 80 feet), a new prefabricated single-span aluminum bridge, adjusted grading to access the bridge, installation of compliance monitoring instruments (e.g., floating water sampling pump and rail system), and LED lighting ~~on~~ for the ~~new~~ bridge ~~(~~consisting of two lights mounted on 20-foot-tall posts on the levee on either side of the existing bridge ~~four pole mounted fixtures on the bridge)~~. New lighting would consist of Crouse-Hinds Champ Pro PVML Type 1 lighting (or an equivalent system) ~~LED~~ blue spectrum (i.e., 5,000 Kelvin)[2] cool white floodlights with a brightness of approximately 10,730 nominal lumens.[3] The new lights ~~which~~ would be on all the time during night hours to provide safe operator access to the bridge. Lighting would be enclosed in a solid black fixture (i.e., shielded) that holds the bulb, which shines down from the fixture, and mounted on a stanchion frame at a 25-degree angle, designed to minimize light and glare outside of the work area. Lighting would be designed in accordance with the San José Riparian Corridor Protection and Bird-Safe Design Policy (Policy 6-34) to avoid or minimize up-lighting or spotlights, and would be designed to minimize glare outside of the work area. Modeling conducted for the new lighting showed that the lights would shine horizontal and down, toward the land leading up to the bridge, and the light would illuminate the work area, the access ramp and the middle of the bridge. There would be some spillover away from the bridge along the access ramps and towards both levee roads; the light would be brightest within 10 feet away from the light (7 foot candle[4]), and the light's brightness would reduce in intensity following an oval pattern emanating outward to within 0.5 foot candles at a distance of 100 feet from the light.[5] The existing lighting at the SO_2 building that will remain are two floodlights mounted on the West side of the building, and one floodlight on North side and the South side of the building. The existing light mounted on the concrete eastside abutment would be removed. The proposed lights will only illuminate property owned by the City of San José,

which includes the vegetation to the west of the fence in the modeled lighting diagram.[6] A light mounted on a 20-foot-tall post would also be provided at the Daylight Station with motion detectors in addition to manual switches. The new light at the Daylight Station would have a brightness of approximately 11,000 nominal lumens. There would also be lights underneath the shade cover over the electrical panels; these would be on a manual switch and only operated if access is needed to the electrical panel at night. The new bridge deck would be composed of aluminum members, which may reflect sunlight when new, but this effect would diminish over time as the metal develops an aluminum oxide skin. The proposed bridge is anticipated to be low maintenance and last for (a minimum of) 30 years.

[2] Kelvin (K) is a unit of measure for temperature. Kelvin temperature when referring to light is based on the color emitted by a black body radiator based on the characteristic of its temperature. The higher color temperatures are in the blue end of the color spectrum and lower color temperatures are in the red end of the spectrum. https://www.ledlightexpert.com/understanding_led_light_color_temperatures_ep_79

[3] Lumens are a measure of the total amount of visible light to the human eye from a light source or lamp. The higher the lumen rating the "brighter" the light will appear. For example, 1,100 lumens has a brightness equivalent to a 75-watt bulb.

[4] A foot candle is a unit of illumination. One foot-candle is defined as enough light to saturate a one-foot square with one lumen of light.

[5] Bridge lighting model output for 50 percent design completed in 2020, revised into a memorandum titled "Light Intensities at Outfall Bridge"; AECOM, dated August 17, 2021. Available upon request from the City of San Jose.

[6] Ibid.

Last paragraph page 1-24

The maximum boring depth for the concrete piles would be 80 feet deep. Construction of the new bridge would include new bridge foundations (including installation of four drilled reinforced concrete piers), installation of a prefabricated aluminum bridge, grading of site soils on either side of the bridge to create a new ramp to the bridge, installation of compliance monitoring instruments and LED lighting ~~on~~ for the new bridge. Following construction and testing, the temporary floating platform and ramp would be removed from the site, and monitoring equipment would be replaced and moved into the SO_2 building. The floating water sampling pump would be installed in the channel next to the bridge and powered from the bridge, and the tidal gauge would be installed on the wing wall on the upstream east side of the bridge at the conclusion of bridge installation. The existing SO_2 intake valve would remain in service during construction.

Table 1-2, page 1-26

Existing Structures/ Features to Be Demolished	New Structures/Features to Be Constructed	Estimated Construction Equipment	Equipment Quantity and Duration[a]
Daylight Station Improvements			
• Controls cabinet and slab • Pullboxes	• Concrete cast in place slab foundation] • Control panel cabinets • Pullbox • 11x12x8 feet, vault and four access ports to concrete outfall pipes Bollards (5) • Lighting for vault and electrical cabinet	Excavator for vault construction	1 @ 30 days
		Circular saw	1 @ 10 days
		Jig saw	1 @ 10 days
		Nail gun	1 @ 10 days
		Concrete truck	1 @ 5 days
		Tremie pump	1 @ 5 days
		Soil slurry equipment	1 @ 5 days
		Dewatering pump	1 @ 60 days
		Filtration tank	1 @ 60 days
		Mobile tank for water disposal at headworks	1 @ 60 days

Fifth bullet on page 1-27

- **Daylight Station Improvements:** Construction would include a new vault around four new insertion ports into the below-grade concrete outfall pipes, construction of new above-ground control panels, a concrete slab for the panels, new panels, pull boxes, lighting for vault and electrical cabinet, and asphalt repairs.

First paragraph on page 1-30, Section 1.6 Operations

Once construction is completed, the Project would result in moderately reduced on-site maintenance (compared to existing maintenance requirements), as the new single-span aluminum bridge is anticipated to be maintenance-free, and the installation of a fiber optic connection will reduce trips required to activate the aeration system. In other respects, the City would continue to maintain the site as under existing conditions, which is currently about five trips per day (for approximately 30 minutes each trip) by operations and maintenance staff to read and maintain the instruments, in addition to periodic mowing of the levees.[5] Maintenance activities and measurements taken at night would require lighting for the purpose of providing a safe environment for Facility staff during nighttime operations. Effluent quality instruments housed within the buildings require regular calibration. Vegetation at the perimeter of the SO_2 building, daylight station, and access road would be mowed for fire safety at an interval consistent with the existing maintenance schedule. Flow meters in vaults require periodic pulling to clean detectors. Overall, it is anticipated that the Project would present no change or moderately reduced operations and maintenance activity on site, however the Project would result in improved reliability in effluent monitoring. The water level in the channel would increase due to the

raised height of the weir boards compared to the existing board placement, although the capacity of the outfall channel would not change. The increased water height would allow for better operation of the outfall meters, eliminating issues with air pockets within the pipes. The City would continue to operate the Facility, as required by RWQCB Order Number R2-2014-0034 and the City would work with RWQCB to maintain compliance.

