

## **Appendix D: Public Involvement**

## INTRODUCTION

This Appendix provides responses to public and agency comments on the American River Watershed Common Features 2016 Project, Sacramento River Erosion Contract 1: River Mile 55.2L Left Bank Protection Draft Environmental Assessment/Environmental Impact Report (SEA/EIR) received during the public comment period.

## PUBLIC COMMENT SUMMARY

The Draft SEA/EIR was posted with the State Clearinghouse (SCH # 2020070269) on July 13, 2020. The Draft SEA/EIR was circulated for 47 days for review by Federal, State, and Local agencies, organizations, and members of the public from July 11, 2020, through August 26, 2020. The Notice of Availability was published in the Sacramento Bee on July 16, 2020. The Draft SEA/EIR was made available on the Sacramento District, U.S. Army Corps of Engineers (USACE) website, [sacleveeupgrades.com](http://sacleveeupgrades.com), and on the Central Valley Flood Protection Board (CVFPB) website. Hard copies of the Draft SEA/EIR were made available upon request.

USACE posted information about the Proposed Action on its website at [www.sacleveeupgrades.com](http://www.sacleveeupgrades.com), which included summarized information on the Proposed Action, an electronic copy of the Draft SEA/EIR, a Frequently Asked Questions document, and instructions as to how to participate in the virtual public meeting. A virtual public meeting was held on July 27, 2020, to provide additional opportunities for comments on the Draft SEA/EIR. All comments received during the public review period were considered and incorporated into the Final SEA/EIR as appropriate.

Instead of holding the usual in-person meeting to take comments, due the restrictions on meeting sizes and health concerns during the COVID-19 pandemic, a virtual public meeting was held using WebEx software. During the virtual public meeting, attendees could utilize the chat function to ask questions or send comments to the meeting moderator. Meeting attendees were also given an opportunity to voice comments at the end of the presentation directly over the phone or through WebEx software. During the virtual public meeting, several clarifying questions were asked by members of the public regarding the project, impacts, and other ARCF projects. No comments were received during the public meeting. In addition to the virtual public meeting, comments could be submitted through mail or electronic mail.

During the Draft SEA/EIR public review period, written comments were submitted in letters and one email. The comments were submitted by the following commenters:

- (2) State agencies
- (1) Local/regional agencies
- (1) Non-profit
- (1) private citizen/company

## **COMMENTS AND RESPONSES**

The following pages include all public comments received and the responses to those comments. The responses are annotated to refer back to the corresponding letters and comments that precede them.

**DEPARTMENT OF TRANSPORTATION**

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*Making Conservation  
a California Way of Life.*

August 19, 2020

GTS# 03-SAC-2020-00723

Miles Claret  
Department of Water Resources  
3464 El Camino Avenue Room 150  
Sacramento, CA 95821

**Notice of Availability of Draft Supplemental Environmental Assessment/Environmental Impact Report for American River Watershed Common Features, Water Resources Development Act of 2016, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Project**

Dear Mr. Claret,

Thank you for including the California Department of Transportation (Caltrans) in the review process for the project referenced above. Caltrans' new mission, vision, and goals signal a modernization of our approach to California's transportation system. We review this local development for impacts to the State Highway System (SHS) in keeping with our mission, vision, and goals for sustainability/livability/economy, and safety/health. We provide these comments consistent with the State's smart mobility goals that support a vibrant economy, and build communities, not sprawl.

### **Project Description**

The Project proposes to construct an approximately 1,150-foot-long bank protection along the Sacramento River. The Project is located along the left bank (when facing downstream) of the Sacramento River just south of The Westin Sacramento in the Little Pocket area of the City of Sacramento. The following comments are based on the Notice of Availability of a Draft Supplemental Environmental Assessment and Environmental Impact Report provided:

### **Traffic Operations**

The Project is proposing to utilize the Interstate 5 (I-5) interchange (IC) at Seamas Avenue for construction access with approximately 100 trailer truck round trips for transporting construction materials and equipment to this vicinity. The same approximate number of truck round trips will also be needed to remove construction materials and equipment after the work is completed.

The Seamas Avenue IC is a short-diamond type interchange with traffic signals controlling both ramp intersections. This segment of I-5 has 4-lanes in each direction on a horizontal curve layout that has recurring mainline congestion during the AM period. Currently, there is an

ongoing construction project on I-5, from Hood-Franklin to I-80, that includes adding HOV (High Occupancy Vehicle) median lanes and other operational and multimodal improvements.

A-1

It is recommended that the Project's project manager coordinate with Caltrans District 3 Construction for interchange closure during the HOVL project. Currently, the mainline geometry had been reconfigured at this location and delineated with narrower lanes. The Caltrans project may also find it necessary to close portions of the Seamas Avenue IC during construction.

Please provide our office with copies of any further actions regarding the Project. We would appreciate the opportunity to review and comment on any changes related to this development. If you have any questions regarding these comments or require additional information, please contact Benjamin Garcia, Intergovernmental Review Coordinator, at (530) 741-4543 or by [Benjamin.Garcia@dot.ca.gov](mailto:Benjamin.Garcia@dot.ca.gov).

