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**Sent:** Monday, March 7, 2022 4:38 PM  
**To:** jsutton@tccanal.com  
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**Subject:** CDFW Comments - 2022 Tehama-Colusa Canal Authority In-Basin Water Transfers - INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) SCH# 2022020138

Dear Mr. Sutton:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an Initial Study/Mitigated Declaration (IS/MND) from the Tehama-Colusa Canal Authority (TCCA) for the 2022 TCCA In-Basin Water Transfers (Project) in Colusa, Glenn, Sacramento, Shasta, Sutter, Tehama, and/or Yolo Counties pursuant the California Environmental Quality Act (CEQA) statute and guidelines.<sup>[1]</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants, and their habitats. 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 (Fish & G. 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 (*Id.*, § 1802.). Similarly, for purposes of CEQA, 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 may also act 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.) 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 & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

The proposed Project includes transfers that may originate in Colusa, Glenn, Sacramento, Shasta, Sutter, Tehama, or Yolo Counties to be transferred to buyers that may be in Colusa, Glenn, Tehama, or Yolo Counties.

The Project consists of the proposed transfer of up to 96,250 acre-feet (AF) of water that would occur from sellers of the Sacramento River Settlement Contract Base Supply and Central Valley Project Water in the Sacramento River area to buyers that receive water from the Tehama-Colusa or Corning Canals. Water proposed for transfer is typically diverted from the Sacramento River at the Red Bluff Pumping Plant. The TCCA and its Member Units are soliciting willing sellers to transfer water. The TCCA would negotiate with these sellers, on behalf of the Member Units, to identify potential transfers and the specifics of each transfer arrangement, which, collectively constitute the Project. Transfers would be from willing sellers within the Sacramento Valley to buyers within the Sacramento Valley. The water would be made available for transfer through a combination of cropland idling/shifting and groundwater substitution.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the TCCA in adequately identifying and/or mitigating the Project's significant or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW 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 IS/MND and CDFW's 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 IS/MND analyzes environmental impacts of the proposed Project on species and habitats and proposes Mitigation Measure VEG and WILD-1: Protect Existing Habitat for Wildlife to reduce potential impacts on the CESA state listed Threatened giant garter snake (*Thamnophis gigas*) (GGS). The Mitigation Measure VEG and WILD-1 includes monitoring water levels in irrigation canals and ditches to maintain adequate water levels and avoid cropland idling/shifting in areas that may be suitable for GGS or are abutting or adjacent to state or federal wildlife areas. Reporting annual transfer amounts and identifying where cropland idling/shifting occurred are also part of Mitigation Measure VEG and WILD-1. CDFW acknowledges that this measure may reduce impacts on listed and special status species; however, Mitigation Measure VEG and WILD-1 consists of only avoidance and minimization of impacts and does not include mitigation if significant impacts to species are identified during monitoring activities. The IS/MND should include a threshold of significance and propose mitigation measures to offset these impacts including but not limited to purchasing mitigation credits at a CDFW-approved conservation bank, restoration and/or enhancement of suitable habitat, and/or conservation of suitable habitat for the target species.

Tricolored blackbird (*Agelaius tricolor*) (TRBL) is CESA state listed as Threatened. Per the Project's environmental document, portions of the Project area are comprised of habitat components that could be suitable nesting and foraging habitat for TRBL. It also states that, California Natural Diversity Database (CNDDDB) occurrences of TRBL "have been documented in the Seller Service Area" portion of the Project area. TRBL "may exhibit annual site fidelity if essential resources, including adequate nesting sites, water, and suitable foraging habitats, persist in subsequent years" (Beedy et al., 2020). Therefore, the project, through cropland fallowing activities, could result in significant impacts on TRBL due to nesting and foraging habitat loss and inconsistency from year to year resulting from

changes in water management activities. CDFW recommends that water transfers should take in consideration known TRBL nesting sites to avoid idling those areas during the species' nesting season (April 15 – July 15 with a possible fall nesting season of August 15 – September 30) (Beedy, 2008)) to avoid significant impacts to the species.