[5] Maintenance trips to the site could increase to as frequent as hourly when equipment problems or trespasser issues occur.

Last paragraph on page 1-31

The City expects to use nationwide permit applications to comply with Section 404 of the federal Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The City will submit permit applications to cover the above-listed regulatory permits and approvals needed for the Project after discussing the Project with staff from the regulatory agencies. The Project would include any conditions or requirements that are part of the issued permits.

4.1.2 Section 2.2.1, Aesthetics

Third paragraph on page 2-3

The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) Environmental Education Center is located approximately 500 feet west of the Project site. The Mallard Slough Trail, the New Chicago Marsh Trail, and the Marsh View Trail are all located near the Refuge's Environmental Education Center (see Figure 1-2). The Mallard Slough Trail runs west of the Artesian Slough[10], which is north and west of the Project area (USFWS, 2013). The nearest portion of the certified Juan Bautista de Anza National Historic Trail to the Project site is located approximately 1.1 miles west. The Project site would not be visible from this trail due to the existing topography (i.e., levees and berms) and vegetation. The portion of the existing San Francisco Bay Trail closest to the Project site follows the same route as the Marsh View Trail. The nearest future proposed Countywide Trails Plan trail route to the Project site would be along the levee on the northern boundary of the Project. These trails and the Environmental Education Center are the primary publicly accessible location from which the Project area could potentially be seen; however, as shown in Photo 2.2-1, the intervening vegetation obscures the view. The white building shown in Photo 2.2-1 is the existing SO_2 building. The Zanker Material Processing Facility and Zanker Road

[10] Mallard Slough and Artesian Slough are alternative names for the same body of water. The latter is more commonly used in current maps and documents, but the Refuge uses the older name for the trail itself.

Landfill lie adjacent and southwest of the project site. Existing views ~~from~~ surrounding the project site include large heavy equipment associated with the landfill and materials processing facility. During the 6-month construction period, views of the Project area by recreationists and other visitors may be affected by the construction equipment. However, these altered views would be temporary in nature, and no view obstruction associated with the proposed project would occur past the construction phase.

Photo 2.2-1. View of Project area, looking east from Grand Boulevard and the Refuge Environmental Education Center.

Fourth paragraph on page 2-4

c) **Less than Significant Impact**. The Project area is considered to be in a non-urban setting due to the lack of development and the surrounding natural area in the project vicinity, which consists of the southern edge of the San Francisco bay and adjacent wetland areas. The project site is not publicly accessible via any roads. However, it could be visible from recreationists in boats in the water and potentially from visitors to the Don Edwards San Francisco Bay National Wildlife Refuge Environmental Education Center. Recreationists using the nearby recreational trails (i.e., the Mallard Slough Trail, the New Chicago Marsh Trail, ~~and~~ the Marsh View Trail[11], and future proposed trails) and

[11] The portion of the existing San Francisco Bay Trail closest to the Project site follows the same route as the Marsh View Trail.

waterways may see and note the construction equipment during the construction period. However, these views would be temporary in nature and limited to the six month-long construction period. In addition, views of the bridge from the trails are partially obstructed by vegetation and an existing chain-link fence; tall metallic electrical towers, which are similar to the bridge's architectural makeup are part of the existing environment and view of the outfall bridge from the trails. The existing views of the adjacent landfill's heavy equipment would continue. The existing bridge is proposed to be replaced by a similarly-sized pedestrian bridge and would be consistent with the existing visual character of the site which is a part of the water treatment facility, such as the SO_2 building. There are differences between the existing and proposed bridge in terms of the overall design (see Photos 1 and 2 in the Project Description). While the proposed aluminum bridge may stand out visually more than the existing wooden bridge due to the difference in material and negligible change in size, its presence is still consistent with the infrastructure at the site as part of the water treatment facility and surrounding partially developed landscape. Therefore, the proposed project would not degrade the existing visual character or quality of public views of the site and its surroundings. These impacts are considered less than significant.

4.1.3 Section 2.2.4, Biological Resources

First and second bullet on page 2-28

Mitigation Measure BIO-1: General Construction Measures.

- Prior to construction, all construction workers shall take part in an environmental awareness program conducted by a~~n agency approved~~ qualified wildlife biologist.[12] The biologist shall train work crews in standard procedures for identifying and avoiding impacts to all special-status species with the potential to occur in the work area (steelhead – Central California Coast DPS, Chinook salmon – Central Valley fall-run ESU, longfin smelt, western pond turtle, Ridgway's rail, black rail, western burrowing owl, birds protected by the Migratory Bird Treaty Act, salt marsh harvest mouse, salt marsh wandering shrew, Congdon's tarplant and saline clover). The awareness program shall be conducted at the start of

[12] A qualified wildlife biologist shall have a minimum of four years of academic training and professional experience in biological sciences and related resource management activities with field experience (e.g., conducting surveys or monitoring) with the species that may be present within the project area.

construction and thereafter as required for new construction personnel.

- At the end of each work day, all excavations (i.e. holes, construction pits, and trenches) of a depth of 8 inches or greater shall be covered with plywood or other ~~hard~~ material that can effectively exclude wildlife from a pit, and gaps around the cover shall be filled with dirt, rocks, or other appropriate material to prevent entry by wildlife. Alternatively, a barrier such as a fence can be installed around excavations that prevents wildlife from entering the hole, pit or trench. If excavations cannot be covered or there is no fence installed, then they shall include escape ramps constructed of either dirt fill, wood planking, or other appropriate material installed at a 3:1 grade (i.e., an angle no greater than 30 degrees) to allow wildlife that fall in a means to escape.

First bullet on page 2-44

Mitigation Measure BIO-8: Contain Bridge Deconstruction Debris.

ET or its contractor shall install measures to prevent debris associated with the deconstruction from entering Artesian Slough.

