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Governor's Office of Planning & Research

August 30, 2021

August 31 2021

STATE CLEARINGHOUSE

Ms. Sarah Easley Perez
City of Santa Cruz
212 Locust Street; Suite C
Santa Cruz, CA 95060
seasleyperez@cityofsantacruz.com

Subject: Santa Cruz Water Rights Project, Draft Environmental Impact Report,
SCH No. 2018102039, Santa Cruz County

Dear Ms. Perez:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) prepared by the City of Santa Cruz (City) for the Santa Cruz Water Rights Project (Project), located in Santa Cruz County. CDFW is submitting comments on the DEIR regarding potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-

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than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, section 2080.

Lake and Streambed Alteration Program

The Project has the potential to impact resources including mainstems, tributaries and floodplains associated with the San Lorenzo River Watershed, Liddell Creek Watershed, Laguna Creek Watershed, Majors Creek Watershed, Soquel Creek Watershed, and the Aptos Creek Watershed. Notification is required, pursuant to CDFW's LSA Program (Fish and Game Code, section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. CDFW considers work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

PROJECT DESCRIPTION

CDFW is in support of the proposed Project to improve the City's water system and water supply and enhance stream flows for anadromous fisheries by implementing agreed upon bypass flows (Agreed Flows) where the City diverts water. The Agreed Flows were developed in previous negotiations between the City, CDFW, and the National Marine Fisheries Service (NMFS) over a 13-year period beginning in 2005. The Agreed Flows are the result of extensive data collection on the hydrology and geomorphology of the affected watersheds and water supply and habitat-based modeling to determine the stream flows at City diversions necessary to be protective of Coho salmon – Central California coast, evolutionarily significant unit (ESU), San Francisco to Punta Gorda, (*Oncorhynchus kisutch*) and Steelhead -Central California coast, distinct population segment (DPS), (*Oncorhynchus mykiss irideus*). The Agreed Flows are part of the City's pending Anadromous Fisheries Habitat Conservation Plan (HCP).

The DEIR discusses the three main components of the Project including:

- Water rights modifications which include changes to the water right's place of use, method of diversion, points of diversion and re-diversion, underground storage and purpose of use, and extension of time and stream bypass requirements for fish habitat.

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- Water supply infrastructure improvements which include the development of new aquifer storage and recovery (ASR) facilities at both unknown locations and existing Beltz ASR facilities and intertie improvements between water districts.
- Surface water diversion improvements including improvements to the Felton Diversion fish passage and the Tait Diversion and Coast Pump Station.

Areas that will be impacted by the Project include streams and adjacent riparian zones affected by the proposed modifications to the City's water rights, and areas immediately impacted by the proposed infrastructure improvements.

ENVIRONMENTAL SETTING AND LOCATION

The Project is located in the water system and service areas of the City of Santa Cruz, San Lorenzo Valley Water District, Scotts Valley Water District, Soquel Creek Water District, Central Water District, and the Santa Cruz Mid-County Groundwater Basin and the Santa Margarita Groundwater Basin within the County of Santa Cruz.

The biological study area (BSA) consists of an approximately 162,166 acres and was established by a watershed-level approach to evaluate potential impacts to the water system and service areas of the City, and the previously listed water districts and groundwater basins. Sub-watershed areas associated with the three sources of water supply in the county, including the Loch Lomond Reservoir, San Lorenzo River diversions, and the North Coast streams diversions were also evaluated.

CDFW commends the work the City has done in this DEIR to assess the baseline habitat conditions for special-status plant, fish, and wildlife species potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species within the 162,166-acre study for the Project (CEQA Guidelines, §15380). Threatened, endangered, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	Scientific Name	Status
California giant salamander	<i>Dicamptodon ensatus</i>	SSC
California red-legged frog	<i>Rana draytonii</i>	FT, SSC
Foothill yellow-legged frog	<i>Rana boylei</i>	SE, SSC
Santa Cruz black salamander	<i>Aneides niger</i>	SSC
Santa Cruz long-toed salamander	<i>Ambystoma macrodactylum croceum</i>	FE, SE, SFP

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Black swift	<i>Cypseloides niger</i>	SSC
Burrowing owl	<i>Athene cunicularia</i>	SSC
Marbled murrelet	<i>Brachyramphus marmoratus</i>	FT, SE
Tricolored blackbird	<i>Agelaius tricolor</i>	ST, SSC
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC
White tailed kite	<i>Elanus leucurus</i>	SFP
Coho salmon – Central California coast ESU	<i>Oncorhynchus kisutch</i>	FE, SE
Steelhead – Central California coast DPS	<i>Oncorhynchus mykiss irideus</i>	FT
Tidewater goby	<i>Eucyclogobius newberryi</i>	FE
Ohlone tiger beetle	<i>Cicindela Ohlone</i>	FE
Smith's blue butterfly	<i>Euphilotes enoptes smith</i>	FE
Zayante band-winged grasshopper	<i>Trimerotropis infantilis</i>	FE
American badger	<i>Taxidea taxus</i>	SSC
Pallid bat	<i>Antrozous pallidus</i>	SSC
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC
Western pond turtle	<i>Emys marmorata</i>	SSC
Notes: FE = Federally Endangered; FT = Federally Threatened; SE = State Endangered; ST = State Threatened; SFP = State Fully Protected; SSC = State Species of Special Concern		

