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Subject: CDFW's Comments on the IS/MND for the Sutter Extension Water District 2021 Water Transfer Program (SCH# 2021020186)
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Lynn Phillips
Sutter Extension Water District
4525 Franklin Road
Yuba City, California 95993

Governor's Office of Planning & Research

Mar 11 2021

STATE CLEARINGHOUSE

Dear Mr. Phillips:

Subject: Sutter Extension Water District 2021 Water Transfer Program

MITIGATED NEGATIVE DECLARATION (MND)

SCH# 2021020186

The California Department of Fish and Wildlife (Department) received and reviewed the Notice of Intent to Adopt an MND from Sutter Extension Water District (SEWD) for the Sutter Extension Water District 2021 Water Transfer Program (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that the Department, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

DEPARTMENT ROLE

The Department 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).) The Department, 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. (Fish & G. Code, § 1802.) Similarly, for purposes of CEQA, the Department provides, 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.

The Department may also act as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) If implementation of the Project may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be obtained.

PROJECT DESCRIPTION SUMMARY

SEWD proposes to sell up to 16,292 acre-feet of water to participating member districts of the State Water Project Contractors, Incorporated or other South of Delta purchasers, including Central Valley Project contractors during the 2021 irrigation season. Transfer water will be made available by cropland idling and groundwater substitution.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

COMMENTS AND RECOMMENDATIONS

The Department offers the comments and recommendations below to assist SEWD in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The Department is primarily concerned with the Project's potential impacts to listed and other special-status species and their habitats, including groundwater dependent ecosystems.

The comments provided herein are based on the information provided in the MND and Department knowledge of species and habitats that may be affected by the Project. Comments are limited to the Project and activities that are likely to result in impacts to biological resources.

SPECIAL STATUS SPECIES

The MND analyzes the proposed Project's environmental impacts associated with crop idling up to 3,740 acres of irrigable land, mostly areas of rice cultivation, on listed species and their habitats and proposes Mitigation Measures BIO-1,2,3, and 4 to reduce potential impacts to State and federally-listed giant garter snake (*Thamnophis gigas*) (GGS). These mitigation measures include limitations of percent idled land; maintenance of depth of water in irrigation canals and ditches; GGS best management practices; and exclusion of cropland idling in areas inhabited by known, important GGS populations or land abutting or adjacent to naturalized lands, state and federal refuges, and/or corridors between these areas. The MND identifies Gilsizer Slough and the lands side of the Toe Drain along the Sutter Bypass as areas with known important GGS populations. Additionally, SEWD should consider the importance of the Sutter Basin Conservation Bank and the Collecting Canals (DWR 2020) and impacts to GGS associated with idling adjacent to and directly abutting lands.

The Department acknowledges that Mitigation Measures BIO-1,2,3, and 4 are important to reducing indirect impacts to GGS. If it is determined that the proposed Project may result in "take", as defined in the Fish & G. Code, section 86, of a State-listed species, a CESA Incidental Take Permit (ITP) may be obtained to provide coverage in the event that take occurs. A CESA ITP may also be obtained to provide coverage for rare and endangered plants listed under the Native Plant Protection Act (Fish & G. Code, § 1900 et seq.).

To issue an ITP, the Department must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code, § 2081 subd. (b)). To facilitate the issuance of an ITP, if applicable, the MND should include measures to minimize and fully mitigate the impacts to State-listed species. Please note that mitigation measures that are adequate to reduce impacts to a "less-than significant" level per CEQA requirements may not be enough to minimize and fully mitigate impacts to the extent required for the issue of an ITP. Therefore, the Department encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service to coordinate specific measures if both State and federally listed species may be present within the Project vicinity.

SUSTAINABLE GROUNDWATER MANAGEMENT ACT

The MND indicates groundwater impacts of the proposed Project will be less than significant without mitigation. The Department is concerned with potential cumulative impacts associated with proposed and future groundwater substitution water transfers within or adjacent to the Sutter Subbasin that have the potential to impact groundwater dependent ecosystems.

Ecological communities or species that depend on groundwater emerging from aquifers or on groundwater occurring near the ground surface are collectively known as groundwater dependent ecosystems (GDEs)

(23 Cal. Code Regs. § 351(m)). These GDEs include seeps and springs; wetlands and lakes; rivers, streams, and estuaries; and terrestrial vegetation. Water transfers made available by groundwater substitution and/or crop idling have the potential to affect groundwater hydrology due to increased groundwater extraction and reduced groundwater recharge. Correlating effects could be temporary and/or long-term declines in groundwater levels, reduction of groundwater storage, depletions of interconnected surface water, land subsidence, and degraded water quality. These effects have the potential to adversely impact GDEs in basins where water transfers are made available by groundwater substitution and/or crop idling.