Sincerely,



Alex Fong  
Acting Branch Chief, Transportation Planning - South  
Planning, Local Assistance, and Sustainability  
California Department of Transportation, District 3



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## DELTA STEWARDSHIP COUNCIL

*A California State Agency*

August 21, 2020

**Chair**  
Susan Tatayon

Miles Claret  
California Department of Water Resources  
Division of Flood Management  
3464 El Camino Avenue Room 150  
Sacramento CA 95821

**Members**  
Frank C. Damrell, Jr.  
Michael Gatto  
Maria Mehranian  
Oscar Villegas  
Ken Weinberg

**Executive Officer**  
Jessica R. Pearson

Sent via email to: [PublicCommentARCF16@water.ca.gov](mailto:PublicCommentARCF16@water.ca.gov)

### **RE: Comments on Draft Supplemental Environmental Assessment/Environmental Impact Report for American River Watershed Common Features, Water Resources Development Act of 2016, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Project**

Dear Mr. Claret:

The Delta Stewardship Council (Council) appreciates the opportunity to comment on the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Project (Project) Draft Supplemental Environmental Assessment/Supplemental Environmental Impact Report (Draft Supplemental EA/EIR). The Project proposes to construct approximately 1,150-foot-long bank protection measures along the Sacramento River near the Little Pocket neighborhood. The Project will repair an erosion site, restoring structural stability and ensuring future levee integrity (Draft Supplemental EA/EIR p.9). The Project will also include an ecosystem restoration component in the form of a planted waterside bench. The levee system reduces risk and provides flood protection for the City of Sacramento.

Most of the levee improvements included in the Project were analyzed in the American River Watershed Common Features General Reevaluation Report (ARCF GRR) Environmental Impact Statement/Environmental Impact Report (EIS/EIR). The Draft Supplemental EA/EIR addresses project modifications and refinements since publication of the ARCF GRR EIS/EIR.

The Council previously submitted comments to the Central Valley Flood Protection Board (Flood Board) on the ARCF GRR EIS/EIR (see **Attachment 1**). That comment letter explained the Council's regulatory authority under the Sacramento-San Joaquin Delta Reform Act of 2009 (SBX7 1; Delta Reform Act (Wat. Code, § 85000 et seq.)); identified Water Code section 85225 requirements for the Flood Board to determine whether the Project is a covered action

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*"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."*

– CA Water Code §85054

and, if so, file a certification of consistency with the Council before implementing the Project;  
and identified Delta Plan regulatory policies that would be potentially implicated by the Project.

Council staff appreciated the opportunity to discuss this Project and the covered action process with you and other project partners from the U.S. Army Corps of Engineers and Sacramento Area Flood Control Agency at a July 30, 2020 early consultation meeting for this Project. Early consultation represents a critical step in the process for determination of consistency with the Delta Plan for covered actions; it also provides a state or local public agency the opportunity to discuss the Project's possible impacts on and benefits to the coequal goals, the Council's regulatory processes, and implementation of the Delta Plan (including adaptive management plans and use of best available science).

### **Covered Action Determination and Certification of Consistency with the Delta Plan**

As explained in the Council's comment letter on the ARCF GRR Draft EIS/EIR and noted in the Draft Supplemental EA/EIR (page 96), the Project appears to meet the definition of a covered action. As defined in Water Code section 85057.5 subdivision (a), a covered action is a plan, program, or project as defined in Public Resources Code section 21065 that meets all of the following conditions:

1. Will occur in whole or in part within the boundaries of the Delta (Wat. Code, § 12220) or Suisun Marsh (Pub. Resources Code, § 29101). *The Project would occur in part within the boundaries of the Delta.*
2. Will be carried out, approved, or funded by the State or a local public agency. *The Project would be approved by the Flood Board, which is a State agency.*
3. Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta. *The Project would have a significant impact on the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta.*
4. Is covered by one or more of the regulatory policies contained in the Delta Plan (Cal. Code Regs., tit. 23, §§ 5003-5015). *Delta Plan regulatory policies that may apply to the Project, as well as resulting site selection and implementation within the Delta, are discussed below.*

The State or local agency approving, funding, or carrying out a plan, program, or project must make a reasonable, good faith determination, consistent with the Delta Reform Act and Delta Plan regulatory policies, whether the plan, program, and/or project is a covered action and, if so, submit a certification of consistency with the Delta Plan to the Council prior to project implementation (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(3).) As described in Water Code, sections 85225.10 through 85225.25, the certification of consistency may be appealed to the Council.

## **Comments Regarding Delta Plan Policies and Potential Consistency Certification**

The following section describes the Delta Plan regulatory policies that may apply to the Project. The Council offers this information to assist the Flood Board to prepare a certification of consistency for the Project.

### **General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan**

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002) specifies what must be addressed in a certification of consistency by a state or local public agency for a plan, program, or project that is a covered action. This policy applies only after a proposed action has been determined by the agency to be a covered action because one or more of the Delta Plan regulatory policies (Cal. Code Regs., tit. 23, §§ 5003-5015) is implicated. The following policy requirements under G P1 may apply to the Project:

#### **Mitigation Measures**

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002(b)(2)) requires that covered actions not exempt from the California Environmental Quality Act (CEQA) must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 28, 2018 (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective. Mitigation measures in the Delta Plan's Mitigation Monitoring and Reporting Program (MMRP, Appendix O to the Delta Plan) are available at <https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>.

