North Coast Regional Water Quality Control Board

M e m o r a n d u m

Date: July 3, 2024
To: California Department of Transportation
North Region Environmental–District 3
Attention: Danielle Ruiz, 3rd Floor
703 B Street
Marysville, CA 95901
LaFranchi.SafetyProject@dot.ca.gov

From: North Coast Regional Water Quality Control Board (RWB)
NorthCoast@waterboards.ca.gov

Subject: La Franchi Safety Project Initial Study with Proposed Negative Declaration (EA 01-0L110, SCH# 2024060060)

On June 4, 2024, the North Coast Regional Water Quality Control Board (Regional Water Board) received a draft Initial Study and Proposed Negative Declaration (draft IS/ND) from the California Department of Transportation (Caltrans) for the La Franchi Safety Project (Project), in Mendocino County, California. The draft IS/ND reviews and evaluates the impacts from road widening on U.S. Highway 101, upgrading guard rails, replacing a culvert, and constructing a new retaining system. The Regional Water Board hereby submits the following comments.

Regional Water Board Permitting
The proposed Project will require a Water Quality Certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) for activities within or affecting waters of the U.S. and waters of the State. If the U.S. Army Corps of Engineers does not take jurisdiction over the impacted aquatic resources, the proposed Project would require a Waste Discharge Requirement under the Porter Cologne Water Quality Control Act. There is also a potential need for a Construction General Permit.

Regional Water Board comments:

1. Chapter 1: Proposed Project; Section 1.3 Project Description, page 2.

Comment 1): The Project Description should be sufficiently developed to determine whether an acre or more of land disturbance would be required, thus requiring a Construction General Permit.

2. Chapter 1, Section 1.6: Standard Measures and Best Management Practices Included in All Alternatives

Biological Resources, BR-4: Plant Species, Sensitive Natural Communities, and ESHA, page 10 – "A. A Revegetation Plan would be prepared which would include a plant palette, establishment period, watering regimen, monitoring requirements, and invasive plant species control measures. The Revegetation Plan would also address measures for wetland and riparian areas temporarily impacted by the Project."

Comment 2): BR-4A Revegetation Plan should also include a grading plan and performance standards to satisfy the restoration requirements in the Water Board's *"State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State"*.

3. Biological Resources, BR-4: Plant Species, Sensitive Natural Communities, and ESHA, page 10 – "C. Where feasible, the structural root zone (SRZ) would be identified around each large-diameter tree (>2-foot diameter-at-breast height [DBH]) directly adjacent to Project activities, and work within the zone would be limited."

Comment 3): The feeder roots of trees may extend beyond the dripline of the tree. Work in proximity to a tree, outside the SRZ, may still result in impacts to feeder roots from changes in drainage from cut and/or fill activities, ground disturbance and soil compaction.

4. Water Quality and Stormwater Runoff, WQ-2, second bullet, page 17 – "Where possible, stormwater would be directed in such a way as to sheet flow across vegetated slopes, thus providing filtration of any potential pollutants."

Comment 4): Increased impervious surfaces due to road widening may require stormwater treatment beyond sheet flow to provide filtration.

5. Chapter 2: California Environmental Quality Act (CEQA) Environmental Checklist

Project Impact Analysis Under CEQA, page 22 – "Per CEQA, measures may also be adopted, but are not required, for environmental impacts that are not found to be significant (14 CCR § 15126.4(a)(3)). Under CEQA, mitigation is defined as avoiding, minimizing, rectifying, reducing, and compensating for any potential impacts (CEQA 15370). Regulatory agencies may require additional measures beyond those required for compliance with CEQA. Though not considered "mitigation" under CEQA, these measures are often referred to in an Initial Study as "mitigation", Good Stewardship, or Best Management Practices."

Comment 5): The IS/ND states regulatory agencies may require additional measures beyond those required for CEQA, which are not mitigation measures but instead good stewardship or best management practices. However, per the later referenced CEQA Guidelines California Code of Regulations (CCR) Title 14, Section 15370, the definition for mitigation includes compensating for an impact by replacing or providing a substitute resource. Given this Project proposes permanent impacts to waters of the State, compensatory mitigation to replace the impacted wetlands for a no-net-loss would be

defined as mitigation under CEQA. Therefore, a Mitigated Negative Declaration may be a more appropriate document.

6. Project Impact Analysis Under CEQA, page 22 – "CEQA documents must consider direct and indirect impacts of a project (California Public Resources (CPR) Code § 21065.3). They are to focus on significant impacts (14 CCR § 15126.2(a)). Impacts that are less than significant need only be briefly described (14 CCR § 15128). All potentially significant effects must be addressed."

