



State Water Resources Control Board

Division of Financial Assistance
1001 I Street, Sacramento, California 95814 • (916) 341-5700
Mailing Address: P.O. Box 844212 • Sacramento, California 94244-2120
FAX (916) 341-5707 • http://www.waterboards.ca.gov



Arnold Schwarzenegger
Governor

MAY 5 2009

Mr. Eric Chen
County of San Mateo
555 County Center, 5th Floor
Redwood City, CA 94063

RECEIVED

MAY 07 2009

DEPARTMENT OF PUBLIC WORKS
COUNTY OF SAN MATEO

Dear Mr. Chen:

INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION (IS/MND) FOR THE COUNTY OF SAN MATEO (COUNTY); PESCADERO COMMUNITY SEWER PROJECT (PROJECT); STATE CLEARINGHOUSE NO. 2009042022

COMMENT S1-

01:

We understand the County is pursuing Clean Water State Revolving Fund (CWSRF) financing for this Project (CWSRF No. C-06-4864-110), and has a planning grant with the Small Community Wastewater Grant Program (SCG-959-010). As a funding agency and a state agency with jurisdiction by law to preserve, enhance, and restore the quality of California's water resources, the State Water Resources Control Board (State Water Board) is providing the following information for the environmental document prepared for the Project.

Please provide us with the following documents applicable to the proposed Project: (1) Two copies of the draft and final IS/MND, (2) the resolution adopting the IS/MND, adopting the Mitigation Monitoring and Reporting Program (MMRP) and making California Environmental Quality Act (CEQA) findings, (3) all comments received during the review period and the County response to those comments, (4) the adopted MMRP, and (5) the Notice of Determination filed with the Governor's Office of Planning and Research. In addition, we would appreciate notice of any hearings or meetings held regarding environmental review of any projects to be funded by the State Water Board.

Response:

The funding mechanism for this project has not been determined. The potential for additional compliance requirements will be considered at the appropriate time.

### COMMENT S1-

02:

The CWSRF Program is partially funded by the U.S. Environmental Protection Agency (USEPA), and requires additional "CEQA-Plus" environmental documentation and review. Three information sheets are included that further explain the environmental review process and some additional federal requirements in the CWSRF Program. In addition, an environmental form is included for the County to submit should it pursue State Water Board funding. The State Water Board can consult directly with agencies responsible for implementing federal environmental laws and regulations. Any environmental issues raised by federal agencies or their representatives will need to be resolved prior to State Water Board approval of a CWSRF funding commitment for the proposed Project. For further information on the environmental compliance process for the CWSRF Program, please contact me at (916) 341-6983.

***Response:***

The funding mechanism for this project has not been determined. The potential for additional compliance requirements will be considered at the appropriate time.

### COMMENT S1-

03:

It is important to note that prior to a CWSRF funding commitment, projects are subject to provisions of the Federal Endangered Species Act and must obtain approval from the U.S. Fish and Wildlife Service (USFWS), and/or National Marine Fisheries Service (NMFS) for any potential effects to special status species. Please be advised that the State Water Board can consult with USFWS, and/or NMFS on behalf of the County regarding all federal special status species the Project has the potential to impact.

The County will need to identify whether the Project will involve any direct effects from construction activities, or indirect effects, such as growth inducement, that may affect federally listed threatened, endangered, or candidate species that are known, or have a potential to occur on-site, in the surrounding areas, or in the service area. Please identify applicable conservation measures to reduce such effects.

***Response:***

The funding mechanism for this project has not been determined. The potential for additional compliance requirements will be considered at the appropriate time.

### COMMENT S1-

04:

CWSRF projects must comply with Section 106 of the National Historic Preservation Act (NHPA). The State Water Board has been delegated responsibility for carrying out the requirements of Section 106 under a Nationwide Programmatic Agreement executed for the CWSRF by the USEPA, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers (SHPO).

As stated above, the State Water Board has responsibility for ensuring compliance with Section 106 and the State Water Board's Cultural Resources Officer (CRO) consults directly with the SHPO. SHPO consultation is initiated when sufficient information is provided by the CWSRF applicant for projects having potential to impact cultural resources. Please contact the State Water Board's CRO, Ms. Cookie Hirn, at 916-341-5690, with any questions on how to begin the Section 106 compliance process. Note that the County will need to identify the Area of Potential Effects (APE), including construction, staging areas, and depth of any excavation.