According to the Natural Communities Commonly Associated with Groundwater (NCAAG) Dataset (DWR 2018), there are potential vegetated and aquatic GDEs overlying or adjacent to the Project location. The MND searched for GDEs from the NCAAG dataset within one-half mile of SEWD's production Wells #1 and #2 and identified one wetland area within the one-half mile radius of Well #1. The MND states that due to the wetland's proximity to surface waters, in addition to the observance of historical low groundwater levels, the GDE will experience less than significant impacts as a result of the proposed Project. To justify the scope of considered GDEs and to correlate and confirm potential impacts of the transfer on GDEs, the Department recommends SEWD undertake the following monitoring activities:

1. Identify monitoring wells within SEWD's well network that are located near the identified wetland area and any other GDEs located within one-half mile of production Wells #1 and #2.
2. Compare the groundwater levels at the identified GDE monitoring well locations pre-, during, and post-transfer to the rooting depths of the dominant vegetation types in the GDE communities to fully assess the potential for pumping-related groundwater depletion to have adverse impacts on the GDEs.
3. Analyze the results of this paired groundwater level and GDE monitoring to inform future water transfer proposals. Should impacts to GDEs be observed within the one-half mile radius of production Wells used for the transfer, consider expanding the scope of monitored GDEs under subsequent CEQA analyses.

The MND indicates that well monitoring data will be compared to the historical low groundwater levels to determine potentially significant impacts of the transfer pumping and to identify necessary operational adjustments, such as decreasing pumping volume or ceasing pumping. The Department recommends clarifying that the historical low groundwater levels will be used as the groundwater level trigger to indicate significant depletion and will result in cessation of pumping from the transfer production wells. The deepest documented-historical groundwater level triggers for SEWD Wells #1 and #2 occurred in 2015, a critically low water year several years into a historic drought when groundwater levels were trending dramatically lower than usual due to reduced surface water availability. It is likely that at this historically low groundwater level, vegetated and aquatic groundwater dependent ecosystems experienced adverse impacts due to combined groundwater depletion and limited surface water availability, as general ecosystem strain and species adverse impacts were broadly observed in the Sacramento Valley and throughout the state during the drought (DFW 2019). Accordingly, until monitoring information for wells located near GDEs is compiled and analyzed for adverse impacts as described above, the Department recommends selecting a shallower groundwater level trigger for transfer pumping reduction/cessation that would better mitigate potential impacts to GDEs than the deepest observed groundwater level on record.

The MND and well monitoring records indicate that during previous years' water transfers, groundwater levels in the transfer pumping wells have recovered to pre-transfer levels. The Department supports the use of wells for transfer pumping that have demonstrated seasonal and inter-annual recovery. In future

years, should groundwater levels fail to recover following water transfer pumping, the Department recommends identifying alternative production wells to avoid adverse impacts related to the cumulative effects of repeated groundwater depletion.

SGMA requires GSAs to identify and consider impacts to beneficial uses and users of groundwater, including GDEs, during the development and implementation of GSPs (23 Cal. Code Regs. § 354.16 (g) and Water Code § 10727.4(l)). Therefore, Department staff believe it is essential for SEWD, as a designated GSA, to ensure water transfer activities are considered in the development of the Sutter Subbasin GSP to avoid undesirable results to beneficial uses and users of groundwater. SEWD has the opportunity to consider how water transfer activities in the basin may impact GDEs and interconnected surface waters to inform the development of sustainability goals, minimum thresholds, and measurable objectives for comprehensive sustainable management criteria within the Sutter Subbasin GSP.

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 found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would 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 the Department. 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 & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, the Department requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications may be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

The Department appreciates the opportunity to comment on the MND to assist in identifying and mitigating Project impacts on biological resources. Department personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Gabriele Quillman, Environmental Scientist at (916) 358-2955 or Gabriele.Quillman@wildlife.ca.gov.

Sincerely,

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REFERENCES

Department of Fish and Wildlife. 2019. Statewide Drought Response: Stressor Monitoring.

Department of Water Resources. 2018. [Natural Communities Commonly Associated with Groundwater Dataset](#).

Department of Water Resources. 2020. "SUTTER COLLECTING CANALS AND CULVERT MAINTENANCE" Biological Assessment. Division of Flood Management, Sacramento, California.