The Draft Supplemental EA/EIR identifies significant impacts that require mitigation for visual resources, air quality, vegetation and wildlife, special status species, climate change, cultural resources, geological resources, hazardous wastes and materials, water quality and groundwater resources, noise, and recreation. The Flood Board should review Delta Plan Appendix O and ensure that the Final Supplemental EA/EIR includes all applicable feasible mitigation measures adopted and incorporated into the Delta Plan or identifies substitute mitigation measures that the agency finds are equally or more effective.

B-1

#### **Best Available Science**

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3)) states that actions subject to Delta Plan regulations must document use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as “the best scientific information and data for informing management and policy decisions.” (Cal. Code Regs, tit. 23, § 5001(f).) Best available science is also



required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan (<https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf>).

B-2

In the Final Supplemental EA/EIS, the Flood Board should include references to scientific papers or reports that support the use of best available science, as relevant, and discuss the design of in-stream woody material and planting benches to provide fish habitat.

#### **Adaptive Management**

Delta Plan Policy **G P1(b)(4)** (Cal. Code Regs., tit. 23, § 5002(b)(4)) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through 1) the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan (<https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf>); and 2) documentation of adequate resources to implement the proposed adaptive management plan.

B-3

Adaptive management may be required for the Project given its ecosystem restoration component of a planted waterside bench (Draft Supplemental EA/EIR p.12). An adaptive management plan consistent with the framework referenced above will be required as part of a certification of consistency with the Delta Plan for the Project. Council staff in the Delta Science Program are available to provide early consultation on adaptive management upon request.

#### **Ecosystem Restoration Policy 2: Restore Habitats at Appropriate Elevations**

The Council's comments on the Draft ARCF GRR EIS/EIR highlighted Delta Plan Policy **ER P2** (Cal. Code Regs., tit. 23, § 5006), which requires that habitat restoration must be consistent with Appendix 3 of the Delta Plan (available within Appendix B:

<https://deltacouncil.ca.gov/pdf/delta-plan/2013-appendix-b-combined.pdf>). The elevation map included as Figure 4-6 (<https://deltacouncil.ca.gov/pdf/delta-plan/figure-4-6-habitat-types-based-on-elevation.pdf>) and Appendix 4 of the Delta Plan should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation. The Project includes a habitat restoration component of a planted waterside bench. The Flood Board should include information in the Final Supplemental EA/EIS that explains how the Project is an appropriate habitat restoration action considering the site elevation and projected sea level rise and anticipated changes in inflows.

B-4

#### **Ecosystem Restoration Policy 4: Expand Floodplains and Riparian Habitats in Levee Projects**

The Council's comments on the Draft ARCF GRR EIS/EIR highlighted Delta Plan Policy **ER P4** (Cal. Code Regs., tit. 23, § 5008), which requires levee projects to evaluate and, where feasible incorporate, alternatives to increase floodplains and riparian habitats. The policy also requires the evaluation of setback levees in several areas of the Delta, including urban levee improvement projects in the City of Sacramento, as shown in Appendix 8 to the Delta Plan. Delta Plan combined regulatory appendices are available online at <https://deltacouncil.ca.gov/pdf/delta-plan/2013-appendix-b-combined.pdf>. The Flood Board should consider including information in the Final Supplemental EA/EIR documenting how the Flood Board evaluated the feasibility of incorporating floodplain and riparian habitats into the design and construction of the Project, including consideration of setback levees, where feasible.

The Flood Board should also include information in the Final Supplemental EA/EIR that explains and substantiates how other alternatives that would increase riparian habitats were evaluated and incorporated, where feasible.

#### **Ecosystem Restoration Policy 5: Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species**

Delta Plan Policy **ER P5** (Cal. Code Regs., tit. 23, § 5009) requires that covered actions fully consider and avoid or mitigate the potential for new introductions of, or improved habitat conditions for, nonnative invasive species, striped bass, and bass.

The Flood Board should consider including information in the Final Supplemental EA/EIR that explains how the Project would implement invasive non-native species mitigation measures, that are equally or more effective than Delta Plan Mitigation Measure 4-1 (available at: <https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf>). The future certification of consistency for the Project should identify evidence in the record that the Flood Board has fully considered and avoided or mitigated improved habitat conditions for invasive, nonnative fish species.

#### **Delta as Place Policy 2: Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats**

Delta Plan Policy **DP P2** (Cal. Code Regs., tit. 23, § 5011) reflects one of the Delta Plan's charges to protect the Delta as an evolving place by siting project improvements/facilities to avoid or reduce conflicts with existing or planned future land uses when feasible. Independent from state law related to local land use authority and CEQA requirements, DP P2 is a directive to state and local public agencies proposing covered actions, and it specifically requires flood management infrastructure to be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of

influence when feasible, considering comments from local agencies and the Delta Protection Commission.

B-7 The Draft Supplemental EA/EIR identifies a variety of significant impacts to existing uses that could result from the Project, including temporary impacts on visual character and temporary and short-term recreational opportunities during construction, and vegetation removal. The Flood Board should consider including in the Final Supplemental EA/EIR information showing how the specific proposed flood management infrastructure, as well as rights-of-way, staging areas, borrow disposal areas, and other facilities supporting the Project would be sited to avoid or reduce these impacts.

### **Risk Reduction Policy 1: Prioritization of State Investments in Delta Levees and Risk Reduction**

B-8 Delta Plan Policy **RR P1** (Cal. Code Regs., tit. 23, § 5012) calls for the prioritization of State investments in Delta flood risk management, including levee operation, maintenance and improvements. Delta Plan Policy RR P1 includes three high-level goals that are to be implemented across three benefit analysis categories. For the Project, Goal 1, *Protect existing urban and adjacent urbanizing areas by providing 200-year flood protection*, is particularly relevant. The Flood Board should consider including information in the Final Supplemental EA/EIR how the Project meets the priorities identified under RR P1.

