

Memo



To: Ryan Teubert (Tehama County)
From: Eric Htain
cc: Drew Sutton
Date: March 16, 2021
Re: CEQA Compliance and Response to Comments on the Project IS/MND

GEI Consultants, Inc. assisted the Tehama County Flood Control and Water Conservation District (District) with preparation of environmental compliance documentation for the Deer Creek Erosion Repair Project. One of the compliance documents prepared was an Initial Study and proposed Mitigated Negative Declaration (IS/MND) in accordance with the California Environmental Quality Act (CEQA). As required by CEQA, the IS/MND was circulated to the public for review and comment from February 5 to March 8, 2021. The District received one comment letter from the California Department of Fish and Wildlife (CDFW).

GEI reviewed the letter from CDFW and is providing the following comments and recommendation to the District in response to CDFW's letter.

1. GEI recommends that the District consider, but does not change the IS/MND, on CDFW's recommendation of adding a mitigation measure to the IS/MND for planting of vegetation to offset the impacts of placement of riprap on the bank of Deer Creek. CDFW's letter recommends the planting of a mix of locally collected vegetation such as willow (*Salix spp.*), boxelder (*Acer negundo*), cottonwood (*Populus fremontii*), walnut (*Juglans spp.*), or sycamore (*Platanus racemosa*). The plantings would need to be monitored and maintained on-site for a 5-year period with a minimum 85% survival of plantings and plantings shall attain a minimum 80% cover over the rock.

The current design shows the placement of Caltrans Class 5 rock along the eroded bank of Deer Creek. This rock has an average diameter of 18-inches and approximately 325 cubic yards of Class 5 rock would be placed along the slope for the project. While the placement of this size of rock yields interstitial space between individual rocks, and soil can be spread in these voids, the soil depth and overall depth of voids within the rock layers are not enough to accommodate successful establishment of willow or other woody species pole cuttings. Furthermore, it is anticipated that rock placement would span approximately 20-25 feet up the slope from toe-of-slope to top of rock. Plantings within the first 1-2 feet above the ordinary high water line may survive without irrigation, but above that, most of the species listed would require some type of artificial irrigation to meet the survival standards provided by CDFW. We believe the effort to maintain the plantings to an 85% survival rate would be prohibitive to the District in terms of cost and time and would be highly likely to be unsuccessful.

2. GEI recommends that the District incorporate CDFW's name to Mitigation Measure BIO-4, as per their request. CDFW is a trustee and responsible agency under California Public Resources Code section 210000 et seq. As a trustee agency, CDFW has a responsibility to preserve and protect fish and wildlife resources. The measure in this paragraph of CDFW's letter, Mitigation Measure BIO-4, addresses mitigation for impacts to critical habitat for listed fish species, which requires consultation under the Federal Endangered Species Act. Impacts to critical habitat do not require authorization or approval by CDFW. However, as a trustee agency, they would want assurance that the mitigation proposed is viable and would protect the species. GEI does not see any concern with including CDFW's name in the measure to allow them to be consulted and coordinated with regarding the mitigation for impacts to critical habitat. Ultimately, the only approving body will be the National Marine Fisheries Service.

Regarding the second part of this recommendation concerning mitigation for riparian habitat, GEI recommends that the District consider this request, but does not change the IS/MND. Impacts to riparian woodland are not anticipated. In discussion with KSN on the design of the project, careful effort was made to ensure that large mature riparian trees would not need to be removed. Should it be determined that trees need to be removed during construction, the District will ensure that appropriate mitigation is implemented in coordination with CDFW.

3. GEI recommends that the District incorporate CDFW's comments and recommendations for Mitigation Measures BIO-5 and BIO-9. CDFW's recommendations are refinements to the mitigation measures and do not increase compliance efforts related to the measures. CDFW's recommendations do not add tasks, scope, or significant cost to the measures as written in the IS/MND.
4. GEI recommends that the District does not change the IS/MND in regard to CDFW's comment on special-status plant species. The two plant species identified in CDFW's letter have a low potential to occur in the project area and could be impacted by project implementation. However, the potential extent of loss of each of these species at the project site is very small due to the size of the project and areas disturbed, suitable habitat and known populations of the species occur in the larger region of the project site, and the potential impacts from the project would not threaten to eliminate these plant communities; therefore the impact would not be considered substantial. Therefore, the impact from the project on these two special-status plant species would be less-than-significant and mitigation is not required.

Section 15074.1 of the State CEQA Guidelines provides a process for substituting mitigation measures in a proposed mitigated negative declaration:

- (a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those

mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.

(b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

(1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.

(2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.

(c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.

(d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

Based on the comments from CDFW, GEI recommends that the District incorporate CDFW's comments and recommendations and changes the text of Mitigation Measures BIO-4, BIO-5 and BIO-9 in the MND and MMRP, as described above, in accordance with Section 15074.1. The proposed substitute text is equivalent or more effective than the measures proposed in the IS/MND because all of the actions required by the original measure would still be required, and the substitute text provides clarification of the requirement only. The revised actions would not result in additional effort by the District, nor would they have any significant physical effect on the environment, and no recirculation of the proposed MND is required because the revised mitigation measures are incorporated into the project approval.