CDFW recommends that prior to Project implementation surveys be conducted at individual Project construction sites for special-status species noted in this comment letter with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:
<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

Comment 1: Groundwater Analysis

Issue: The DEIR provides information and modeling support for the Santa Cruz Mid-County Groundwater Basin for the proposed Beltz ASR Project; however, the DEIR does not analyze the groundwater impacts for the future ASR projects in the Santa Margarita Groundwater Basin. The Groundwater Resources section, on page 4.8-9, mainly focuses on the existing conditions related to the proposed Beltz ASR and provides general information on the Santa Margarita Groundwater Basin projects. The Santa Cruz Mid-County Groundwater Basin also has a groundwater flow model developed in 2016 as part of the Mid-County Groundwater Basin Sustainability Plan, as referenced in Appendix D, page 20, which provides flow modeling and climate change projections. This type of modeling does not exist for the Santa Margarita Groundwater Basin and the groundwater sustainability plan for this basin is still in development. Without modeling support, CDFW does not have assurance that operation of future ASR projects within the Santa Margarita Groundwater Basin will provide for greater cumulative groundwater injections than withdrawals.

CEQA guidelines section §15164, requires the lead agency or the responsible agency to prepare an addendum to a previously certified EIR if changes or additions are necessary but none of the conditions described in Section §15162, calling for the preparation of a subsequent or supplemental EIR, have occurred. An addendum need not be circulated for public review but can be included in or attached to the final EIR. The decision-making body considers the addendum with the final EIR prior to making a decision on the project.

Recommendations: CDFW acknowledges impacts to the Santa Margarita Groundwater Basin are being evaluated at the programmatic level for the purpose of this DEIR. CDFW understands at this time it may not be feasible to analyze how all potential City ASR and intertie projects may affect the Santa Margarita groundwater basin, because the details of their development are currently unknown. CDFW recommends that before implementing future ASR and intertie projects, the City should provide a complete analysis of how the projects affect the groundwater basin in an addendum to this EIR.

Groundwater analysis included in an addendum would assure consistency with the future Groundwater Sustainability Plans for the Santa Margarita Groundwater Basin. Ideally, analysis should include total mass balance models for both groundwater basins.

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Analyses should account for natural groundwater recharge, recharge via ASR projects from both City and other water agency projects and presumed future water withdrawal from groundwater basins by both City and other relevant water agencies and users.

Comment 2: Felton Fish Passage Improvement Recommendations

Recommendation: Thank you for including fish passage improvements consisting of fish screen replacement, installation of a traveling brush system to keep the fish screens operating at optimum efficiency, and construction of a continuous downstream outmigration bypass route at the Felton Diversion, as described on page 3-55 of section 3.4.4.1. To stay consistent with language in the pending City of Santa Cruz Anadromous Salmonid HCP and continue to improve anadromous salmonid passage at the Felton diversion, CDFW recommends the City update this description to include consideration of ladder upgrades to the existing Denil fishway based off of future evaluation and fish passage studies.

Comment 3 Impacts to Foothill Yellow-Legged Frog

Issue: The Proposed Project Impacts Analyses on page 4.3-92 of Section 4.3.4.3 states that the proposed City, Soquel Creek Water District (SqCWD), and Central Water District (CWD) intertie pipeline (City/SqCWD/CWD), and more specifically the Soquel Village pipeline segments, will cross over Soquel Creek which is a known to support the State endangered foothill yellow-legged frog (FYLF) – West/Central Coast clade (*Rana boylei*). The proposed location places the pipeline within a reasonable dispersal distance of known FYLF occurrences according to the California Natural Diversity Database (CNDDDB). However, of the four impacted amphibian species listed (California giant salamander, California red-legged frog, Santa Cruz black salamander, and Santa Cruz long-toed salamander), FYLF was not listed.

Recommended Mitigation Measure 1 FYLF. CDFW recommends the City of Santa Cruz consider FYLF as a potentially impacted species for the proposed City/SqCWD/CWD intertie pipeline along the Soquel Village pipeline segments. CDFW acknowledges that the proposed interties are being evaluated at a programmatic level for the purposes of this DEIR. Future analysis should evaluate impacts to FYLF when determining intertie placement along Soquel Creek.

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Comment 4: Figure Labeling

Issue: Figure 3-1 Project Location, and Figure 3-4E City of Santa Cruz and Scotts Valley Water District Intertie, on Page 3-2 and 3-52, respectively, are missing figure labels. Table 4.3-7 Listed Fish Habitat Effects of the Proposed Project Compared to Baseline (Historic Hydrology) on page 4.3-81 of the DEIR does not have column labels.

Recommendations: The Final EIR should include correct figure and column labels.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, section 711.4; Pub. Resources Code, section 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

Thank you for the opportunity to comment on the Project's DEIR. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stacy Sherman

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Stacy Sherman
Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse # 2018102039

REFERENCES

Flosi, G., S. Downie, J. Hopelain, M. Bird, R. Coey, and B. Collins. 2010. California salmonid stream habitat restoration manual, Fourth Edition. Fisheries Division, California Department of Fish and Wildlife.