In addition, as part of the Delta Levees Investment Strategy (DLIS), the Council is currently working to update the investment priorities set forth in RR P1. This process is currently anticipated to be completed in 2021-2022. In the interim, the priorities described under RR P1 remain in effect.

### **CEQA Regulatory Setting**

B-9 For each resource section in which a Delta Plan policy is applicable, the Final Supplemental EA/EIR regulatory setting should describe the Delta Plan and reference specific applicable regulatory policies.

### **Conclusion**

B-10 As the Flood Board has determined that the Project is a covered action (Draft Supplemental EA/EIR p. 96), the Flood Board should submit a certification of consistency with the Delta Plan to the Council. We encourage the Flood Board to continue to engage in early consultation with Council staff prior to developing and submitting a certification of consistency for the Project. Please contact Erin Mullin at [Erin.Mullin@deltacouncil.ca.gov](mailto:Erin.Mullin@deltacouncil.ca.gov) with any questions.

Miles Claret

Comments on Draft Supplemental Environmental Assessment/Environmental Impact Report  
for American River Watershed Common Features, Water Resources Development Act of  
2016, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Project  
August 21, 2020  
Page 7

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Henderson", followed by a long horizontal line extending to the right.

Jeff Henderson, AICP  
Deputy Executive Officer  
Delta Stewardship Council



August 4, 2020

SENT VIA EMAIL

Mr. Miles Claret  
Department of Water Resources  
3464 El Camino Avenue, Room 150  
Sacramento, CA 95821

U.S. Army Corps of Engineers  
Sacramento District  
1325 J Street, Room 1513  
Sacramento, CA 95814

**Draft Supplemental Environmental Assessment / Environmental Impact Report for the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection (SAC201301442)**

Dear Mr. Claret and U.S. Army Corps of Engineers:

Thank you for providing the Draft Supplemental Environmental Assessment / Environmental Impact Report (DSEA/EIR) for the American River Watershed Common Features, Water Resources Development Act of 2016 Project, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection project to the Sacramento Metropolitan Air Quality Management District (Sac Metro Air District) for review. Sac Metro Air District staff comments follow.

C-1

The Air Quality Avoidance, Minimization, and Mitigation Measures section, pages 44-45, describes that "marine engine standards identified in the ARCF GRR EIS/EIR are not being applied to the activities included in the Proposed Action due to concerns about the availability of Tier 2 and 3 marine engines." The proposal is to include a mitigation fee payment in lieu of the marine engine standards. Sac Metro Air District recommends that all feasible on-site mitigation be included prior to using the mitigation fee option. On-site mitigation is preferred to reduce potential impacts to the neighboring communities. The Army Corps should include the marine engine standards as a mitigation measure for the project and determine through the bid/contracting process if Tier 2 and 3 marine engines are not available. If the selected contractor provides supporting documentation that Tier 2 and 3 marine engines are not feasible or available, the fee payment could then be used as an alternative mitigation measure.

Please contact me at 916-874-4881 or [khuss@airquality.org](mailto:khuss@airquality.org) if you have any questions regarding the Sac Metro Air District's recommendation.

Sincerely,

A handwritten signature in black ink that reads "Karen Huss".

Karen Huss  
Associate Air Quality Planner/Analyst

Cc: Paul Philley, AICP, Sac Metro Air District  
Kimberly Watts, U.S. Army Corps of Engineers



PO Box 1526 • Sacramento, CA • 95812  
(916) 444-0022

August 26, 2020

Miles Claret  
Department of Water Resources  
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Public Affairs Office  
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Sacramento, CA 95814  
Email: spk-pao@usace.army.mil

**RE: Draft Supplemental EA/EIR for the American River Watershed Common Features, Water Resources Development Act of 2016, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Project**

Dear Madams and Sirs:

The following paragraphs constitute the comments of ECOS and its conservation arm, Habitat 2020 regarding the above referenced, compactly-titled project. ECOS is a coalition of environmental and social organizations working for social equity, public health and environmental sustainability in the Sacramento region, through land use planning, transportation planning, and habitat and agricultural preservation. Habitat 2020 is the conservation committee of ECOS whose members include the Audubon Society, California Native Plant Society, Friends of Swainson's Hawk, Save the American River Association, Save Our Sandhill Cranes, the Sierra Club, Stone Lakes National Wildlife Refuge Association, the Sacramento Area Creeks Council, International Dark Skies Assoc Sacramento Chapter, and Sacramento Heron and Egret Rescue.

The following changes to the mitigation measure and accompanying narrative are necessary to comply with CEQA.

**D-1 1. Strengthen Commitment Language in Mitigation Measures by Changing “Would” to “Must”**

The mitigation measures are worded in the conditional tense using the word “would.” The word, “would” is a past-tense form of “will”. It is also a conditional verb that indicates an action that would happen under certain conditions. Neither of these meanings is applicable as an action verb for mitigation measures under CEQA.

More importantly, “would” does not reflect a requirement that the Corps must carry out the specified mitigation measures.

All mitigation measures using the word would as the action verb must be replaced by the word “**must**”.