- No bridge demolition debris shall be allowed to enter Artesian Slough or be placed where it would be subject to erosion by rain, wind, or waves and enter into jurisdictional waters. ~~Staged~~ Demolition debris and any other construction materials with the potential to be eroded/entrained during a rainfall event will be covered every night and during any rainfall event.
- Floating booms shall be used to contain any accidental debris discharged into Artesian Slough, and any debris shall be removed as soon as possible, and no later than the end of each workday. If feasible, personnel in workboats within the work area will immediately retrieve such debris for proper handling and disposal. Non-buoyant debris discharged into waters shall be recovered as soon as possible after discharge.
- Accidental debris discharged into the outfall channel will be collected at the weir at the downstream terminus of the channel. No debris discharged into the outfall channel will be allowed to enter Artesian Slough.

Second paragraph on page 2-45

In addition, the Project is small in size relative to surrounding open space ~~and water~~, which would continue to provide movement corridors for ~~native~~ terrestrial wildlife, and project construction is expected to last a relatively short duration of 6 months. From a Project operations standpoint, and as described in Chapter 2, *Project Description*, ~~four~~ two LED

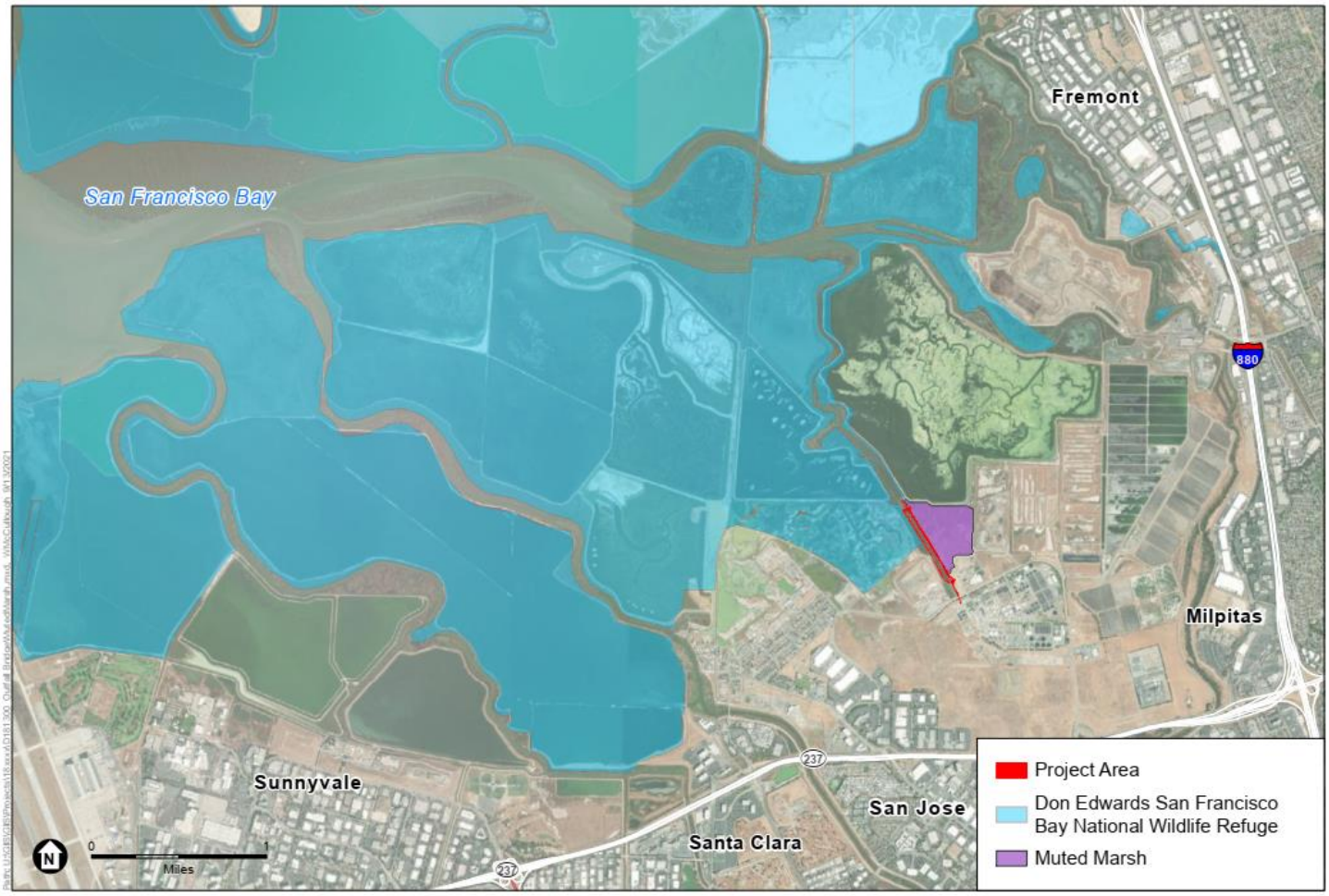
floodlight fixtures~~, or low handrail lights,~~ would be installed on 20-foot poles on the east and west abutments of the new outfall channel bridge. A third fixture would be installed on the Daylight Station near the Facility outfall pipes. The lamp fixtures on the east and west sides of the outfall bridge would be installed at a 25 percent angle, directing most of the light downward at the bridge deck. The new light fixtures would also be enclosed in a solid black fixture that holds the bulb, which shines down from the fixture to minimize light spill into the sky and adjacent wildlife habitat. Because lighting would not shine upwards, no significant impact to birds migrating at night is anticipated. ~~This relatively small amount of lighting would be designed to minimize glare outside of the work area during water monitoring and is not expected to significantly impact the behavior of migrating birds relative to existing lighting on the bridge.~~ The narrow bands of tidal marsh in Artesian Slough present a low-quality habitat for nocturnal animals, such as the salt marsh harvest mouse and salt marsh wandering shrew, due to its fragmented nature and lack of connectivity to high quality tidal marsh habitat, and these species would likely use it on a transient basis if at all. The nearest high quality marsh habitat likely to provide primary habitat for salt marsh harvest mouse and salt marsh wandering shrew is east of the SO_2 building (refer to Figure 2-2). This marsh is separated from Artesian Slough by upland habitat between the SO_2 Building and east bridge abutment, areas that are currently illuminated from dusk until dawn by the existing lighting; therefore, the new lighting is unlikely to affect the animals' current behavior. In addition, the new light fixtures on the east and west abutments will be shielded and directed at the outfall bridge and levees south of the outfall bridge, away from Artesian Slough. The narrow bands of tidal marsh in Mallard Slough also provide marginal habitat for salt marsh harvest mouse and salt marsh wandering shrew and the new light fixture on the west abutment of the outfall bridge will be directed away from the slough. Because of the low likelihood that salt marsh harvest mouse and salt marsh wandering shrew are present in Mallard Slough, and because the new light fixture on the west abutment will be enclosed in a solid black fixture and directed at the bridge and levee, the new lighting is not expected to significantly affect these species. Salt marsh harvest mouse and salt marsh wandering shrew may be present in the marsh approximately 120 feet east of the outfall bridge's east abutment. The new light fixture at the east abutment will be shielded and directed away from the east marsh, resulting in little to no light spill at

