



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 82123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 5, 2019

Ms. Roshanak Aflaki
Los Angeles Department of Public Works
Bureau of Sanitation
6100 Woodley Avenue
Van Nuys, CA 91406
Roshanak.aflaki@lacity.org

Governor's Office of Planning & Research
APR 05 2019
STATE CLEARINGHOUSE

Subject: Mitigated Negative Declaration for the Donald C. Tillman Water Reclamation Plant Easement Implementation, City of Van Nuys, Los Angeles County

Dear Ms. Aflaki:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration for the Donald C. Tillman Water Reclamation Plant Easement Implementation (Project). The supporting document for the Project is *Los Angeles County Drainage Area Sepulveda Dam Flood Control Reservoir – Donald C. Tillman Water Reclamation Plant Easement Implementation – Initial Study/Mitigated Negative Declaration (IS/MND)*. 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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by state law, of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The proposed Project by the City of Los Angeles Department of Public Works, Bureau of Sanitation (LASAN) would occur at the Donald C. Tillman Water Reclamation Plant (Plant) in the Sepulveda Dam Flood Control Reservoir (Sepulveda Dam Reservoir). The Plant occupies approximately 90 acres within the Sepulveda Dam Reservoir, which comprises 2,000 acres of federally owned land under the jurisdiction of the Army Corps of Engineers, Los Angeles District. Project related activities include:

- Dike rehabilitation: Four flood control structures (dikes or floodwalls) surrounding the Plant will have their heights raised by 2.2 to 2.7 feet.
- Multi-purpose building: Construction of a multi-use building will take place on the west side of the Plant where a parking lot is currently located.
- Capital improvements projects:
 - o Niwa Road sewer installation: An existing sewer line on the northern border of the Plant along Niwa Road will be extended to provide sewer services to the Japanese Garden facilities, replacing the existing septic tank system.
 - o Installation of inflow and effluent flow meter vaults: Four new 4-foot diameter maintenance vaults will be installed for flow metering equipment.

Location: The Sepulveda Dam Reservoir is approximately 17 miles northwest of downtown Los Angeles, in the San Fernando Valley community of Van Nuys, California. It lies immediately west of Interstate 405 (I-405) and north of U.S. Highway 101 (US-101). The Plant is located at 6100 Woodley Avenue, north of Burbank Boulevard and south of Victory Boulevard.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the LASAN in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

Project Description and Related Impact Shortcoming

Comment #1: Impacts to nesting birds

Issue: Mitigation measure BIO-1 of the IS/MND states that pre-construction nesting bird surveys will be conducted according to U.S. Fish and Wildlife Service survey. While this measure does acknowledge the appropriate survey methodology for nesting birds, it is unclear what measures would be implemented should nesting birds or active nests be found within 500 feet of construction work areas.

Specific impacts: Construction during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. The Project could also lead to the loss of foraging habitat for sensitive bird species.

Ms. Roshanak Aflaki
Los Angeles Department of Public Works, Bureau of Sanitation
Page 3 of 4
April 5, 2019

Why impact would occur: Impacts to nesting birds could result from vegetation clearing and other ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under state laws and regulations, including Fish and Game Code sections 3503 and 3503.5.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To protect nesting birds that may occur on-site, CDFW recommends that the final environmental document include a measure that no construction shall occur from February 15 through August 31 unless a qualified biologist completes a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites.

Mitigation Measure #2: If any nests of birds are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during Project construction. The breeding habitat/nest site should be fenced and/or flagged in all directions, and this area should not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.

Filing Fees

The project, as proposed, could have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the project. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist, at Andrew.Valand@wildlife.ca.gov or (562) 342-2142.

Sincerely,



FOR
Erinn Wilson
Environmental Program Manager I

Ms. Roshanak Aflaki
Los Angeles Department of Public Works, Bureau of Sanitation
Page 4 of 4
April 5, 2019

cc: CDFW

Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Kelly Schmoker – Pasadena

Scott Morgan (State Clearinghouse)