D-2 2. The Project fails to acknowledge and mitigate for all impacts on the Swainson’s Hawk, listed as threatened under the California Endangered Species Act

The project would undoubtedly reduce nesting habitat for Swainson’s Hawks and other protected raptor species, but the Supplemental EA/EIR does not quantify nor mitigate for that loss. The Sacramento River is a prime location for nesting Swainson’s Hawk and any removal of nesting habitat there is significant and requires mitigation at nearby permanently protected locations containing nesting habitat (tall trees). Trees that qualify for nesting sites take decades to grow so planting trees somewhere else does not address the loss.

The Sacramento River is a prime location for nesting Swainson’s Hawk and any removal of nesting habitat along the river is significant and requires mitigation at nearby permanently protected locations.

Last paragraph page 26, fourth sentence: There is no reason that with careful planning tree removal associated with the project could not occur outside of nesting season. The phrase “To the extent practical” is not necessary and should be stricken.

D-3 3. Narrow the Geographic Scope of Mitigation Measure SRA-1

With respect to Mitigation Measure SRA-1: Implement Measures to Avoid, Minimize, and Compensate for Effects on Shaded Riverine Aquatic Habitat” the option of conservation bank credit purchases for mitigation of lost shade trees on the levee is an easy-escape provision that allows for mitigation in an area unrelated to the area of impact. With respect to this supplemental environmental impact report it is inconsistent with CEQA for mitigation to be outside the area of impact

The mitigation measure must delineate or otherwise identify the area which is acceptable for mitigation of this project. It should be close enough to the area of impact that the population of species affected by the project will benefit from the mitigation measure.

The second bullet of Mitigation Measure SRA-1 on page 37 and on page xii should read:

USACE **must** compensate for SRA habitat losses ***proximate to the area of impact along the east bank of the Sacramento River***. USACE **must** compensate for lost habitat using NMFS-approved mitigation actions at a 1:1 ratio if mitigation occurs prior to construction, 2:1 ratio during construction, or a 3:1 ratio after construction.

Even then, the mitigation measure is deficient and unenforceable, and therefore inconsistent with CEQA, for failing to state when the mitigation measures must be implemented. It allows implementation of mitigation measures to be postponed indefinitely.

The mitigation measure must delineate or otherwise identify the area which is acceptable for mitigation of this project. It should be close enough to the area of impact that the population of species affected by the project will benefit from the mitigation measure. A mitigation location 50 miles distant will not mitigate for impacts on the population of species impacted by the project.

Finally, the last sentence of this section on page 38 should read:

If any additional avoidance, minimization and mitigation measures are recommended, they ***must be implemented***.

#### D-4 4. Mitigation Measure Veg-2 on Page xxi is Overly Broad and Needs Clarification

Consistent with the comments under section 2 above, the Veg-2 Mitigation Measure on page xxi and page 70 of the document requires clarifying editing:

To compensate for the removal of riparian habitat (1.258 acres), replacement habitat **must** be created at a ratio of 2:1 to account for the temporal loss of habitat while newly created habitat is growing. Species selected to compensate for the riparian corridor removal **must** be consistent with the approved list of trees, shrubs, and herbaceous plants native to the Great Valley Mixed Riparian Forest. The replacement habitat **must** be created in accordance with the ARCF GRR HMMAMP, which includes conceptual mitigation proposals, performance standards, and adaptive management tasks. After construction has been completed, 0.22 acres of riparian vegetation **must** be planted in the planting bench. The remaining compensation for the temporal loss of riparian vegetation and SRA habitat ***must be planted along the east bank of the Sacramento River proximate to the area of impact and must*** be protected in perpetuity. These



sites **must** be selected and designed in coordination with NMFS and USFWS as part of the consultation under the Endangered Species Act.

Again, the Mitigation Measure is deficient and noncompliant with CEQA for failure to state when the mitigation measure must be implemented nor the location of the mitigation. As written, implementation of the mitigation measure may be postponed indefinitely. This measure is therefore unenforceable and thus noncompliant with CEQA.

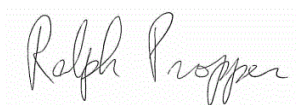
The mitigation measure must delineate or otherwise identify the area which is acceptable for locating mitigation habitat this project. It should be close enough to the area of impact that the population of species affected by the project will benefit from the mitigation measure. A mitigation location 20 miles distant, for example, will not mitigate for impacts on the population of species impacted by the project.

D-5 5. Consideration of Further Study to Identify Proximate Mitigation Sites

If the lead agency believes that the above recommended wording of mitigation measures SRA-1 and VEG-2 is not feasible, then the Supplemental EIR needs to be revised to provide clear and demonstrable evidence in support of that conclusion before the project's environmental documentation becomes final. The elimination of potential mitigation sites along the Sacramento River because those potential sites may require levee "improvements" at some future date is not, of and by itself, a legitimate reason for eliminating potential proximate mitigation sites.

We urge that you give these comments serious consideration. Please feel free to contact us if you have further questions.