the west edge of the marsh. The edge of the east marsh is currently subject to light spill from the existing light fixtures on the outfall bridge's east abutment and the SO_2 Building; therefore, wildlife likely already avoids the western edge of the east marsh. In addition, the project would follow the guidelines for bird-safe design as outlined in the City's Riparian Corridor Protection and Bird-Safe Design Policy (summarized under the *Setting* section). No known wildlife nursery site occurs on or adjacent to the project site. Therefore, the Project would not substantially interfere with the movement of any resident species or impede the use of native wildlife nursery sites.

Last paragraph on page 2-45

Project components that are relevant to the building design guidance under the Riparian Corridor Protection and Bird-Safe Design Policy 6-34 include the installation of the pedestrian outfall bridge and the LED floodlights (which would be on between dusk and dawn to provide safe operator access to the bridge). The new aluminum pedestrian bridge would be composed of aluminum members, which may reflect sunlight when new, but this effect would diminish approximately within a year as the metal develops an aluminum oxide skin. As required by the Riparian Corridor and Bird-Safe Design Policy, new permanent lighting would avoid or minimize up-lighting or spotlights and would be designed such that the lights minimize light spill toward the sky and adjacent wildlife habitat while providing adequate lighting for workers to safely approach and work from the outfall bridge at night. The new light fixtures on the east and west abutments of the outfall bridge are not expected to significantly impact the behavior of birds migrating at night or nocturnal wildlife, such as salt marsh harvest mouse and salt marsh wandering shrew, moving in the vicinity of the bridge compared to existing lighting because the new fixtures will be enclosed in a solid black fixture and will direct light at the work area (i.e., bridge and levees), limiting the potential for light spill into the sky or adjacent tidal marsh habitat. All temporary construction lighting would include lights that are designed with low light spillover, also utilizing shields or other light pollution reduction features.

Page 2-46, new figure



SOURCE: ESA, 2021; ESRI, 2021

San José-Santa Clara RWF Outfall Bridge and Instrumentation Improvements Project

Figure 2-2

Project Area Relative to Open Space in the Project Vicinity

Figure 2-2. Project Area Relative to Open Space in the Project Vicinity

4.1.4 Section 2.2.10, Hydrology and Water Quality

First and seventh bullet on page 2-88

Mitigation Measure HYD-1: Water Quality Best Management Practices During In-water and Near Water Work Activities.

In order to avoid and/or minimize potential impacts to water quality (and jurisdictional waters) during Project activities that would be conducted in or over waters, the following construction BMPs would be implemented by the contractor, and overseen by a water quality specialist, to prevent releases of construction materials or hazardous materials and to avoid other potential environmental impacts:

- In-water work with the potential to harm fish and aquatic resources (e.g., grouting, rip-rap, and gravel placement) will be conducted at low tide to the extent feasible.
- All project components will be designed using materials that follow local, California, and national environmental regulations; this includes the use of underwater grout (e.g., cementitious or epoxy specifically chosen for in-water applications.)
- No debris, rubbish, soil, silt, sand, cement, concrete, or washings thereof, or other construction-related materials or wastes, oil, or petroleum products shall be allowed to enter into jurisdictional waters or placed where it would be subject to erosion by rain, wind, or waves and enter into jurisdictional waters. Staged construction materials with the potential to be eroded/entrained during a rainfall event will be covered every night and during any rainfall event (as applicable).
- All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., will be removed from the project site daily during construction, and thoroughly at completion of the project. Debris will be transported to an authorized upland disposal area.
- During ~~To isolate potential water quality impacts from~~ rip-rap ~~and gravel~~ placement and grouting, a silt curtain with floating boom, or another effective technology, will be placed to isolate ~~constrain~~ the construction footprint from Artesian Slough to prevent water quality impacts. The silt curtain will be placed within 500-feet of the in-water construction activity. The exact location will be determined at the discretion of the contractor in consultation with the water quality specialist, with the goal to maximize functionality of the curtain. The contractor will ensure curtain placement is also upstream of the water quality monitoring location described below. The silt curtain will accomplish the following:
    - Isolate construction activities from Artesian Slough

  - Contain turbidity and sediment resulting from the construction activity
  - Deter fish, and other aquatic species, from accessing the active construction area
  - Allow water to pass between Artesian Slough and the outfall channel with the tides
- The silt curtain will be at least the height of the outfall weir (approximately 6 feet tall) to maintain a barrier at high tide. The curtain will consist of permeable filter fabric supported by a line of floats (boom) on the water surface and a line of weights/anchors on the bottom to secure the curtain to the channel bed to maintain coverage around the active in-water construction area. The curtain would be secured to land and to the weir with anchors at the channel banks to hold the curtain in place.
- If requested by ~~At the request of~~ BCDC, CDFW, the Water Board, or USACE, the contractor will prepare a plan that provides a description of methods to be used to direct flow away from the active construction work area in Artesian Slough prior to implementation. Temporary measures will be used to minimize the volume of direct flow from the outfall channel into the active construction site to minimize the movement of construction-related turbidity increases into Artesian Slough.
- Floating booms shall be used to contain any accidental debris discharged into waters, and any debris shall be removed as soon as possible, and no later than the end of each workday. If feasible, personnel in workboats within the work area will immediately retrieve such debris for proper handling and disposal. Non-buoyant debris discharged into waters shall be recovered (by divers) as soon as possible after discharge. Protective measures will be utilized to prevent accidental discharges of oils, gasoline, or other hazardous materials to jurisdictional waters during fueling, cleaning, and maintenance of equipment. Well-maintained equipment will be used to perform construction work, and, except in the case of failure or breakdown, equipment maintenance will be performed off-site. Crews will check heavy equipment daily for leaks, and if leaks are discovered it will be immediately contained and use of the equipment will be suspended until repaired. The source of the leak will be identified, material will be cleaned up, and the cleaning materials will be collected and properly disposed.
- Vehicles and equipment used during the course of construction will be serviced offsite. On-site fueling of marine equipment (if any) will comply with U.S. Coast Guard requirements. Smaller equipment, such as generators and hand tools will be fueled using fuel tanks, hoses, and fuel cans. Fueling locations will be inspected

after fueling to document that no spills have occurred. Any spills will be cleaned up immediately.

