



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

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San Francisco, CA 94105-3901

Colonel Michael J. Farrell  
U.S. Army Corps of Engineers  
Sacramento District  
1325 J Street  
Sacramento, CA 95814

FEB 03 2014

Subject: U.S. EPA, Region 9 Comments on Public Notice (PN) SPK-2011-01010 for the State Route 180 Kings Canyon Expressway Segment 3 Project, Fresno County, CA

Dear Colonel Farrell,

We appreciate the opportunity to comment on the subject PN for the proposed State Route 180 Project that would realign and widen the current two-lane highway into a four-lane divided expressway near the communities of Centerville and Minkler. According to the PN, the proposed project would result in the loss of 5.54 acres of wetlands and 1.81 acres of other waters of the U.S. within various branches of the King River. Based on the available information, it appears the applicant has not demonstrated compliance with the restrictions on discharges per the Federal Guidelines (Guidelines) promulgated under section 404(b)(1) of the Clean Water Act (CWA) at 40 CFR Part 230. We are particularly concerned that the applicant has not: 1) demonstrated the need for the proposed project to meet the overall project purpose; 2) demonstrated that the proposed alternative is the least environmentally damaging practicable alternative (LEDPA); and 3) provided sufficient information describing avoidance measures and appropriate compensatory mitigation for unavoidable impacts to wetlands and other waters. The EPA objects to the project as proposed and recommends denial of the permit unless these issues are resolved.

Under the Guidelines, only the LEDPA meeting the overall project purpose can be permitted. The overall project purpose is to improve continuity, safety, and capacity along State Route 180; therefore, it is not water dependant and it is assumed there are practicable alternatives that would avoid fill in special aquatic sites such as wetlands. The applicant has not clearly demonstrated the need for a 4.5 mile segment expansion and the proposed realignment of State Route 180 to meet the overall purpose. Information such as population growth projections and traffic congestion data for the area serviced by this segment of State Route 180 should be cited and described in order to support the need for the project and the proposed alternative.

In order to identify the LEDPA, we recommend the applicant provide an updated alternatives analysis (AA). The current AA contains general descriptions of wetlands and waters of the U.S. and brief explanations about why they cannot be avoided. More information is needed to understand the type and extent of aquatic resources at the project site and how the proposed project would impact them. A recent jurisdictional determination is needed to confirm the extent of wetlands and waters of the U.S. on the project site along with a function or condition assessment of the existing wetlands and waters of the U.S. using a tool such as the California

Rapid Assessment Method (CRAM). Additional information is needed about the project design and realignment. The AA does not discuss the different realignments and widening options that were considered. It is important to understand all the practicable alternatives and environmental impacts when evaluating the proposed project for avoidance and minimization of environmental impacts. The submitted plans and designs superimposed on aerial photographs are difficult to view and interpret, and it is difficult to see the location and extent of the proposed realignment. We recommend the applicant submit maps, visualizations and best management practices as part of a complete alternatives analysis. We would also like to know if the applicant is using the best available technology such as clear span bridges at large crossings and precast concrete arch bridges at smaller crossings to avoid and minimize impacts to wetlands and waters of the U.S.

An updated analysis under the National Environmental Policy Act (NEPA) should also be conducted in order to help inform the LEDPA determination. It is our understanding that an Environmental Impact Statement (EIS) was last done for this project in 1994. If this is the case, then the project and environmental conditions in the project area may have changed enough over 20 years to warrant an updated NEPA analysis. Based on the extent of potential impacts to aquatic resources we recommend the applicant consider an integrated NEPA/404 process consistent with the 2006 Memorandum of Understanding between our agencies. If it is determined that an Environment Assessment is appropriate to support a Finding of No Significant Impacts for NEPA compliance, the EA should clearly indicate what actions are included as part of the proposed project that would reduce all impacts to less than significant. The applicant should also verify whether the 2005 biological opinion from the U.S. Fish and Wildlife Service is sufficient to assess project impacts to listed species.

Finally, although the adequacy of a compensatory mitigation plan cannot be fully determined until all practicable avoidance of impacts has been achieved, the PN does not describe any compensatory mitigation and only refers to the applicant's intent to provide off-site, permittee-responsible mitigation (PRM). Based on the extent of potential impacts from the proposed project, we strongly encourage the applicant to provide options for mitigation as early in the process as possible. At a minimum, the applicant should identify specific options for complying with the Corps' and EPA's 2008 Compensatory Mitigation Rule. Options include the purchase of credits from mitigation banks and in-lieu free programs, and PRM. The applicant should provide adequate assurances that there are opportunities to do so in advance of project impacts or with enough potential mitigation to compensate for permanent and temporal impacts.

In summary, there is presently insufficient information to make a determination of compliance with the Guidelines. We recommend that the applicant submit additional information on the following issues to the Corps:

- 1) A new or supplemental EA/EIS;
- 2) A more complete on-site and off-site AA with specific supporting material on realignment alternatives and clear screening criteria for practicability that are defined by appropriate cost, logistical, and/or technological constraints;

- 3) A more detailed characterization and assessment of aquatic resource type, quality/condition and functions at the project site and alternatives sites, including consideration of threatened or endangered species in the proposed project area and existing water quality challenges;
- 4) Confirmation from the U.S. Fish and Wildlife Service on whether or not an Endangered Species Act consultation needs to be reinitiated;
- 5) Additional maps and information about the preferred realignment to clearly show the extent and location of the realignment and expansion of State Route 180;
- 6) A detailed mitigation and monitoring plan.

Thank you for the opportunity to provide comments on this project. We look forward to working with the Corps and the applicant to resolve the important environmental issues concerning the proposed project. As additional information becomes available on this permit action, please ask your staff to coordinate with Grace Ma at (415) 947-4212 or [ma.grace@epa.gov](mailto:ma.grace@epa.gov).

Sincerely,



Jason Brush  
Supervisor  
Wetlands Office

Cc: Leah Fisher, U.S. Army Corps of Engineers, Sacramento District

Caltrans