Please provide the CRO with a copy of a current records search for the Project area including maps that show all recorded sites and surveys in relation to the APE for the Project. The APE is three-dimensional and includes all areas that may be affected by the Project. The APE includes the surface area and extends below ground to the depth of any Project excavations. The records search request should be made for an area larger than the APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity.

***Response:***

The funding mechanism for this project has not been determined. The potential for additional compliance requirements will be considered at the appropriate time.

Other federal requirements pertinent to the Project under the CWSRF Program include the following:

**COMMENT S1-05:**

- A. **Compliance with the Migratory Bird Treaty Act (Act):** List any birds that are protected under this Act that may be impacted by the Project, and identify conservation measures to minimize such impacts.

***Response:***

Impacts to migratory nesting birds are addressed in Questions A and D of the impact discussion under Biological Resources in the Environmental Checklist of the initial study. Mitigation Measure BR-2 was proposed to mitigate impacts to special status birds and migratory birds associated with development of the PCS Project.

**COMMENT S1-06:**

- B. **Compliance with the Coastal Zone Management Act:** Identify whether the Project is within a coastal zone and the status of any coordination with the California Coastal Commission.

***Response:***

The project is located within the jurisdiction of the San Mateo County Local Coastal Plan (LCP). After an LCP is formally approved, the California Coastal Commission's coastal permitting authority over most new development is transferred to the local government (San Mateo County), which applies the requirements of the LCP in reviewing proposed new developments. The Commission also acts on appeals from certain local government coastal permit decisions.

**COMMENT S1-07:**

- C. **Compliance with the federal Clean Air Act (CAA):** (a) Provide air quality studies that may have been done for the Project; and (b) if the Project is in a nonattainment area or attainment area subject to a maintenance plan; (c) provide a summary of the estimated emissions (in tons per year) that are expected from both the construction and operation of the Project for each federal criteria pollutant in a nonattainment or maintenance area, and indicate if the nonattainment designation is moderate, serious, severe, or extreme; (d) if emissions are above the federal de minimis levels, but the Project is sized to meet only the needs of current population projections that are used in the approved State Implementation Plan for air quality, quantitatively indicate how the proposed capacity increase was calculated using population projections.

**Response:**

No air quality studies were performed for this Project. It is not expected that this project will require the preparation of project-specific air quality studies.

Air quality issues are discussed in Section 3.0 of the IS/MND, Pages 3-8 and 3-9. This text specifically states:

"The BAAQMD CEQA guidelines do not require that a Proposed Project quantify emissions from construction, but rather utilize mitigation measures to ensure that emissions would not increase or cause a violation of the CAAQS or NAAQS."

~~The funding mechanism for this project has not been determined. The potential for additional compliance requirements will be considered at the appropriate time.~~

Following are specific comments on the County's IS/MND:

**COMMENT S1-08:**

1. Page 2-6 states "Selection of appropriate areas and final design of leach fields would be dependant upon required percolation tests and location of adjacent groundwater wells and surface water resources." In the County's final IS/MND please include, along with any mitigation measures, the determined location and size of the leach field to be created by the Project.

**Response:**

Figure 2-5 of the MND identifies approximately 9.2 acres of County land suitable for leach field development sized to meet the needs of the project.

### COMMENT S1-

09:

2. Page 3-5 states "The proposed sewer collection system located along Pescadero Creek Road is bordered on the south by land designated by the FMMP as Prime Farmland." On page 3-7, the IS/MND states "The construction and maintenance of the wastewater conveyance system would not impact surrounding Prime Farmland, as all construction activities would occur along previously disturbed areas." Please clarify if there are any measures implemented by the Project to ensure no impact will occur to adjacent Prime Farmland bordering the Project site along Pescadero Creek Road.

***Response:***

Environmental impact analysis was based on the project as described in Section 2.0. As stated therein, ground disturbing activities would be confined primarily to existing right-of-ways and other previously disturbed areas.