Second bullet on page 2-89, sixth bullet on page 2-90

Mitigation Measure HYD-2: Water Quality Monitoring.

- Prior to and during in-water construction, water quality measurements will be collected and recorded within Artesian Slough. Data will be collected at the City's previously established monitoring location within Artesian Slough, approximately 1,500 feet downstream of the outfall weir.[13]
- Measurement data will be collected prior to the start of in-water construction each day to establish current ambient, baseline conditions. Subsequently, water quality data will be collected every two hours during construction to ensure compliance with the water quality metrics described below. All measurements will be collected at the top of the water column to control for the natural variability in water quality at different depths, and to ensure data are comparable.
- Exceedance of any of the water quality metrics described below would trigger a stop to in-water work, and adjustment to the water quality BMPs (as described in MM HYD-1) until it can be demonstrated that water quality objectives can be maintained. The water quality monitoring parameters enumerated below represent a consolidation of applicable regulatory requirements as outlined within the Marine Water Quality Objectives (MWQO) for the San Francisco Bay Basin.
- Visual: No significant floating particulates, suspended materials, grease, or oil shall be visible. No aesthetically undesirable coloration of the water surface; oils, grease, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water.
- Turbidity: Given the wide historic range, and high daily variability, in documented turbidity within Artesian Slough, strict adherence to Basin Plan objectives is infeasible. As a result, the following thresholds are proposed:
    - No more than 50 nephelometric turbidity units (NTU) above background when background between 0 and 100 NTUs.
    - No more than 50 percent above background turbidity levels when background is greater than 100 NTUs.

[13] This station was established in 2005 under the RWQCB's Wastewater Discharge Requirement (WDR, Order No. R2-0003) for the operation of the City's Pond A18 continuous discharge monitoring. Fourteen years of water quality data have been collected at this monitoring location.

- Dissolved Oxygen (DO): DO levels will not drop below 5.0 mg/l. If natural factors cause lesser concentrations, construction will cause no further reduction in the concentration of DO.
- pH: Construction will cause no more than a 0.5 increase or decrease in pH and pH levels will remain within 6.5 to 8.5.
- If requested ~~required~~ by natural resource agencies, during work that is associated with the potential to release Polycyclic Aromatic Hydrocarbons (PAHs), pre-construction and post-construction sampling for total ~~Polycyclic Aromatic Hydrocarbons (~~PAHs~~)~~ will ~~may~~ be conducted as follows: pre-construction sampling for total PAHs prior to construction activity to establish ambient PAH concentration in Artesian Slough, and at the conclusion of project construction, conduct additional PAH sampling for total PAHs. Post-construction total PAHs are not to exceed 15 µg/l, unless it can be shown that post-construction site concentrations are similar to the ambient levels measured during pre-construction sampling.

4.1.5 Section 2.2.13, Noise

Last paragraph on page 2-99

In addition to the above General Plan policies, the proposed Project would be subject to the following code and ordinance:

***San José Municipal Code §20.100.450*:** Limits construction hours within 500 feet of residences to 7 AM - 7 PM weekdays, with no construction on weekends or holidays.

Municipal Code Sections 20.20.300, 20.30.700, 20.40,600, and 20.50.300 establish performance standards for noise exposure associated with stationary/non-transportation sources at the property line of noise-sensitive uses. Specifically, noise exposure is limited to 55 dBA, 60 dBA, and 70 dBA at the property line of residential, commercial, and industrial receivers, respectively.

4.1.5 Section 2.2.16, Recreation

First paragraph on page 2-105

The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) Environmental Education Center is located approximately 500 feet west of the Project site. There is no access between the Refuge and the Project site. In addition, the Project site is not publicly accessible and is limited to use by Facility staff. The Mallard Slough Trail, the New Chicago Marsh Trail, and the

Marsh View Trail[14] are all located near the Environmental Education Center, as shown on Figure 1-2. The Mallard Slough Trail runs on the opposite side of the outfall channel west of the Project area, approximately 300 feet away at its nearest point. The nearest future proposed Countywide Trails Plan trail route to the Project site would be the along the levee on the northern boundary of the Project.

[14] The portion of the existing San Francisco Bay Trail closest to the Project site follows the same route as the Marsh View Trail.

This page intentionally left blank

ATTACHMENT A

Comment Letters

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX (408) 355-2290
Reservations (408) 355-2201
www.parkhere.org

May 11, 2021

City of San Jose
Planning, Building & Code Enforcement
Attn: Kara Hawkins
200 E Santa Clara Street, T-3
San Jose, CA 95113

SUBJECT: Draft Mitigated Negative Declaration: San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project

Dear Kara Hawkins,

The County of Santa Clara Parks and Recreation Department (County Parks Department) is submitting the following comments on the Draft Mitigated Negative Declaration: San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project (Project).

In regard to the Project, the County Parks Department's review is primarily focused on potential impacts related to the Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan), an element of the County General Plan (adopted by the Board of Supervisors on November 14, 1995), relative to countywide trail routes, public access and regional parks. There are two Countywide Trails Plan trail routes in the vicinity of the Project:

> Juan Bautista de Anza National Historic Trail (R1-B)- a hiking and off-road bicycle route. This trail connects Nogales, AZ to the San Francisco Bay Area.
>
> San Francisco Bay Trail (R4)- a hiking and off-road bicycle route. This trail provides a regional connection along the San Francisco Bay shoreline.

SCC Parks 1

The City of San Jose has also identified these proposed Countywide Trails Plan trail routes in various documents, including the "*Highway 237 Bikeway Trail Feasibility Study and San Francisco Bay Trail Alignment Confirmation*" (March 2020). This Feasibility Study shows the revised location of proposed routes in the Project vicinity that coincide with the Countywide Trails Plan routes referenced above. These segments are located along Grand Boulevard, Los Esteros Road, the eastern boundary of the San Francisco Bay National Wildlife Refuge Educational Center (near the Marsh View Trail) and the levee on the northern boundary of the Project.

