

November 12, 2020

STATE CLEARINGHOUSE

November 6, 2020

Mr. Gregg Erickson
California Department of Fish and Wildlife, Bay Delta region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534

Dear Mr. Erickson:

Thank you for providing public comment on the Vallejo Mare Island Pump Station 3W Effluent Bypass Project (Project) Mitigated Negative Declaration (State Clearinghouse No. 2020090060). Vallejo Flood and Wastewater District has taken your comments into consideration and their responses are summarized herein. Relevant text from the comment letter is included below as italicized text and the District's responses to the comments are included below.

COMMENT 1A: Migratory Birds and Raptors.

The Project area and surrounding areas may provide nesting habitat for migratory birds and raptors. Demolition of existing structures, ground disturbance, and vegetation removal during the nesting season could disrupt nesting and even lead to nest abandonment and species mortality. The Project activities may result in potentially significant impacts without implementation of appropriate mitigation measures. BIO-3 and BIO-4 of the MND require that nesting bird and raptor surveys be completed prior to conducting Project activities during the nesting season, and nest avoidance if active nests are discovered, respectively. CDFW agrees that these measures are important but is concerned about the phrasing of the measures, and recommends the following revisions to Mitigation Measure BIO-3 (amended language shown in bold italics, deleted language shown in strikethrough):

*If clearing and/or construction activities ~~must~~ **would** occur during the migratory bird nesting season (~~February 1~~ **March 4** to August 31), then **a qualified biologist shall conduct pre-construction surveys within** ~~preconstruction surveys to identify active migratory bird and/or raptor nests or burrowing owl burrows would be conducted by a qualified biologist at least 7 days prior to construction initiation~~ **each year Project activities are to occur. Surveys shall cover** ~~Focused surveys must be performed by a qualified biologist for the purposes of determining the presence or absence of active nest sites within the proposed impact area, including construction access routes and staging areas, and within 500 feet of all Project areas. along with a 100-foot buffer, where feasible. If a lapse of Project activities of 7 days or greater occurs for any reason during the nesting season, a qualified biologist shall preform another survey for nesting birds and raptors prior to resuming Project activities.~~*

RESPONSE 1A: MM-BIO-3 will be amended to reflect these changes.

COMMENT 1B: Migratory Birds and Raptors.

CDFW also recommends the following revisions to Mitigation Measure BIO-4 (amended language shown in bold italics, deleted language shown in strikethrough):

*If active nest sites are identified **during** in the surveys areas, a **qualified biologist shall establish** no-disturbance buffers ~~should be established~~ for all active nest sites prior to commencement of any Project-related activities to avoid disturbances to migratory bird **and raptor** nesting activities. A no-disturbance buffer constitutes a zone in which Project-related activities (that is, vegetation removal, earth moving, and construction) cannot occur. ~~The size of no-disturbance buffers would be determined by a qualified biologist based on the species, activities proposed in the vicinity of the nest, and topographic and other visual barriers.~~ A qualified biologist **shall** ~~would~~ monitor **all active the nests during construction activities** until the nest is deemed inactive **by the qualified biologist**. **If suitable no-disturbance buffers cannot be established for any reason, then Project activities within the area of the active nest shall be delayed until the nest is no longer active, as determined by a qualified biologist.** ~~The amount and duration of the monitoring would be determined by the qualified biologist and would depend on the same factors mentioned above when determining the size of the no-disturbance buffer.~~*

RESPONSE 1B: The existing conditions in the project area are highly urbanized and subject to ongoing disturbance from daily operations in and around the WWTP. It is assumed that birds nesting in and adjacent to the project area are acclimated to high level of disturbance including noise, human and vehicle traffic, dust, and other activities. Thus, it is anticipated that birds nesting in the area are would not be highly sensitive to project activities and a full time biological monitor would not be necessary. A qualified biologist would determine the frequency of monitoring necessary on a case-by-case basis after an initial monitoring event to gauge sensitivity of the nesting birds.