### COMMENT S1-

10:

3. Page 3-9 states that "By implementing basic BAAQMD CEQA mitigation measures, construction of the Proposed Project would not conflict with or obstruct the implementation of an applicable air quality plan, violate any air quality standard, result in a substantial contribution to an existing or projected air quality violation, or result in a cumulatively considerable net increase of any CAPS for which the project region is in non-attainment under the NAAQS or CAAQS." Please provide quantitative data to substantiate the County's determination that the Project would not conflict with or obstruct the implementation of an applicable air quality management plan, or violate any air quality standards. In addition to providing data, include the BAAQMD CEQA mitigation measures to be implemented by the Project to reduce impacts to a less than significant level. Also be advised for CWSRF the Project must comply with the CAA, for additional information on the CAA please refer to the above federal requirements for the CWSRF Program, Item C.

***Response:***

The air quality analysis in the Environmental Checklist of the initial study addresses the PCS Project's potential impact on National Ambient Air Quality Standards in accordance with the Clean Air Act. As discussed on Page 3-9 under Air Quality, by implementing basic BAAQMD CEQA mitigation measures, construction of the Proposed Project would not conflict with or obstruct the implementation of an applicable air quality plan, violate any air quality standard, result in a substantial contribution to an existing or projected air quality violation, or result in a cumulatively considerable net increase of any CAPs for which the project region is in non-attainment under the NAAQS or CAAQS. Additionally, mitigation has been proposed that would further reduce impacts. Operation of the proposed project does not include on-site emission sources of CAPs. The limited number of vehicle trips generated by the Proposed Project (1-5 trips/day) would result in emissions of CAPs. However, based on standard vehicle emissions rates, the overall emissions would be less than the BAAQMD CEQA guidelines significance threshold for CAPs.

### COMMENT S1-

11:

4. Regarding Biological Resources Mitigation Measure 1 for California red-legged frog (CRLF), clarify if the County has consulted with USFWS for this Project. If the County has not consulted with USFWS for Project impacts to CRLF and its critical habitat, the County may request that the State Water Board initiate federal consultation.

If feasible, the County should conduct all excavation and construction activities associated with the Project during July 1 through October 31, to avoid CRLF during the rainy season.

Include as avoidance mitigation the following: (a) if any excavation and construction activities associated with the Project do not occur during July 1 through October 31, the County shall install silt fencing around the Project area prior to any ground disturbance or staging activities to prevent California red-legged frog from entering the Project area; and (b) the County shall have a qualified biologist check the Project area at the beginning of each work day to ensure proper function of the fence and to locate any California red-legged frogs that have entered the Project area.

***Response:***

Refer to Page 3-19 of the IS/MND for a discussion of the CRLF. CRLF were not observed within the study area during the field surveys.

### COMMENT S1-

12:

5. Biological Resources Mitigation Measure 2(b) states "If active salt marsh common yellowthroat nests are identified within 500 feet of the construction areas during the surveys, the California Department of Fish and Game (CDFG) shall be contacted. Through consultation with CDFG, an appropriate course of action, acceptable setbacks to mitigate both physical and noise-associated disturbances and a suitable monitoring plan shall be determined." This mitigation measure defers mitigation of potential impacts to the salt marsh common yellow throat to a later date. CEQA Guidelines Section 15126.4(b) states "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect if the project and which may be accomplished in more than one specified way." If impacts to salt marsh common yellowthroat are anticipated because of Project construction, please contact CDFG to determine appropriate mitigation measures to implement before construction begins, and include those Project specific mitigation measures in the final IS/MND.

***Response:***

This mitigation measure proscribes a pre-construction nesting survey, the results of which will be used to consult the DFG regarding appropriate setbacks. The size of the setbacks are dependent on the location of discovered nests in relation to construction activities.

### COMMENT S1-

13:

6. Biology Resource Mitigation Measure 5(b) states "Appropriate Best Management Practices (BMPs) shall be employed to further reduce the potential for impacts to the perennial drainages associated with sedimentation and/or pollutants." Please include the BMPs used by the Project to reduce impacts to perennial drainages. Also include all BMPs used to reduce impacts associated with other environmental areas impacted by the Project.

**Response:**

Applicable BMPs are listed in the Mitigation Monitoring and Reporting Program.

### COMMENT S1-

14:

7. On page 3-29 mitigation measure Cultural Resources 1 states that "In the event of the unanticipated discovery of buried or concealed historical resources or fossilized remains, project activities shall cease in the area of the find, and a qualified archeologist/paleontologist shall be consulted to determine the extent and significance of the resource and to develop necessary mitigation measures." According to Section 15064.5 of the CEQA Guidelines, subsection (b) "A project with an effect that may cause a substantial adverse change in the significance of an historical resource," as defined under subsection (a), "is a project that may have a significant effect on the environment." Subsections (1) and (2) of CEQA Guidelines, Section 15064.5 describe the actions that lead to an historical resource being impaired by a project activity.