The Mitigated Negative Declaration should describe these Countywide Trails Plan routes and evaluate the potential impacts to these routes as a result of the Project. We also recommend that the City of San Jose consider any opportunities provided by the Project to further the regional public access envisioned as part of the Countywide Trails Plan routes in this area.

Thank you for the opportunity for County Parks Department to provide comments on the Draft Mitigated Negative Declaration: San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project. If you have any questions, please email me at kelly.gibson@prk.sccgov.org

Sincerely,

Kelly Gibson

Kelly Gibson
Assistant Planner

May 13, 2021

Kara Hawkins
City of San José Environmental Services Department
200 East Santa Clara Street, 10th Floor,
San José, CA 95113-1905
Via Email c/o kara.hawkins@sanjoseca.gov

RE: PP19-073 San José-Santa Clara Regional Wastewater Facility Outfall Bridge and Instrumentation Improvements Project

Dear Ms. Hawkins:

The Citizens Committee to Complete the Refuge and the Santa Clara Valley Audubon Society appreciate the opportunity to comment on the Draft Mitigated Negative Declaration (DMND) of the San José-Santa Clara Regional Wastewater Facility (RWF) Outfall Bridge and Instrumentation Improvements (Project).

Citizens Committee to Complete the Refuge (Citizens Committee) has its roots in the people who worked with Congressman Don Edwards to establish the National Wildlife Refuge (Refuge) that now bears his name. Over the near 50 years since, the Citizens Committee has worked to expand Refuge boundaries, to protect South Bay wetlands, wildlife, habitats and act on behalf of Refuge lands, wildlife and programs.

The Santa Clara Valley Audubon Society (SCVAS) was founded in 1926, and is one of the largest National Audubon Society chapters in California. SCVAS' mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation. SCVAS has engaged in the protection of the bay, wetlands, riparian and aquatic ecosystems for decades. Our members have a strong interest in projects that could impact biological resources and habitat along the bay.

For some two and a half years both the Citizens Committee and SCVAS participated in the Community Advisory Group for the San Jose-Santa Clara Regional Wastewater Facility Master Plan, an exposure on which we draw when considering this project. We recognize that the Project is an action that is essential and critical to the operations of the RWF in service to residents, businesses and institutions in eight cities as well as certain unincorporated areas of Santa Clara County.

PRIMARY CONCERNS:

The DMND neglects to consider the Don Edwards National Wildlife Refuge. Seven days a week, year-round, the Refuge's Environmental Education Center staff prepares and presents environmental education and interpretation programs to the public. **We are concerned with the failure to identify and evaluate significant construction impacts of noise and airborne particulates on Refuge programs and staff.** *The DMND should discuss the Refuge programs and how the participating public and staff working in offices may be impacted.*

CCCR/
SCVA 1

In addition, **we are concerned with a significant deficiency of analysis and inadequate mitigation of potentially significant and irreversible impacts related to the installation of permanent flood lights at the Bridge and an increase in ambient lighting.** Neither the lighting change proposed nor lighting options have been analyzed with respect to impact avoidance on the very sensitive ecological function of Artesian Slough and surrounding environs. Without additional avoidance and mitigation measures, the change to LED floodlights can be expected to increase adverse impacts of Artificial Light At Night. Without proper avoidance and mitigation measures, the impacts will remain significant and unavoidable, and an Environmental Impact Report is needed.

CCCR/ SCVA 2

SPECIFIC COMMENTS:

Biological Memo Section 1.1 methods

Please include in the Biological Database the number of migratory bird species that can be found in the vicinity, based on eBird reports for the Don Edwards NWR--Env. Ed. Ctr. (EEC)[1] and nearby upland areas and iNaturalist[2] records. Please list migratory bird and insect species in the document, since migratory bird and insect species could potentially be harmed by the project.

CCCR/ SCVA 3

Biological Memo Section 2.1 Environmental Setting

Please describe the setting as it relates to the wildlife, activities and operations of Don Edwards National Wildlife Refuge, including the wetlands as well as facilities and the interpretive center.

The sensitive location of the outfall bridge cannot be understated. The neighboring land and wetlands form the largest urban National Wildlife Refuge in the country, a destination for birds on the Pacific Flyway, eco-tourists from anywhere and local residents. The outfall bridge is separated from Mallard Slough only by a levee. Just downstream from the project, the flows of both channels mix at the point opposite the Refuge's floating dock.

Waterways like Artesian Slough are preferred by wildlife as corridors for migration or foraging, movement hidden from potential predators. Any added illumination will further reduce wildlife safety and movement, a fact that is recognized in the City of San Jose's Riparian Policy (DMND, pp.2-45,2-46). We can expect a wide range of biological and behavioral impacts to result from the change in lighting.

CCCR/ SCVA 4

PROJECT DESCRIPTION, ANALYSIS AND MITIGATION: LIGHTING AT THE OUTFALL BRIDGE

The project description provides, "lighting for the bridge is currently provided by a single light post mounted on the concrete eastside abutment" and "the single remaining light is insufficient for the intended purpose of providing a safe environment for Facility staff during nighttime operations. Water quality measurements for dissolved oxygen (DO) and pH are regularly recorded from this location." This description is inadequate and should provide detail on the existing lighting as well as the timing of staff activities at the site.