Sincerely,



Ralph Propper  
President, ECOS



Robert Burness  
Habitat 2020 Co-Chair



Sean Wirth  
Habitat 2020 Co-Chair

## **Watts, Kimberly J (Kim) CIV USARMY CESPCK (USA)**

---

**From:** Stalker, Tyler M CIV USARMY CESPCK (USA) on behalf of SPK-PAO SPK  
**Sent:** Wednesday, August 26, 2020 9:34 AM  
**To:** Watts, Kimberly J (Kim) CIV USARMY CESPCK (USA); Claret, Miles@DWR  
**Cc:** Caden, Patrick CIV USARMY CESPCK (USA)  
**Subject:** FW: SREL Mile 55.2 Left Bank Protection - Comment

FYSA. We received this comment last night.

Respectfully,  
Tyler

Tyler M. Stalker  
Deputy Chief of Public Affairs  
U.S. Army Corps of Engineers, Sacramento District  
Office: 916-557-5107  
Mobile: 916-396-2831

-----Original Message-----

From: Todd Lemmons [mailto:todd@nordicind.com]  
Sent: Tuesday, August 25, 2020 5:04 PM  
To: SPK-PAO SPK <SPK-PAO@usace.army.mil>; PublicCommentARCF16@water.ca.gov  
Subject: [Non-DoD Source] SREL Mile 55.2 Left Bank Protection - Comment

Hi,

E-1 We would like to request that access for materials and equipment for this site be allowed by both barge and land. Requiring access to the site for equipment and materials by barge only will reduce and or eliminate competition of bidders.

Thanks,

Todd Lemmons

Nordic Industries, Inc.

Project Manager

530-308-1330



## **RESPONSES TO COMMENTS**

### **Draft Supplemental Environmental Assessment/Environmental Impact Report American River Watershed Common Features Water Resources Development Act 2016 Project, Sacramento River Erosion Contract 1: River Mile 55.2 Left Bank Protection Sacramento, California**

#### **A. Letter from the California Department of Transportation, District 3 (Caltrans), dated August 19, 2020**

A-1: The Proposed Action will have construction materials and equipment delivered and removed via barges on the Sacramento River, no bank protection material or large equipment is to be delivered from the land side. Landside access will be limited to personally owned vehicles, restroom facilities, fencing, and tree removal vehicles and equipment.

#### **B. Letter from the Delta Stewardship Council (DSC), dated August 21, 2020**

B-1: Comment noted. Delta Plan Appendix O was reviewed and considered during preparation of the Final Supplemental EA/EIR.

B-2: The Proposed Action was designed in accordance to the latest USACE engineering design standards. References for the instream-woody material (IWM) design has been added to the Final SEA/EIR. The location of the riparian planting bench is established by the Standard Assessment Model (SAM) model which establishes a prime interface for the specified habitat. The exact location is tempered and adjusted for specific locational variables by the professional contributions of the project development team and historic precedent.

B-3: Comment noted. Appendix I to the American River Common Features (ARCF) General Reevaluation Report (GRR) Environmental Impact Statement / Environmental Impact Report (EIS/EIR) is the Habitat Mitigation Monitoring and Adaptive Management Plan (HMMAMP), which provides a framework for mitigation monitoring, performance standards, and adaptive management for on and off-site mitigation for the ARCF 2016 Project, including the Proposed Action. Additionally, a site-specific habitat management plan will be created for the Proposed Action that defines performance standards, monitoring objectives, and adaptive management actions that must be followed to ensure the on-site planting bench is successful and meets the mitigation requirement. CVFPB intends to include this habitat management plan as part of a future certification of consistency with the Delta Plan for the Proposed Action.

B-4: The riparian planting bench design is described in Section 2.3.1 of the Final SEA/EIR. The specific size, elevation, and slope of the planting bench were determined as a result of several interagency Project Development Team (PDT) meetings that included USACE, Department of Water Resources (DWR), Sacramento Area Flood Control Agency (SAFCA), U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS). The 7-foot bottom elevation of the planting bench is set to the average low flow water surface elevation in the Sacramento River in August, September, and October. The planting

bench slopes upwards to a top elevation of approximately 8-feet. The purpose of targeting this specific elevation is to provide near shore aquatic habitat to special-status fish species during lower river stages that are common in summer and fall. The rock revetment design and the planting bench design would both be resilient to sea level rise. There is significantly more flow area above the elevation of the top of the revetment; therefore, there would be less pressure against the bank, and erosion is not expected. If flood stages increase slightly due to sea level rise, the design elevation of the top of revetment would not be affected because the larger flow area above that elevation is adequate to quickly dissipate pressure to protect the bank from erosion. The design of the elevation of the planting bench was set to ensure survival of young plants and to support natural recruitment of native vegetation even during low flow periods. As sea level rises in the future, it is expected that young plants will have developed into mature and healthy vegetation, which will encourage soil to accumulate along the river bank where new vegetation recruitment will occur.

B-5: The Proposed Action incorporates a riparian planting bench (see Section 2.3.1 of the Final SEA/EIR) that will be planted, monitored, and maintained to support a diverse riparian habitat community. Given the urban location of the Proposed Action, levee setback alternatives are not feasible. Additional information regarding the feasibility of levee setback alternatives can be found in the ARCF GRR EIS/EIR.

B-6: Management of invasive plant species for on and off-site mitigation as part of ARCF 2016 is defined in the HMMAMP. A site-specific habitat management plan will be created for the on-site mitigation as part of the Proposed Action, which will include management actions related to invasive plant species. (Please see response to Comment B-3.) The presence of invasive, nonnative fish species is part of the existing condition. The riparian planting bench will provide near shore mosaic flood plain aquatic habitat and refuge for native juvenile fish species, thereby reducing the risk that native fish species would be adversely impacted by invasive, nonnative fish species that are already present in the Sacramento River. This type of habitat feature/improvement has been shown to improve survivability amongst sub-yearling salmonids in channelized river systems such as the Lower Sacramento River.

