

OCT 10 2019

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**To:** [DJensen@cityofdavis.org](mailto:DJensen@cityofdavis.org)  
**Cc:** [Wildlife R2 CEQA](#); [OPR State Clearinghouse](#)  
**Subject:** CDFW comments of the Draft Mitigated Negative Declaration for the City of Davis WWTP Plant Storage Building (SCH# 2019099085)  
**Date:** Thursday, October 10, 2019 1:59:26 PM  
**Attachments:** [image001.png](#)

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## STATE CLEARINGHOUSE

Hello Ms. Jensen,

The California Department of Fish and Wildlife (CDFW) received the Draft Mitigated Negative Declaration (IS/MND)[SCH#2019099] from the City of Davis (City) for the Wastewater Treatment Plant Storage Building Project (Project). CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW is responding as a **Trustee Agency** for fish and wildlife resources, which 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. CDFW may potentially be a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) if it may need to make discretionary actions under the Fish and Game Code, such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code, § 1600 et seq.) and/or a California Endangered Species Act (CESA) Incidental Take Permit (Fish & G. Code, § 2080 et seq.).

CDFW offers the comments and recommendations presented below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources:

Mitigation Measure Bio-1 (Giant Garter Snake): Giant garter snake (*Thamnophis gigas*) is listed as threatened under the Federal Endangered Species Act (FESA) and the California endangered species Act (CESA). This measure requires surveys for GGS to be performed by a USFWS-approved biologist. CDFW recommends that the City consult with the Yolo Habitat Conservancy and utilize an approved GGS biologist for the Yolo HCP/NCCP. Biologists that have been approved for the Yolo HCP/NCCP have been approved through coordination with the USFWS and CDFW.

When there is a lapse in construction for two weeks or greater, CDFW recommends performing another preconstruction clearance survey within 24-hours prior to resuming construction activity. CDFW also recommends that the re-initiation of the preconstruction survey be performed on the entire project site and not just where construction has already commenced.

Mitigation Measure Bio-2 (Burrowing Owl): This measure requires project activities to stop if a burrowing owl (*Athene cunicularia*) is discovered within 250 feet of the project site. CDFW

recommends performing planning-level surveys by a qualified biologist within 3 days prior to the start of construction activities and identifying burrowing owl habitat within or adjacent to 500 feet of the project activity. If suitable habitat for the species is present, additional surveys should be performed by the qualified biologist consistent with CDFW's Staff Report on Burrowing Owl Mitigation, 2012.

Mitigation Measure Bio-3 (Western Pond Turtle): This measure identifies project site surveys by a qualified biologist no more than two weeks prior to the commencement of ground-disturbing activities. CDFW recommends performing these surveys within 48 hours prior to the start of project related activities. The survey should also focus on potential nest sites for western pond turtles.

CDFW recommends utilizing qualified biologists that have been approved through the Yolo HCP/NCCP for specific species and planning level surveys. If planning level surveys and habitat assessments identify suitable habitat or species present on the project site, CDFW recommends that the City, as a member agency of the Yolo HCP/NCCP, coordinate with the Yolo Habitat Conservancy to obtain coverage under the HCP/NCCP. The Project is a covered activity; however it may not meet all of the screening criteria for coverage and may not fall under the HCP/NCCP. CDFW recommends the City consider this option since the initial project was evaluated and constructed prior to the HCP/NCCP being finalized.

CDFW appreciates the opportunity to comment on the IS/MND for the Project, and requests that the City consider CDFW's comments. If you have any questions pertaining to these comments, please contact me at (916) 358-1134 or [ian.boyd@wildlife.ca.gov](mailto:ian.boyd@wildlife.ca.gov).

Thank you,

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