



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 10, 2021

Governor's Office of Planning & Research

September 10 2021

STATE CLEARINGHOUSE

Cindy Semione
Community Development Assistant
City of Needles
817 Third Street Needles, CA, 92363
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Dear Ms. Semione:

Subject: Notice of Intent to Adopt a Negative Declaration
No Name Substation to Firehouse Switchyard 69-kilovolt Transmission Line
and Development of the City Well No.16 Project (PROJECT)
State Clearing House No. 2007021032

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an SND/EA from the City of Needles for the No Name Substation to Firehouse Switchyard 69-kilovolt Transmission Line and Development of the City Well No.16 Project (PROJECT) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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PROJECT DESCRIPTION SUMMARY

Proponent: The City of Needles

Project Description: The objective of the Project is the installation of a new potable well to assist the City in meeting the drinking water standards set by the California State Water Resources Control Board's Division of Drinking Water. The purpose the objective is to pump Groundwater produced from the well and distribute the water into the City's existing water system. Well No.16 is anticipated to be developed based on a preliminary well design of an 18-inch inside diameter well casing. The depth of the well will be dependent upon test drilling results and be determined during preliminary design. The well would be equipped with a submersible pump for groundwater extraction. Facilities would also include a 320 square-foot pump station house (or steel shade structure) approximately 10 feet in height to be placed near the developed well on a concrete pad. Groundwater produced from the well would be distributed into the City's existing water system from the pump to a new 16-inch pipeline constructed within the Project Site and connecting to a 16" distribution line in the right-of-way of Needles Highway. Should any treatment be required to meet drinking water standards after the well is equipped and test pumped, the City would provide an on-site package treatment plant within the existing footprint evaluated herein that would tie into the existing electrical grid. Primary Project activities include installation of underground water lines and electrical lines, a 0.46-acre detention basin, and a concrete pad and steel shade structure for well pump placement.

Location: The project is generally located in the northwestern portion of Section 19, Township 9 North, Range 23 East and is depicted on the *Needles and Needles SW* U.S. Geological Survey's (USGS) 7.5-minute topographic map. More specifically the project is located within Assessor Parcel Number (APN) 0660-081-23 and -32, within the City of Needles, San Bernardino County, California. The Project site is located just east of the intersection of River Rd. and State Route 66, just north of Interstate 40. The site is surrounded by undeveloped parcels on the north, east and south with a storage unit facility and the Firehouse Switchyard (electrical substation) to the west. The proposed Well No. 16 will be located within an approximately 160-foot by 200-foot fenced area which the City of Needles describes as "the switchyards," the Firehouse Switchyard was constructed on 0660-081-23, and parcel -32 is currently vacant. This parcel is currently owned by the City of Needles.

Timeframe: The EA/ND does not provide a timeframe for the construction of the Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations to assist City of Needles in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and

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indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the on the Project's avoidance of significant impacts on biological resources, CDFW concludes that a Negative Declaration is appropriate for the Project.

COMMENT #1

(SND, p.2)

Issue: An open analysis of the impacts of installing and pumping the planned high-capacity public supply well are not apparent in the documentation. Characteristics of the groundwater basin from which the water will be extracted are not discussed in the documentation. Groundwater pumping can alter how water moves between an aquifer and a stream, river, lake, pond, by either intercepting groundwater flow that discharges into the surface-water body under natural conditions, or by increasing the rate of water movement from the surface-water body into an aquifer (e.g., draw-down, cone of depression, etc.). A related effect of groundwater pumping is the lowering of groundwater levels below the depth that biological resources can utilize and do require.

Specific impact: Basin settling, quantification, and hydrologic conceptual modeling is needed, so that an evaluation of impacts to the groundwater basin and to surface water supplies, can determine their significance, if any, to wildlife resources.

Why impact could occur: The SND explains that “a groundwater well was not specifically contemplated” in the original proposed action of 2007.