B-7: The Proposed Action includes improvements to existing levee infrastructure and does not include expansion or changes to the footprint of these facilities or acquisition of private property beyond the existing flood control infrastructure. Additional information addressing the environmental analysis of the Proposed Action, including impacts to visual character, recreation, and vegetation removal, can be found in the Chapter 3 of the ARCF GRR EIS/EIR and in Chapter 3 of the Final SEA/EIR.

B-8: The Proposed Action would improve levees and protect existing urban development in an area defined as a “very high priority” (the highest priority category) for risk reduction improvements in Chapter 7 of the Delta Plan. The geotechnical design criteria adopted for the Proposed Action follow published USACE and DWR Urban Levee Design Criteria (ULDC). A 200-year water surface profile was used in the design analysis to evaluate project compliance with geotechnical criteria under DWR’s ULDC 200-year level of protection.

Additional information addressing the project purpose can be found in Chapter 1 of ARCF GRR EIS/EIR and in Chapter 1 of the Final SEA/EIR.

B-9: As described in Chapter 3 of the Final SEA/EIR, supplemental information on existing conditions, including environmental and regulatory setting, is provided for resource topics only where necessary to support the supplemental impact analysis. Otherwise, the document relies on the regulatory setting as described in the ARCF GRR EIS/EIR and is not repeated.

B-10: Comment noted. As stated in Chapter 5 of the Final SEA/EIR, CVFPB will submit a certification of consistency with the Delta Plan for the Proposed Action.

**C. Letter from Sacramento Metropolitan Air Quality Management District (SMAQMD), dated August 4, 2020**

C-1: The referenced text has been deleted and Mitigation Measure AIR-5 from the ARCF GRR EIS/EIR has been included to address this comment.

**D. Letter from the Environmental Council of Sacramento (ECOS), dated August 26, 2020**

D-1: Mitigation Measures in draft NEPA/CEQA documents are usually written using “would” to convey the conditional nature of the environmental commitments. If a FONSI is prepared, it will contain non-conditional language and all of the agency’s mitigation commitments. The Final SEA/EIR Mitigation Measures have been updated to reflect the non-conditional commitment of USACE and CVFPB to carry out the mitigation measures.

D-2: Impacts to special-status species, including Swainson’s hawk (SWHA), are discussed in Section 3.2.2 of the Final SEA/EIR. Tree removal from construction activities would reduce the amount of habitat available to SWHA and could destroy active nests, resulting in loss of eggs and young. Mitigation Measures VEG-1, VEG-2, SRA-1, and BIRD-1, will reduce impacts on Swainson’s Hawks to be less-than-significant by implementing measures to avoid impacts to active nests and by providing on and off-site riparian habitat mitigation to replace habitat loss caused by construction.

Mitigating for project impacts by protecting locations that already contain nesting habitat is not feasible given the scale and types of mitigation required for the overall ARCF 2016 Project, including the Proposed Action. Additionally, protecting nesting habitat does not serve the same functional lift as replacement because the trees removed due to construction are not being replaced which results in a net negative habitat loss. Therefore, because protection is infeasible in some locations, replacement is the best mitigation strategy and prevents a net habitat loss.

Impacts to vegetation and wildlife habitat are discussed in Section 3.2.9 Vegetation and Wildlife, which states that 1.258 acres of canopy are to be removed from the site and includes Mitigation Measures VEG-1, VEG-2, and SRA-1 to avoid, minimize, and mitigate for long-term impacts to riparian habitat and wildlife to a less than significant level. VEG-2 also states that “replacement habitat would be created at a ratio of 2:1 to account for the

temporal loss of habitat while newly created habitat is growing.” The acreage to be removed has been added to the discussion of impacts to Swainson’s Hawks and other birds as well as a cross-reference to Section 3.2.9 to guide readers to further discussion on habitat impacts and mitigation. Mitigation Measures VEG-1 and VEG-2 were added to the list of mitigation measures in Section 3.2.2.

Additionally, as described in Section 3.2.9, the ARCF GRR EIS/EIR concluded that short-term impacts to vegetation and wildlife habitat would be significant and unavoidable because it would take many years for riparian habitat to become fully mature and provide the same value as existing riparian habitat. Long-term impacts to vegetation and wildlife habitat would be reduced the less than significant because once the vegetation has fully grown, the on-site and off-site mitigation areas would provide similar or greater habitat value compared to what was impacted by construction. Language has been added to Section 3.2.9 to clarify short-term and long-term impacts as stated above.

Habitat mitigation described in VEG-2 and SRA-1 will be implemented consistent with ARCF GRR EIS/EIR Appendix I, *Habitat Mitigation Monitoring and Adaptive Management Plan* (HMMAMP) and in coordination with NMFS and USFWS according to the Biological Opinions issued under the Endangered Species Act (GRR EIS/EIR Appendix J) for the ARCF 2016 Project, including the Proposed Action. The HMMAMP states that the compensation objective for the ARCF 2016 Project is to directly mitigate project impacts by establishing successful and diverse habitats that provide an ecological value consistent with mature existing habitat conditions in the study area. HMMAMP Section 2.2 provides a framework for accomplishing compensation objectives.

