

Dec 28 2021

Quillman, Gabriele@Wildlife

STATE CLEARINGHOUSE

From: Quillman, Gabriele@Wildlife
Sent: Tuesday, December 28, 2021 10:08 AM
To: naturalresources@yolocounty.org
Cc: Wildlife R2 CEQA; 'state.clearinghouse@opr.ca.gov'; Sheya, Tanya@Wildlife
Subject: CDFW's Comments on the IS/MND for the Knights Landing Flood Management Project (SCH No. 2021120063)

Dear Ms. Sabatini,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) from Yolo County (County) for the Knights Landing Flood Management Project, Sacramento River Mid-Valley Levee Reconstruction Sites, 9, 10, 11 and Widened Parking Area Near Wild Irishman Bend Project (Project) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines. 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.

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 CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW 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 & 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. (Fish & G. Code., § 1802.) CDFW 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) CDFW also administers the California Endangered Species Act, Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located south of Knights Landing in eastern Yolo County, approximately 26 miles northwest of Sacramento. The Project area includes sections of the Sacramento River Flood Control Project levees, easements, and right-of-way areas along the right bank of the Sacramento River. Work on the Sacramento River right bank levee would be conducted at Sites 9, 10, and 11 between levee mile 2.66 and 5.35. The site boundaries include the levee prism to Yolo County Road 116B.

The proposed Project would include constructing slurry cutoff walls in the existing Sacramento River right bank levee at Sites 9 and 10 to address through seepage. Work at Site 11 would include constructing a combination berm to address

through and under seepage. In addition, easements for a maintenance road would be obtained where feasible and necessary at the landside levee toe.

COMMENTS AND RECOMMENDATIONS

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

1. Tricolored Blackbird. The IS/MND states that suitable nesting habitat for tricolored blackbird (*Agelaius tricolor*; TRBL) is not present. However, based on aerial photographs of the Project area and surrounding land, there appears to be an area of wetland located along the west bank of the Sacramento River just east of Site 9 that may support emergent vegetation such as cattails and blackberry thickets, which are potentially suitable nesting substrate for TRBL. CDFW recommends the IS/MND analyze whether the wetland area is potential TRBL nesting habitat with a clear description of how it was determined if it is or is not suitable for nesting. If it is determined that suitable nesting habitat does exist, CDFW recommends the IS/MND be revised to include the Yolo County Habitat Conservation Plan/Natural Community Conservation Plan's Avoidance and Minimization Measure AMM21 (Minimize Take and Adverse Effects on Habitat of Tricolored Blackbird).
2. Nesting Birds. Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act. The IS/MND's MM-BIO-02 and MM-BIO-03 propose to avoid impacts on special-status and migratory nesting birds by requiring nesting surveys of the proposed impact area within 7 days prior to initiating clearing and/or construction activities between March 1 and August 31. However, many bird species begin nesting earlier than March 1 and certain bird species may complete nest building in as little as 2 or 3 days (Baepler 1968, Newman 1970, and Badyaev 2012).

Please note that Fish and Game Code protections for nesting and migratory birds apply regardless of the time of year, and a few bird species (e.g., Anna's hummingbird) may nest during the winter and fall months. If an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season.

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, CDFW requests that the County 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 submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

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 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 & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall 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.

Thank you for the opportunity to comment on the IS/MND to assist in identifying and mitigating Project impacts on biological resources. If you have questions or would like to discuss this letter, please contact me at gabriele.quillman@wildlife.ca.gov or (916) 358-2955.

Sincerely,

Gabriele (Gabe) Quillman
She/Her
California Department of Fish and Wildlife – North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
(916) 358-2955

REFERENCES

- Badyaev, Alexander V., Virginia Belloni and Geoffrey E. Hill. 2012. "House Finch (*Haemorhous mexicanus*).” The Birds of North America (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: <https://birdsna.org/Species-Account/bna/species/houfin> DOI: 10.2173/bna.46.
- Baepler, D. H. 1968. "Lark sparrow." In Life histories of North American cardinals, grosbeaks, buntings, towhees, finches, sparrows, and allies, edited by O. L. Austin, 886-902. U.S. Nat. Mus. Bull. 237.
- Newman, G. A. 1970. "Cowbird parasitism and nesting success of Lark Sparrows in southern Oklahoma." Wilson Bull. no. 82:304-309