Evidence impact could be significant: The well's relative location, “840 feet east of and approximately five feet in elevation higher than the Colorado River,” and the resulting groundwater extraction, would cause the source of replenishment for the well to likely be from the Colorado River. The documents presented do not include a sufficient evidentiary discussion to demonstrate that there will be no additional or significant effects on the groundwater of the Needles basin, which in turn could potentially pose a threat to wildlife and connected interdependent habitat of protected species. Also, no discussion concerning the morphology or nature of the groundwater basin and the effects of operation of this proposed well on the groundwater supply of the basin and the interconnected Colorado River, is presented in the documentation, or whether a change in flow regime in the nearby Colorado River resulting from the groundwater extraction from the basin, could impact wildlife resources affected by such changes. The environmental document should analyze the hydrologic disposition of the extraction basin, such that the affect upon surface water, and groundwater supplies, can be determined, so that, the impacts to wildlife resources and their potential significance can be ascertained.

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Potential Mitigation measures which could serve to reduce impacts to wildlife resources to less than significant, or to minimize their significance, is not fully elucidated here, as the significance of impact to wildlife resources is not clear within the scope of information provided in the proposed project's documentation. CDFW recommends a revision of the Subsequent Negative Declaration include documentation which adequately addresses the potential for significant effects of groundwater withdrawal to biotic communities and offer a plan to monitor the potential effects and offset those effects through appropriate mitigation. Measures to monitor for ecological impacts, as well as potential future hydrologic effects, can include scientifically based data collection (e.g., piezometers, monitoring wells, specific capacity, transmissivity etc.), monitoring, (i.e., vegetation composition change, change in vegetation densities, Colorado River flow level, and aquifer depth levels, etc.), modeling (i.e., hydrologic, numerical, etc.), and adaptive management approaches. The documentation does not clarify or provide enough information to determine if the new construction features of the well will have consistent loss source capacity, with respect to the extraction rates of the source being replaced. Additionally, CDFW requests that the disposition of the failed wells which have been taken off-line be described, and whether the off-line wells will be rehabilitated or returned to service, as the potential for long-term impacts to sensitive species within the area could occur due to the further decline of water levels and available groundwater storage within the aquifer system.

COMMENT #:2

Issue: Continued and future groundwater extraction need.

Specific impact: If the volume of water extraction increases with increased future need, and/or more wells start being used in this way, an increased potential for significant impact to wildlife and water resources over time, could be realized.

Why impact could occur: Water provisioning within the Colorado Riverine system will begin to decrease in January of 2022. Additional extraction of groundwater connected to the flow of the Colorado River could result in impacts to wildlife resources due to the restrictions imposed in the future, and the increased extraction based upon increased need over time.

Evidence impact could be significant: The significance of the potential impact is not known because the groundwater basin's condition is not characterized or evaluated in the available documents.

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CALIFORNIA ENDANGERED SPECIES ACT

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). A CESA Incidental Take Permit (ITP) is issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of CESA-listed species.

Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation through an ITP. Desert tortoise and Mohave ground squirrel are two CESA-listed threatened species that have potential to occur within the Project Area, presence needs to be determined by protocol surveys required by the Lead Agency. CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. Please note that the proposed avoidance, minimization, and mitigation measures must be sufficient for CDFW to conclude that the Project's impacts are fully mitigated and the measures, when taken in aggregate, must meet the full mitigation standard.

BURROWING OWL

CDFW recommends inclusion of mitigation measures to avoid potentially significant impacts to burrowing owls, a Species of Special Concern. The measures need to include specificity on who will perform the burrowing owl survey, what type of survey will be performed, and what actions will be taken should burrowing owl presence be confirmed during the survey. It is necessary to address avoidance, minimization, or mitigation measures. Project-related activities have potential to take burrowing owl individuals and their nests and may result in loss of burrowing owl habitat. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code Section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result

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in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows. Eviction of burrowing owls is a potentially significant impact under CEQA. CDFW recommends inclusion a measure for a qualified biologist in the environmental document. Burrowing owl surveys shall be conducted by a qualified biologist at least 14 days prior to any Project activities, at any time of year. Surveys shall be completed following the recommendations and guidelines provided within the Staff Report on Burrowing Owl Mitigation (CDFG, March 2012) or most recent version by a qualified biologist. If an active burrowing owl burrow is detected within any Project disturbance area, or within a 500-foot buffer of the disturbance area, a 300- foot radius buffer zone surrounding the burrow shall be flagged, and no impacts to soils or vegetation or noise levels above 65 dBA shall be permitted while the burrow remains active or occupied. Disturbance-free buffers may be modified based on site-specific conditions in consultation with CDFW. The qualified biologist shall monitor active burrows daily and will increase buffer sizes as needed if owls show signs of disturbance. If active burrowing owl burrows are located within any work area and impact cannot be avoided, a qualified biologist shall submit a burrowing owl exclusion plan to CDFW for review and approval. The burrowing owl exclusion plan shall include permanent compensatory mitigation consistent with the recommendations in the Staff Report on Burrowing Owl Mitigation such that the habitat acreage, number of burrows and burrowing owls impacted are replaced. Passive relocation shall take place outside the nesting season (1 February to 31 August).