Comment 6): The Regional Water Board recommends substantiating the discussion of impacts with more complete characterization of the construction scenario, including a list of heavy equipment, and both direct and indirect impacts from a discharge of dredge or fill material to Project aquatic and biological resources. Provide updated figures with maps of land cover types including sensitive natural communities and aquatic resources overlaid with complete identification of Project impacts.

7. No-Build (No-Action) Alternative, page 22.

Comment 7): Alternatives Analysis should include more than the build/no-build alternatives to determine the least environmentally damaging practicable alternative (LEDPA).

8. Chapter 2: Section 2.4 Biological Resources

Biological Environment/Setting, pages 36-38.

Comment 8): If this Biological Resources Environmental Setting is to remain general, the technical report (Caltrans. 2024 Natural Environment Study La Franchi Safety Project." Author: Jana Marquardt. May 2024) should be appended to the CEQA document. Otherwise, the Environmental Setting should be expanded to qualify the habitats present detailing dominant plant species, hydrology observed, and hydric soils.

9. Biological Environment/Setting, Hydrology, page 36 – "Hydrology within the biological survey area (BSA) consists of roadside ditches and drains that convey stormwater run-off during rain events. Some of these ditches may also convey groundwater that emerges from roadside seeps, primarily on the cut slope side of the road."

Comment 9): The Results sections, Affected Environment Section, and Figure 4 need to represent the ditches, wetland ditches, and roadside seeps, using consistent terminology. These features may be regulated as waters of the State.

10. Figure 2 Rosetti Creek Bridge

Comment 10): One bridge at PM 10.44 (Rosetti Creek Bridge #10-0087) is not mentioned in the document but is labeled on Figure 2 (page 5). Please describe proposed Project activities in relation to this structure/feature.

11. Biological Environment/Setting, Surveys, page 37 – "A list of animals and plants observed within the Project environmental study limits (ESL) are listed in their respective sections below."

Comment 11): These lists are not provided as indicated.

12. Sensitive Communities Present, Affected Environment and Environmental Consequences, pages 39-40.

Comment 12): The IS/ND states 0.510 acre of sensitive natural communities (Table 2) were mapped in the BSA, comprised of valley oak woodland alliance and valley oak riparian forest and woodland alliance. However, the corresponding Environmental Consequences Section reports 0.516 acre of impacts to oak woodland/riparian habitat.

Comment 13): The impact analysis should include what Project activities will contribute to the 0.516-acre of impacts to oak woodland/riparian vegetation. It is not clear how woodlands would be temporarily impacted and whether it would constitute thinning the woodland, trimming branches that are too close to utility equipment, cutting to stump, or removing select trees. Further, it is not clear whether the widened highway infrastructure would only result in a single temporary impact versus oak woodland that would require perpetual vegetation management; if the latter is true, the ongoing impact should be analyzed.

Comment 14): Expand on the quality determination for the oak woodland/riparian vegetation. Fragmentation alone does not necessarily reduce quality or function with the proximity to the Russian River.

13. Wetlands and Other Waters, Affected Environment, Results-Wetlands, pages 41-42 (Table 3).

Comment 15): Inconsistent terminology is used to describe the wetland riparian areas: "Valley oak (Quercus lobata) Riparian Forest and Woodland Alliance" in the Sensitive Natural Community Section, "Eastern Riparian" in the Results-Wetland Section, and both "Oak woodland/Riparian" and "Wetland (FEW)/Riparian" in Table 3. Regional Water Board recommends the use of consistent terminology throughout the document.

14. Wetlands and Other Waters, Results-Other Waters of the U.S./State, page 42 – "Four (4) drainages were observed to have ordinary high-water mark (OHWM) characteristics and were classified as jurisdictional. These included two (2) ephemeral streams—at PMs 9.81 and 9.86—and two (2) perennial streams—one at Feliz Creek PM 10.72 at the north end of the Project and the other an unnamed creek at PM 10.04."

Comment 16): Clarify whether the streams identified as ephemeral are those depicted in Figure 4 as intermittent.

15. Wetlands and Other Waters, Results-Other Waters of the U.S./State, page 43 – "All impacts would be restored onsite or on the adjoining mitigation parcel, post-construction."

Comment 17): The adjoining mitigation parcel is referenced once without description. Regional Water Board recommends including at minimum the location and the type of aquatic resources present.

16. Discussion of CEQA Environmental Checklist Question 2.4b) – Biological Resources, Sensitive Natural Communities, pages 59-60.

Comment 18): The IS/ND presents insufficient information to support the No Impact determination for Biological Resources Checklist Question 2.4b). The document identifies impacts to Valley Oak Riparian Forest and Woodland alliance. The impacted riparian habitat provides an essential buffer between Highway 101 and aquatic resources that contribute flow to the adjacent Russian River. Regional Water Board notes that replanted trees would require decades before providing equivalent pre-Project ecological function in these areas, so temporal loss may warrant a permanent impact instead of temporary. The Hydrology section reaffirms that temporary impacts to waters of the U.S. or state that last for more than a year are deemed permanent by permitting agencies due to the temporal loss of function. Attempts to reduce impacts to the structural roots of a large-diameter tree by root pruning by hand could still weaken or degrade its condition, if not result in mortality. Changes in the soil and drainage conditions surrounding a tree would likely result in degradation of condition or loss. Removal or loss of riparian trees and vegetation would be considered a permanent impact.

