

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2019-024-02-A2**

**Biggs-West Gridley Water District
Gray Lodge Water Supply Project**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). CDFW is a lead agency under CEQA with respect to the Gray Lodge Water Supply Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize Biggs-West Gridley Water District (Permittee) to incidentally take giant garter snake (*Thamnophis gigas*) (hereafter, Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The giant garter snake is designated as threatened species under CESA. [Cal. Code Regs., tit. 14, § 670.5, subd. subd. (b)(4)(E)].

CDFW analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration (SCH No. 1997052044) and subsequent addenda approved on June 17, 2019. In so doing, CDFW imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less-than-significant. CDFW and the Permittee also mutually agreed to a set of measures that would protect fish and wildlife resources in areas subject to CDFW jurisdiction and the Fish and Game Code.

As approved by CDFW, the Project involves the construction of 31 minor modifications. The minor modifications consist primarily of concrete structure work including water control structures (in-canal check structures, turnouts, and headgates), county road crossings, farm road crossings, a railroad under-crossing, and drain crossings. Major modifications consist primarily of canal work involving raising, reshaping, or widening the canal banks, compacting embankment soils, and placing erosion control rock on side slopes. Development of the Project site will result in the permanent loss of 2.758 acres of upland habitat for the Covered Species, and temporary loss of 21.234 acres of habitat for the Covered Species 4.22 acres of aquatic habitat and 17.014 acres of upland habitat).

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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The Project is expected to result in the expansion of Covered Species habitat of 5.293 acres and take of the Covered Species as defined by the Fish and Game Code is expected. (Fish and Game Code, § 86). These impacts fall within CDFW's permitting jurisdiction under CESA. [Id. at §§ 2080 and 2081, subd. (b)].

FINDINGS:

The Environmental Assessment Initial Study was adopted by the Bureau of Reclamation with a Finding of No Significance (FONSI) on August 10, 1998 (Reclamation and CDFW) and certified by the CDFW with a Mitigated Negative Declaration (MND) on December 19, 1997, as lead agency for the Project. CDFW provided a draft MND for public review and comment from May 9, 1997, to June 9, 1997. Addenda to the MND were adopted by CDFW on August 23, 2013, April 15, 2015, and June 17, 2019.

CDFW finds that the mitigation measures imposed as conditions of its Project approval, along with the mitigation measures and Conditions of Approval set forth in CDFW's Incidental Take Permit (ITP) for the Project will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP, including this amendment will not result in any significant effects on the environment. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling] of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- B. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information

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about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- C. Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- D. Prior to starting any Covered Activities, Permittee purchased 10.8 acres of Covered Species credits from a CDFW-approved mitigation bank on August 2, 2019. Proof of payment was submitted to CDFW prior to starting any covered activities. A habitat "Impacts Verification" was conducted in November 2020 in compliance with ITP amendment No. 1 Condition 8.11, which calculated a +0.39 acre/credit balance. Permanent impacts of 0.135 acre and temporary impacts of 1.784 acres associated with the proposed work along the Upper Belding Lateral and Gerst Lateral Headgate shall be mitigated by the purchase of 3.218 credits of GGS habitat from the Sutter Basin Conservation Bank. Proof of Covered Species credit purchase shall be provided to CDFW prior to the start of work approved by Amendment #2.
- E. No more than 24 hours prior to the commencement of Covered Activities at any individual Project Site, the Designated Biologist shall survey for the Covered Species within 200-feet of suitable aquatic habitat. The Designated Biologist will provide the CDFW with a written report that adequately documents the monitoring efforts within 24 hours of commencement of Covered Activities. If a lapse in Covered Activities occurs two weeks or longer at a particular Project Site, and within suitable Covered Species habitat, the Designated Biologist shall re-survey the Project Site.

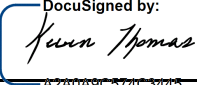
CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

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The Mitigated Negative Declaration is adopted. The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 8/18/2021

By: 
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