NESTING BIRDS AND MIGRATORY BIRDS

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) also afford protective measures as follows: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that is it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA. CDFW recommends that the analysis includes the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing,

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monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The measures should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. For pre-construction surveys, CDFW recommends that the surveys be required no more than three days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

SPECIAL STATUS PLANT SPECIES

The Biological Resources Assessment needs to include explanation of methodology and results of the survey of special status plants. CDFW recommends California Natural Diversity Database be used as a starting point in gathering information about the potential presence of species within the general area of the Project site, and surveys should not be restricted or limited to generated lists. It is unclear if a botanical field survey to identify all plants to the taxonomic level necessary to determine rarity and listing status was performed. Botanical field surveys should be conducted during times of year when plants are evident and identifiable (i.e. flowering or fruiting), which may warrant multiple surveys during the season to capture floristic diversity. Habitats, such as desert plant communities that have annual and short-lived perennial plants as major floristic components may require yearly surveys to accurately document baseline conditions for purposes of impact assessment. Sensitive plant species are listed under the CESA as threatened, or endangered, or proposed or candidates for listing; designated as rare under the Native Plant Protection Act; or plants that otherwise meet the definition of rare, threatened, or endangered species under CEQA. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Fish and Game Code Sections 1900– 1913 includes provisions that prohibit the take of endangered and rare plants from the wild and a salvage requirement for landowners. To ensure that Project impacts to biological resources are fully analyzed, CDFW recommends a thorough floristic-based assessment of special status plants and natural communities. Note that CDFW generally considers biological field assessments for rare plants valid for a period of up to three years. CDFW recommends inclusion of the following mitigation measure.

Pre-construction botanical surveys shall be conducted at the appropriate time of year by a qualified biologist following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, March 2018) or most recent version. Should special status plants or natural communities be present in the Project area, a qualified biologist shall develop species specific avoidance, minimization, and mitigation measures to ensure there is no net reduction in the size or viability of the local population. CDFW also recommends that the Lead Agency reviews the listing status

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of Western Joshua Tree (*Yucca brevifolia*) prior to finalizing the EIR and implements appropriate measures. If the Project, including the Project construction or any Project-related activity during the life of the Project, may result in take of CESA-listed species, CDFW recommends that the Project proponent seeks appropriate authorization prior to Project implementation through an incidental take permit (ITP). Should any CESA listed plant species be present at the Project site, the Project Proponent shall obtain an incidental take permit for those species prior to the start of Project activities.

WILDLIFE IN PIPES AND CONSTRUCTION MATERIALS

Biological Monitor(s) shall visually check all sections of pipe/construction materials for the presence of wildlife sheltering within them prior to the pipe sections being placed in the trench and attached together or shall have the ends capped while stored on site so as to prevent wildlife from entering. After attachment of the pipe sections to one another, whether in the trench or not, the exposed end(s) of the pipeline shall be capped at the end of each day during construction to prevent wildlife from entering and being trapped within the pipeline.

ESCAPE RAMP IN TRENCH

At the end of each workday, the Biological Monitor(s) shall place an escape ramp at each end of the open trench to allow any animals that may have become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the

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Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the SND/EA to assist the City of Needles in identifying and mitigating Project impacts on biological resources. A discussion of the current understanding of the basin setting and hydrologic conceptual model is recommended to provide for an analysis of impacts to, the groundwater basin and to surface water supplies, which in turn directly impact fish and wildlife resources. Based on the information provided in the 2021 subsequent negative declaration, the proposed revisions to the 2007 Approved Proposed Action could result in new impacts over what was previously analyzed in the ND/EA. Questions regarding this letter or further coordination should be directed to Alexander Funk, Environmental Scientist at, 760-922-6783, or Alexander.Funk@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Chris Hayes
52BC6ECB38384BD...

Chris Hayes
Environmental Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: state.clearinghouse@opr.ca.gov

REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html