17. Discussion of CEQA Checklist Question 2.4c) – Biological Resources, Wetlands and Other Waters, page 60 – "Temporary and permanent impacts would be minimized with implementation of the Standard Measures and best management practices (BMPs) outlined in Chapter 1, Section 1.6. In addition, Caltrans would compensate for permanent Project impacts on aquatic resources in accordance with permitting requirements set forth by the USACE and RWQCB (anticipated to be at a 1:1 ratio based on on-site creation)."

Comment 19): The compensatory mitigation ratio for permanent impacts is typically set greater than 1:1 based on several factors, including the type of aquatic resource impacted, type of mitigation proposed, and whether mitigation would occur within or outside of the impacted watershed. A ratio of 1:1 is the minimum to meet the no net loss policy; higher ratios ensure replacement of lost aquatic resource functions and values.

18. Chapter 2: Section 2.10 Hydrology and Water Quality

Affected Environment, page 94 – "This area is under the jurisdiction of the State Water Resources Control Board (SWRCB) Region 1, whose water quality regulations are administered by the North Coast Regional Water Quality Control Board (NCRWQCB)

and lies within the Ukiah Hydrologic Sub-Area #114.31 in the Russian River Hydrologic Unit."

Comment 20): Regional Water Board recommends revising to, "This area is under the jurisdiction of the North Coast Regional Water…."

19. Environmental Consequences, page 96 – "The culvert at PM 10.5 is proposed to be increased from a 30"-diameter corrugated steel pipe (CSP) pipe to a 36"-diameter CSP."

Comment 21): The Project Description identifies only one culvert replacement; its location is listed as PM 10.35 on pages 3, 88, and 118. The document notes temporary impacts to a jurisdictional feature in relation to the culvert replacement, but the aquatic resource is not identified.

20. Environmental Consequences, page 96 – "The potential for turbidity impacts from erosion is specifically of concern from construction-related activities; however, would be minimized through implementation of Section 13 of the Standard Specifications which guide the standard measures that will be implemented to comply with water quality laws, regulations and permits."

Comment 22): Regional Water Board recommends including Section 13 Standard Specifications in *Chapter 6: References*.

21. Discussion of CEQA Environmental Checklist Question 2.10—Hydrology and Water Quality, 2.10 c)(iv), page 99 – "All drainages within the Project limits would retain their current flow pattern. Although there would be a retaining wall placed along the northbound lane on U.S. 101 from PM R9.76 to PM 9.80 and from PM 9.81 to PM 10.02, these two linear structures would be incorporated into the existing highway fill for stability and would not be outside the footprint of the original highway slope fill. Thus, there would be a less than significant impact."

Comment 23): The document doesn't address how road widening (e.g., permanent impacts, the increase in impervious surface area), would impact the roadside drainages, or the effect of the soldier pile retaining walls on surface and groundwater hydrology. Given the soldier pile wall would be contained within the existing highway slope fill, it is not clear why the wetlands would be impacted but the intermittent streams depicted on Figure 4 would be avoided; proposed impacts and aquatic resources on the same figure would add to understanding the Project.

Thank you for providing the opportunity for the Regional Water Board to comment on this draft IS/ND. If you have any questions or comments or would like to discuss these recommendations, please contact Environmental Scientist, Susan Stewart at (707) 576-2657 or by email at Susan.Stewart@waterboards.ca.gov.

Best regards,

Susan Stewart
Environmental Scientist/Caltrans Liaison
North Coast Regional Water Quality Control Board

cc: State Clearinghouse, Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Gregory Schmidt
U.S. Fish and Wildlife Service
Gregory_Schmidt@fws.gov

Michael Orellana
U.S. Army Corps of Engineers
Michael.S.Orellana@usace.army.mil

SF U.S. Army Corps of Engineers
CESPN-Regulatory-Info@usace.army.mil

Greg O'Connell
California Department of Fish and Wildlife
Gregory.OConnell@Wildlife.ca.gov

California Department of Fish and Wildlife
CEQACommentLetters@wildlife.ca.gov

Jessica Nadolski
Jessica.Nadolski@Waterboards.ca.gov

Devin Jokerst
Devin.Jokerst@Waterboards.ca.gov

Aundrea Asbell
Aundrea.Asbell@Waterboards.ca.gov

North Coast Regional Water Quality Control Board
NorthCoast@Waterboards.ca.gov