Please understand that the impairment of an historical resource is a significant impact that cannot be mitigated, as the negative effects upon such a resource cannot be repaired. Consultation with an archeologist or paleontologist following the discovery of cultural resources may not prevent adverse impacts to such resources. Consider the potential impact of Project construction to such cultural resources when determining the appropriate mitigation measures for the Project.

**Response:**

The cultural resources section of the Initial Study (IS) for the proposed project has been prepared pursuant to the requirements of CEQA and analyzes the potential for significant impacts to historical and unique archaeological resources. As detailed in the IS and the stand-alone cultural resources study, a full accounting of potential cultural resources within the project site was achieved through a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University, an intensive pedestrian survey of the area of potential effects (APE), a search of the Sacred Lands File (SLF) maintained by the Native American Heritage Commission (NAHC), and Native American consultation. As clearly stated in the IS, the thorough cultural resources inventory did not identify any significant cultural resources within the project site. As an added precaution, mitigation was crafted to address the possibility of an inadvertent discovery of archaeological resources and human remains with the scope and nature of the proposed project in mind.

It should be noted that the mitigation in question uses standard language that mirrors that which is routinely used in CEQA documents prepared for the State Water Resources Control Board, and which the Board uses as a permit term for water right applications to mitigate inadvertent impacts. Moreover, the Section 15064.5(e) and (f) of the Public Resources Code require that mitigation be developed that addresses the inadvertent discovery of human remains and historical or unique archaeological resources in the course of construction. A key provision of Section 15064.5(e) is the “immediate evaluation of the find by a qualified archaeologist” following an inadvertent discovery ([http://ceres.ca.gov/nahc/Article\\_5.html](http://ceres.ca.gov/nahc/Article_5.html)).

### COMMENT S1-

15:

8. Geology and Soils Mitigation Measure 1 on page 3-39 states “The components of the Proposed Project would be constructed in accordance with the provisions of the CBC.” Compliance with law, codes, and regulations is not mitigation. Mitigation measures must include specific feasible actions that will minimize or avoid potential Project related impacts as stated by CEQA Guideline Section 15370. Please substantiate the effectiveness of Geology and Soils Mitigation Measure 1 and define the term CBC.

**Response:**

Mitigation Measure GS-1 has been revised to clarify that the mitigating project component is the use of a pre-engineered structure, engineered to meet California Building Code requirements for seismic fortification for Site Class C.

### COMMENT S1-

16:

9. Geology and Soils Mitigation Measure 2 on page 3-39 states “Erosion and water quality control measures identified in the SWPPP could include but not be limited to the following...” Please include a copy of the SWPPP that includes all erosion and water quality control measures to be implemented by the proposed Project.

**Response:**

Preparation of the SWPPP prior to project approval and the design phase is premature. The County will prepare a SWPPP at the appropriate time.

### COMMENT S1-

17:

10. Page 3-46 states that “Both creeks are listed as impaired based on sedimentation from non-point sources, mainly upstream sources from the Santa Cruz Mountains and development activities within the coastal valleys. Sediments are carried downstream resulting in the sedimentation of the Pescadero Marsh.” Please discuss the potential impacts, if any, to surface water from additional sedimentation as a result of Project construction.

**Response:**

Potentially significant impacts associated with sedimentation of adjacent water resources are addressed in the Hydrology and Water Quality section of the Environmental Checklist of the initial study. The potential impacts would be mitigated through incorporation of BMPs into the SWPPP prepared prior to commencement of construction activities (Mitigation Measure HYD-1).

Thank you once again for the opportunity to review the County's environmental document. If you have any questions or concerns about the State Water Board environmental compliance process please feel free to contact me at (916) 341-6983, or by email at [MLJones@waterboards.ca.gov](mailto:MLJones@waterboards.ca.gov), or Parker Thaler at (916) 341-7388, or [PThaler@waterboards.ca.gov](mailto:PThaler@waterboards.ca.gov).

Sincerely,



Michelle L. Jones  
Environmental Scientist

cc: State Clearinghouse  
(Re: SCH# 2009042022)  
P. O. Box 3044  
Sacramento, CA 95812-3044