CCCR/ SCVA 5

[1]eBird; Don Edwards NWR Env.Ed.Ctr. (EEC) and nearby upland areas; citizen science bird sighting data: https://ebird.org/hotspot/L7797854

[2]iNaturalist; Don Edwards San Francisco Bay National Wildlife Refuge, Alviso, CA, USA; citizen science data: https://www.inaturalist.org/places/don-edwards-san-francisco-bay-national-wildlife-refuge

Added LED floodlights have the potential of permanently changing the site and may cause great harm to biological resources and the environment. The DMND description of the LED floodlights to be installed on the bridge is superficial and the analysis is inadequate throughout the document. On page 1-19, it describes the lights as "four pole mounted fixtures on the bridge" that would be on during all night hours "to provide safe operator access." The only implied mitigation is: "Lighting would be designed to minimize glare outside the work area." Similar description occurs elsewhere in the DMND. On p. 2-45 it adds: "New permanent lighting would be brighter than existing conditions to adequately accommodate Facility staff." CCCR/ SCVA 6

The DMND leaves many questions outstanding, some but not all of them listed here: CCCR/ SCVA 7

- What kind of safety hazards are faced by RWF staff at the bridge location?
- What work tasks at the bridge require light?
- What is the usual duration of time needed to complete task at the bridge at night?
- How frequently does Facility staff visit the bridge? Daily? Weekly?
- How long does it take to complete tasks performed at night at the bridge?
- Why can't lights be turned on and off each time staff works at the bridge?
- What is the difference in illumination from the existing condition and illumination that would be provided by the proposed lights? CCCR/ SCVA 8
- How tall are the posts on which the lights are mounted? Will they include adaptation to keep avian predators from using them? CCCR/ SCVA 9
- Must they be floodlights i.e. having a wide beam of light? Could they be fixed spotlights?
- Is permanent lighting required? Could staff carry mobile lights e.g. lights on helmets? CCCR/ SCVA 10
- What wavelength, spectrum and brightness will be used?
- What is the correlated color temperature of the proposed lighting? CCCR/ SCVA 11

When the Zanker MRF was expanded, the City of San Jose required that it build berms tall enough to shield the same wild wetlands from lights needed by the operation's night crew.[3] That action provided avoidance of impacts to wildlife. It also helped preserve "Night Skies" public programs held at the EEC. The Project should similarly implement strong avoidance and mitigation measures for lighting. CCCR/ SCVA 12

IMPACTS OF ARTIFICIAL LIGHT AT NIGHT (ALAN)

The evidence that Artificial Light At Night (ALAN) causes pervasive harm to our health, our ecosystems and our planet is overwhelming. A recent scientific publication in the journal Frontiers in Neuroscience, titled "Exposure to Artificial Light at Night and the Consequences for Flora, Fauna, and Ecosystems"[4] shows the devastating impacts to all living things. All taxa, with no exception. Fish, mammals (including endangered rodents), reptiles, birds, amphibians, insects. All animals respond to light. CCCR/ SCVA 13

[3] City of San Jose, PDC06-120; First Amendment to the Draft Environmental Impact Report, Zanker Materials Recycling Facility, p.8; January 2008

[4] J.Falcon et al; Exposure to Artificial Light at night and the Consequences for Flora, Fauna and Ecosystems; frontiers in Neuroscience, November 16, 2020: https://www.frontiersin.org/articles/10.3389/fnins.2020.602796/full#h1

Last year more than 950 people took part in an online workshop[5] titled "Dark and Quiet Skies for Science and Society." The workshop explained the science-based need to eliminate excessive night lighting and noise pollution. A report[6] compiled by over 80 scientific experts was published earlier this year. Its Bio Environment chapter covers impacts to a wide range of taxa and makes recommendations for outdoor lighting in all areas and particularly in protected dark sky locations. In addition, the International Dark Sky Association adopted a new resolution[7] this year focused on Principles for Responsible Outdoor Lighting

The recommendations produced should apply to any project adjacent to water features, open space and other biological habitat. This is a summary of recommendations relevant here.

- Sensitive environments should be kept dark and regions surrounding these sites should only make use of lighting that emits no light at wavelengths shorter than 520 nanometers.
- The correlated color temperature of lighting used in most outdoor applications should not exceed 2200 Kelvin, and where light with a larger fractional emission of short wavelengths is desired, it should be carefully controlled through stringent application of the other Lighting Principles, such as lower intensity, careful targeting, and reduced operation time.
- Over-lighting relative to task-oriented needs should be prevented by maintaining illuminances as close as possible to minimum levels.
- All outdoor lighting should be actively controlled through means such as dimmers and motion-sensing switches so as to reduce illuminances or extinguish lighting altogether when light is not needed.

Specific to this Project, we suggest:

- Avoid work at night to eliminate the need for lighting
- Use headlamps to avoid lighting installations if lighting cannot be eliminated.
- Restrict the time of night work and use timers to restrict lighting to those work hours.
- Avoid permanent lighting. Use technology (a switch?) to allow light to be triggered only when work is conducted on site and only for the duration that light is needed for the work to be completed.
- Do not use floodlights. Use dim lighting (potentially in combination with headlamps) to provide lighting adequate for the work.
- The correlated color temperature of lighting should not exceed 2200 Kelvin.

CCCR/ SCVA 13 cont.

In the Initial Study, Section 2.2.4 finds no biological impacts that cannot be mitigated to less than significant level. We provided scientific information that shows that the impact of lighting cannot be mitigated to that degree. Based on substantial scientific evidence, we maintain that there remains a significant unavoidable impact of Artificial Light At Night on all species including endangered species.

CCCR/ SCVA 14

We are especially concerned with the analysis in Appendix B, Biological Resources (pp. 10-11) regarding the Federally Endangered salt marsh harvest mouse (SMHM). The DMND suggests it is unlikely that the

CCCR/ SCVA 15

[5] Online workshop organized by the United Nations Office of Outer Space Affairs (UNDOSA)and the Intenational Astronautical Federation; Hosted at the Instituto de Astrofisica de Canarias; Support from the National Science Foundation's NOIRLab

[6] Scientific and Technical Subcommittee, Committee on Peaceful Uses of Outer Space, Recommendations to Keep Dark and Quiet Skies for Science and Society; April 2021: https://www.iau.org/static/publications/uncopuos-stsc-crp-8jan2021.pdf

[7] A Values-Centered Approach to Nighttime Conservation; International Dark-Sky Association; March 23, 2021: https://www.darksky.org/values-centered-lighting-resolution/

mouse would migrate between the small but suitable marsh near the Daylight Station to or from the Refuge's New Chicago Marsh, citing barriers like a road. However, the Appendix's vegetation analysis and map places pickleweed marsh along almost all of the eastern slope of the A18 levee to a point across from New Chicago Marsh. For a small, nocturnal, endangered species, the permanent floodlights may curtail that habitat connectivity and migration and dispersal routes. For this species, seeing the light is a deterrent in itself. Flood lighting at the site should be considered a significant unavoidable impact.

CCCR/ SCVA 15 cont.

