



Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County

"Working together on water and Delta issues"

January 14, 2020

Katherine Marquez
P.O. Box 942836
Sacramento, CA 94236

Sent Via E-mail: delta_soil_ismnd@water.ca.gov

Re: Comments on the Mitigated Negative Declaration for Soil Investigations for Data Collection in the Delta

Dear Ms. Marquez,

This letter is written on behalf of the Delta Counties Coalition ("DCC")¹ regarding the Department of Water Resources' ("DWR") Initial Study Proposed Mitigated Negative Declaration for Soil Investigations in the Delta ("MND") and the notice of intent to adopt the MND pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq. ("CEQA")). The DCC provides the following comments on the MND and to help provide clarity on the requirements for conducting the proposed work within the various Delta County jurisdictions.

Based on the MND, the proposed project areas include completing subsurface and geophysical investigations in the Delta portions of Alameda, Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties. Each of the counties where the work is proposed has its own local county codes, ordinances, and land use policies. The proposed work includes conducting on-land drilling work and investigations 50 to 200 feet deep below ground surface and may require clearing of lands to allow access for the drilling rigs and other equipment. Such work must be completed compliant with drilling, grading, and other permit requirements of each local jurisdiction where the subsurface work would be conducted.

The MND entirely fails to disclose local permitting requirements. The MND does not give any indication that local permits will be obtained or even that local permitting agencies will be notified prior to drilling. This failure is relevant both to the impacts of drilling on water quality and groundwater, as well as local autonomy and land use impacts.

¹ These comments are also submitted in each county's individual capacity for purposes of exhaustion of administrative remedies. Certain DCC counties may also submit separate comments.

The MND claims that the proposed project would not violate water quality standards, waste discharge requirements, or degrade subsurface and groundwater quality since the proposed work will be conducted under DWR's water well standards, DWR Bulletins 74-81 and 74-90. (MND, p. 163-164.) Bulletin 74-81 defines test wells and includes standards for well destruction. (DWR Bulletin 74-81, pp. 25, 52-53.) Bulletin 74-90, in turn, confirms that Bulletin 74-81 constitutes the minimum requirements for construction, alteration, maintenance and destructions of monitoring wells and expands the definition of monitoring wells to include exploration holes. (Bulletin 74-90, pp. 3, 11.) Bulletin 74-90 also includes fill, sealing, and destruction standards for exploratory borings. (Bulletin 74-90, p. 52.) Water Code section 13801, subdivision (c), however, directed counties to adopt water well, cathodic protection well, and monitoring well drilling and abandonment ordinances that meet or exceed Bulletin 74-81's standards. Thus, the Legislature and DWR's own standards envision a regulatory scheme in which local agencies regulate drilling of monitoring wells and exploration holes.

DWR relies on compliance with Bulletins 74-81 and 74-90 to claim the drilling will have "no impact" on water quality standards or groundwater, and yet ignores the local ordinances expressly developed to meet the Bulletins' standards. These local county ordinances include additional requirements to ensure protection of groundwater and land-use resources within the counties' respective jurisdictions.

Conducting drilling without acquiring local permits is a violation of local land-use policies and ordinances and a violation of DWR's own water well standards. The MND's Land Use and Planning section also fails to disclose applicable local ordinances developed pursuant to Water Code section 13801. The MND purports to evaluate whether the proposed drilling would "[c]ause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect[.]" and concludes there would be no impact. (MND, p. 167.) This conclusion cannot be reconciled with the total failure to disclose or comply with local drilling ordinances.

Failure to comply with local ordinances would cause potentially significant environmental impacts. For instance, permitting and onsite inspections are required by lead enforcing and permitting agencies to ensure that subsurface borings are properly sealed to minimize detrimental effects. Improperly sealed borings may contribute to soil heaving, piping, or caving which could undermine subsurface utilities or impact nearby foundations and levees. Processes to reduce potential settlements in collapsible soils and eliminate sinkhole potential should also be incorporated. Furthermore, CPT and other boring techniques that produce large vibrations may also cause uneven settlement in the immediate areas near the borings. A plan to protect vibration sensitive facilities should be prepared and include adequate setbacks or modification of the drilling techniques in order to minimize potential detrimental effects.

Drilling waste must be confined to the parcel on which the work is being drilled and may not be discharged to create conditions which violate federal and state laws and regulations or local ordinances. Waste material generated that is proposed to be placed

in drums and kept on site until offsite hauling and disposal shall be properly labeled and managed until hauled offsite and disposed at a licensed facility that accepts the waste. In order to ensure that the proposed work will not pose health and safety issues, DWR and its contractors must adhere to local county ordinances, codes, and policies.

The local agencies that developed ordinances regulating DWR's proposed geotechnical activities possess the requisite expertise and familiarity with local groundwater aquifers, and their input is paramount to ensuring the drilling will not have adverse effects. The local agencies will also be responsible for understanding future ramifications of drilling. The MND does not identify any reporting or record keeping of boring results that would be transmitted to the counties and other local agencies. Such reporting is necessary for local agencies' exercise of future permitting authority over unrelated projects. Failing to provide records or reports to local agencies could result in unidentified water quality, groundwater or hazards impacts.

The DCC is also concerned that the drilling activities proposed in the MND are evaluated outside of the larger context of a soon-to-be-proposed single tunnel Delta conveyance project. (MND, p. ii.) A "project" under CEQA includes "the whole of an action" that may impact the environment. (14 Cal. Code Regs., § 15378.) Treating the drilling as a separate endeavor from the single tunnel Delta conveyance project amounts to impermissible piecemealing. (*East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 293.) DWR should reevaluate the impacts of its soil investigations within the context of the larger project it is intended to inform.

Sincerely,



Don Nottoli
Supervisor, Sacramento County



Skip Thomson
Supervisor, Solano County



Karen Mitchoff
Supervisor, Contra Costa
County



Jim Provenza
Supervisor, Yolo County



Katherine Miller
Supervisor, San Joaquin
County

cc: California Resources Agency Secretary Wade Crowfoot
California Department of Water Resources Director Karla Nemeth