USACE, CVFPB, DWR, and SAFCA are dedicated to providing quality mitigation for shaded riverine aquatic habitat (SRA) and riparian habitat losses due to the Proposed Action and for all other components of the ARCF 2016 Project. The offsite mitigation will occur as close to the project impacts as feasible considering site availability and the scale of mitigation required for the overall ARCF 2016 Project. USACE, CVFPB, and SAFCA are seeking compensatory mitigation opportunities on or adjacent to the main stem of the Sacramento River within a 20 mile radius (27 river miles), ideally, but sites within a 50 mile radius (55 river miles) may need to be utilized. Coordination with USFWS and NMFS to identify and design the mitigation sites is currently ongoing. USACE, CVFPB, and SAFCA are seeking to implement mitigation to address impacts associated with the ARCF 2016 Project by 2025. However, the specific timing of implementing the mitigation is uncertain due to potential challenges with acquiring the necessary real estate on a scale that can provide mitigation for impacts anticipated from multiple contracts being constructed as part of the ARCF 2016 Project. If mitigation cannot be fulfilled onsite and offsite, mitigation requirements may be completed by purchasing credits from USFWS approved mitigation banks or in-lieu fee programs.

The vegetation removal is planned to occur in the winter (outside of the breeding bird season); however, during construction unforeseen circumstances may arise that require additional tree trimming or removal. In the event of this situation, USACE will implement

measures described in BIRD-1 including conducting nesting bird surveys and establishing protective buffers around active nests.

D-3: Please refer to Comment D-1 above for NEPA and CEQA language for draft documents.

HMMAMP Section 1.9 Location of Mitigation and Compensation Sites states that it is appropriate to select on and off-site mitigation areas within the ARCF 2016 study area rather than purchasing credits at a mitigation bank. However, there are significant barriers to providing nearby off-site mitigation on the scale required for the overall ARCF 2016 Project, so purchasing mitigation bank credits is an option, if available and approved by USFWS and NMFS. Some barriers for implementing the offsite mitigation include land availability, land use, land elevations, existing habitat, and existing infrastructure, such as roads and utilities.

SRA and riparian habitat losses will be mitigated as prescribed in the mitigation measures, which have been approved by USFWS and NMFS and are in the HMMAMP and the ARCF 2016 NMFS Biological Opinion. Reconsultation is currently on going with USFWS and NMFS, any new stipulations in the BOs, to be issued in early 2021, will be incorporated into the Proposed Action and mitigation, as feasible. Mitigation sites are being identified and analyzed by USACE, CVFPB, DWR, SAFCA, NMFS, and USFWS to mitigate for impacts anticipated from multiple contracts, including the Proposed Action, to be performed under the ARCF 2016 Project on the Sacramento River.

Reaches of the East bank of the Sacramento River that are in close proximity to the Proposed Action site are within the ARCF Project study area. Reaches within the ARCF Project study area have been categorized into three tiers of flood risk. Tier 1 need repairs as soon as possible, Tier 2 might need repair in the next 50 years, and Tier 3 needs no repair. Tier 3 sites are generally well vegetated and do not need habitat modification, Tier 2 sites are still being evaluated and it would be an improper use of funding to create a mitigation site in an area that may be removed at a later date. Tier 1 sites are subject to ARCF Project actions and are being designed to include onsite mitigation. For these reasons, mitigation on the East bank of the Sacramento River within close proximity to the proposed action are not feasible.

USACE, CVFPB, DWR, and SAFCA are dedicated to providing quality mitigation for riparian and SRA habitat losses. This mitigation will occur as close to the project impacts as feasible. USACE, CVFPB, and SAFCA are seeking mitigation opportunities on or adjacent to the main stem of the Sacramento River within a 20 mile radius (27 river miles), ideally, but sites within a 50 mile radius (55 river mile) may need to be utilized. Coordination with USFWS and NMFS to identify and design the mitigation sites is currently ongoing. USACE, CVFPB, and SAFCA are seeking to implement mitigation by 2025. However, the specific timing of the mitigation is unknown due to potential challenges with acquiring the necessary real estate on a scale that can provide mitigation for impacts anticipated from multiple contracts being constructed as part of the ARCF 2016 Project. If some mitigation cannot be accomplished onsite, mitigation requirements may be completed by purchasing credits from USFWS and/or NMFS approved mitigation banks or in-lieu fee programs.



D-4: Please refer to Comment D-1 above for NEPA and CEQA language for draft documents.

The riparian habitat losses will be mitigated as prescribed in the mitigation measures, which have been approved by USFWS and NMFS. Mitigation sites are being identified and analyzed by USACE, CVFPB, DWR, SAFCA, NFMS, and USFW to mitigate for impacts anticipated from performance of multiple contracts under the American River Watershed Common Features Project.

Regarding timing, location, and implementation of off-site mitigation, please see responses to Comments D-2 and D-3.

D-5: Please refer to responses to D-1, D-2, and D-3 for NEPA and CEQA language and discussion of the timing, location, and implementation of mitigation measures.

**E. Comment from Nordic Industries, Inc., dated August 25, 2020**

E-1: Access to the site has been limited to barge traffic for delivery of equipment and material to reduce the impacts to riparian habitat and recreation. Large trucks accessing the site would necessitate construction of ramps and additional riparian habitat removal which is inconsistent with the USACE's obligation to protect to the riparian corridor.