ANALYSIS OF IMPACTS ON REFUGE PROGRAMS, STAFF OFFICES AND OTHER USE OF THE EEC: The DMND includes the following statements:

> Section 2.2.1, Aesthetics, p. 2-3: "The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) Environmental Education Center is located approximately 500 feet west of the Project site."
>
> Section 2.2.3 Air Quality, p.2-14: "The nearest off-site sensitive receptors are located approximately 3,400 feet from the Project site."
>
> Section 2.2.13, Noise, p. 2-98: "There are no noise sensitive receptors (e.g., residences, schools) in the immediate vicinity of the Project area."

Given that the EEC is within 500' of the Project and on weekdays it provides indoor/outdoor programs, offices for staff and hosts other Refuge activities, it is a sensitive location during construction. That same sensitivity will also impact drop-in visitors that arrive daily for outdoor exploration.

CCCR/ SCVA 16

EEC Activity: Data from the Refuge's Visitors Services records[8] for calendar year 2019 is informative: 3,240 elementary, middle, high school and college students were present on 88 weekdays for indoor and outdoor lab, presentation, field and tour education. In elementary school programs, students are usually present at the EEC for most of their school day.

On other weekdays throughout the year the facility is a site for train-the-teacher programs, working offices for planning and preparation of programs, meeting site with peer agencies, and used for other Refuge management purposes. Outdoors, weekdays include volunteers working on habitat restoration and management. Every day of the year members of the public drop by this site to explore, exercise and enjoy.

Regarding noise the DMND states: "Based on the construction equipment likely to be used for the Project, operation of the drill rig would generate the highest noise. Drill rigs can generate noise levels of up to 85 dBA at 50 feet (FHWA, 2006)…" The DMND needs to analyze the dBA at 500' inside and outside the EEC including New Chicago Marsh where students participate in field work.

The DMND must be revised to analyze impacts to EEC Programs and staff and to implement measures that may minimize damaging effects. This analysis needs to include discussions with Refuge

[8] Don Edwards San Francisco Bay Visitor Services monthly reporting (2019) for the Refuge Annual Performance Plan

management. **Contact Chris Barr** (chris_barr@fws.gov), Acting Manager of the San Francisco Bay National Wildlife Refuge Complex.

Suggestions of potential mitigation, subject to discussions with Refuge staff include: Coordinate construction schedules with the EEC calendar of events. Avoid impacts to educational programs. Provide coordination for staff so they might schedule work from home/elsewhere on the worst days. Provide signage to the Refuge notifying incoming drop-in visitors about days when drilling is scheduled. Establish a dedicated communication method to provide alerts or for the Refuge to report problems.

CCCR/ SCVA 16 cont.

Looking broadly at the Outfall Project, it stands out as the sole functional RWF unit that sits fully in Baylands. Planning for its improvement does need to differ from other RWF projects in that regard. San Jose's Envision 2040 section on Natural Communities includes that recognition:

Goal ER-3 – Bay and Baylands
Preserve and restore natural characteristics of the Bay and adjacent lands, and recognize the role of the Bay's vegetation and waters in maintaining a healthy regional ecosystem.

Policies – Bay and Baylands

> ER-3.1 Protect, preserve and restore the baylands ecosystem in a manner consistent with the fragile environmental characteristics of this area and the interest of the citizens of San José in a healthful environment.
>
> ER-3.4 Avoid new development which creates substantial adverse impacts on the Don Edwards San Francisco Bay National Wildlife Refuge or results in a net loss of baylands habitat value.

There is no reference to the City's Goal ER-3, Bay and Baylands in the DMND. While reviewing these comments and possibly others received, this City goal and its policies should be guidance for all Project actions.

CCCR/ SCVA 17

The Outfall Project DMND is flawed and inadequate in consideration of impacts to the Refuge. For lighting impacts it is inadequate and ignores at least one significant and unavoidable impact to an endangered species. We ask that you consider these comments and take all necessary actions required of environmental review even if that means a full Environmental Impact Report is needed.

CCCR/ SCVA 18

Yours Truly,

Eileen McLaughlin
Board Member
Citizens Committee to Complete the Refuge
Contact: wildlifestewards@aol.com

Shani Kleinhaus
Environmental Advocate
Santa Clara Valley Audubon Society
Contact: advocate@scvas.org

From: KKLLC Admin <admin@kanyonkonsulting.com>
Sent: Friday, April 16, 2021 1:41 PM
To: Hawkins, Kara
Subject: San José-Santa Clara Regional Wastewater Facility, 700 Los Esteros

[External Email]

To Whom it may concern,

My name is Kanyon Sayers-Roods. I am writing this on behalf of the Indian Canyon Band of Costanoan Ohlone People as requested, responding to your letter dated : April 14,2021

As this project's Area of Potential Effect (APE) overlaps or is near the management boundary of a recorded and potentially eligible cultural site, we recommend that a Native American Monitor and an Archaeologist be present on-site at all times. The presence of a monitor and archaeologist will help the project minimize potential effects on the cultural site and mitigate inadvertent issues. KKLLC 1

Kanyon Konsulting, LLC has numerous Native Monitors available for projects such as this, if applicable, along with Cultural Sensitivity Training at the beginning of each project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on.

Kanyon Konsulting, LLC believes in having a strong proponent of honoring truth in history, when it comes to impacting cultural resources and potential ancestral remains. We have seen that projects like these tend to come into an area to consult/mitigate and move on shortly after. Doing so has the strong potential to impact cultural resources and disturb ancestral remains. Because of these possibilities, we highly recommend that you receive a specialized consultation provided by our company as the project commences.

As previously stated, our goal is to **Honor Truth in History**. And as such we want to ensure that there is an effort from the project organizer to take strategic steps in ways that **#HonorTruthinHistory**. This will make all involved aware of the history of the indigenous communities whom we acknowledge as the first stewards and land managers of these territories. KKLLC 2

Potential Approaches to Ingenious Culture Awareness/History:

--Signs or messages to the audience or community of the territory being developed. (ex. A commerable plaque or as advantageous as an Educational/Cultural Center with information about the history of the land)

-- Commitment to consultation with the native peoples of the territory in regards to presenting messaging about the natives/Indigenous history of the land (Land Acknowledgement on website, written material about the space/org/building/business/etc)

-- Advocation of supporting indigenous lead movements and efforts. (informing one's audience and/or community about local present Indigenous community)

We look forward to working with you.

Best Regards,
Kanyon Sayers-Roods
Creative Director/Tribal Monitor
Kanyon Konsulting, LLC