Measure MM-BIO-4 will be revised as follows:

If active nest sites are identified **during** in the surveys areas, a **qualified biologist shall establish** no-disturbance buffers ~~should be established~~ for all active nest sites prior to commencement of any Project-related activities to avoid disturbances to migratory bird **and raptor** nesting activities. A no-disturbance buffer constitutes a zone in which Project-related activities (that is, vegetation removal, earth moving, and construction) cannot occur. ~~The size of no-disturbance buffers would be determined by a qualified biologist based on the species, activities proposed in the vicinity of the nest, and topographic and other visual barriers.~~ A qualified biologist **shall** ~~would~~ monitor **all active the nests during construction activities**, until the nest is deemed inactive. **The frequency of monitoring would be determined by a qualified biologist and would be based on the species, activities proposed in the vicinity of the nest, distance from the activities to the nest, and the presence of topographic or other visual barriers.** **If suitable no-disturbance buffers cannot be established for any reason, then Project activities within the area of the active nest shall be delayed until the nest is no longer active, as determined by a qualified biologist.** ~~The amount and duration of the monitoring would be determined by the qualified biologist and would depend on the same factors mentioned above when determining the size of the no-disturbance buffer.~~

COMMENT 2: Osprey

Osprey have become increasingly prevalent around the San Francisco Bay Area, including Mare Island. Osprey begin breeding around late February and osprey young fledge (i.e. leave the nest and catch food independently) typically in late July. Osprey have been observed nesting on top of snags, treetops, and man-made structures, such as, light poles, utility poles, barge cranes, and pilings. Additionally, osprey have high nest site fidelity (i.e. they return to the same nesting sites each year). This can cause human-wildlife conflict particularly in areas where osprey nesting affects business operations. Because multiple observations of nesting osprey have been made near the Project site in recent years, a qualified biologist shall conduct nest surveys to identify the location and status (i.e. active or inactive) of all nests within the Project area. If osprey are found nesting within the Project area, particularly on any buildings/structures that will be removed, those buildings/structures should be removed outside of the nesting season (August 1 – January 31) to avoid take, or when a qualified biologist has determined that a nest is no longer active or osprey young have fledged.

RESPONSE 2: MM-BIO-3 and MM-BIO-4 are appropriate measures that would minimize potential impacts on nesting osprey. No active nests of any species would be removed/destroyed during project activities.

COMMENT 3: Roosting Bats

The Project site could support roosting bats either on the exterior or interior of existing structures. The Project will demolish some existing old structures on site and thus has the potential to result in take of bats if appropriate avoidance and minimization measures are not implemented. CDFW agrees with implementation of Mitigation Measure BIO-5, but is concerned about specific language contained within. No attempt to actively relocate roosting bats shall be undertaken. Additionally, if the Project must remove bat roosting structures, it should be done during seasonal periods of bat activity, to avoid maternity colonies and winter torpor bats. CDFW recommends the following revisions to Mitigation Measure BIO-5 to prevent incidental take of roosting bats during Project activities (amended language shown in bold italics, deleted language shown in strikethrough):

At least 30 days p~~Prior to demolition of existing structures, an **qualified agency- approved** biologist **shall** would conduct a daytime **and nighttime** site reconnaissance of the structure(s). The biologist **shall** would look for ~~special-status~~ bats and bat sign including existing roost sites and bat guano deposits, and will listen for roosting bats. If potential roost sites are identified, **a Project-specific avoidance and minimization plan shall be prepared by a qualified biologist to be reviewed and approved by CDFW prior to the start of Project activities. Demolition of existing structures containing roosting bats or evidence thereof shall only occur during seasonal periods of bat activity (i.e. prior to maternity season from approximately March 1 (or when night temperatures are above 45°F and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats can fly and feed on their own) until October 15 (before night temperatures fall below 45°F and rains begin).**~~ ~~an exit nighttime survey will be conducted to determine the species of roosting bats and relative bat activity, and to estimate the number of individual bats. This nighttime survey may be an active or passive acoustic~~

~~monitoring survey. If special-status bat individuals or roosts are found within or directly adjacent to the Project area, the area would be left unaffected until the individual(s) have left the area or a relocation decision has been made in consultation with CDFW. If the daytime surveys does not identify the presence of potential bat roosts, no further mitigation is required.~~

RESPONSE 3: MM-BIO-5 will be amended to reflect these changes.

Thank you in advance for providing comments on the Project during the CEQA review process. Please feel free to contact me at 916-679-8745 or leslie.parker@hdrinc.com if you need additional information or would like to discuss the project further.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Parker". The signature is written in a dark ink and is centered on the page.

Leslie Parker
Senior Ecologist

cc:

Kyle Broughton – Vallejo Flood and Wastewater District
Gregg Allen – California Department of Fish and Wildlife
Karen Weiss - California Department of Fish and Wildlife