The IS/MND concluded that cumulative changes in flows due to transfers would not appreciatively reduce spawning habitat availability and incubation, increase redd dewatering or juvenile stranding, or reduce the suitability of habitat conditions for juvenile rearing for the Sacramento River winter run Chinook salmon (*Oncorhynchus tshawytscha*) (state Endangered), Central Valley spring-run Chinook salmon (state Threatened), the Central Valley fall run Chinook salmon, steelhead (*Oncorhynchus mykiss*), or green sturgeon (*Acipenser medirostris*). However, the proposed water transfer location will be 38 miles upstream of the current point of diversion, which may result in an amplified impact to water quality downstream. CDFW is concerned that potential amplified downstream impacts may pose a risk to juveniles of the sensitive aquatic species. CDFW recommends monitoring water quality downstream, including turbidity, pH, temperature, and total dissolved solids, to determine any measurable change in quality that may be attributed to the water transfers. CDFW recommends implementing additional avoidance and minimization measures if any identified impacts are determined to be significant.

## **Groundwater Management**

The IS/MND analyzes groundwater impacts of the proposed Project and proposes Mitigation Measure GW-1 to avoid significant adverse environmental effects from groundwater level declines and ensure prompt corrective action in the event unanticipated effects occur. With respect to Mitigation Measure GW-1, CDFW is concerned for potential adverse and cumulative impacts associated with proposed and future water transfers that may 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/shifting have the potential to affect groundwater hydrology due to increased groundwater use 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/shifting.

The primary criteria included in GW-1 to identify significant impacts to groundwater levels are basin management objectives (BMOs); in areas where BMOs do not exist, groundwater levels will be maintained above the identified historic low groundwater level according to GW-1. The IS/MND states that groundwater sustainability plans (GSPs) are still in development; however, as of January 31, 2022, GSPs were adopted in medium and high priority basins, including the Anderson, Enterprise, Colusa, Sutter, Yolo, and North American Subbasins, which underly the Seller Service Area. CDFW recommends updating GW-1 to reflect the adoption of GSPs, which serve to locally govern groundwater and which include sustainable management criteria theoretically designed to protect against impacts to users of groundwater, including GDEs. Sellers are responsible for coordination with relevant groundwater sustainability agencies (GSAs) to ensure that the groundwater triggers during the transfer period are consistent with and at least as protective as the SMC identified in the subbasin GSPs.

Distinct from consistency with GSPs, CDFW is also concerned with the reliance on historical groundwater fluctuations as a threshold for significant impacts during the transfer period. For example, based on GW-1, a transfer may allow groundwater levels to decline by more than 10 feet near deep-rooted vegetation if a 10-foot drop in groundwater elevation does not exceed the range of historical groundwater lows for the designated monitoring site. A significant lowering of the depth of shallow groundwater can cut off GDEs from critical water supply and result in stress or loss of vegetation and/or depletions of interconnected surface water, adversely affecting the fish and wildlife that depend on GDE habitat. CDFW recommends contextualizing historical groundwater level fluctuations used for mitigation triggers via an analysis of concurrent water year types and drought conditions. It is possible that during periods of historical groundwater decline, GDEs experienced significant adverse impacts related to the depletion of groundwater beyond the root zone or reduced cold inflow to surface waters. CDFW recommends selecting a more protective groundwater level trigger for monitoring wells near deep-rooted vegetation or surface waters that considers historical fluctuations of groundwater from comparable water year types as the proposed transfer year. This approach of pairing minimum groundwater elevation triggers with like water years can better distinguish the marginal impacts of the transfer from naturally occurring groundwater fluctuations.

CDFW is also concerned with the level of monitoring proposed in GW-1 for deep-rooted vegetation, including riparian vegetation when relevant, located within one-half mile of a participating pumping well where no suitable monitoring well is identified. In addition to the pre-pumping and post-pumping vegetation assessments included in GW-1, CDFW recommends that periodic vegetation assessments by a qualified plant ecologist/certified arborist be completed during the transfer pumping. This increased frequency of monitoring enables capture of early signs of adverse impacts to GDEs, which is critical to adaptive management that avoids long term impacts (e.g., the decrease or cessation of pumping if identified GDEs are exhibiting signs of stress, as opposed to the permanent loss of vegetation that could otherwise occur absent observations of early adverse impacts). CDFW recommends determining clear and quantifiable metrics for the assessments that specify early signs of adverse impacts and associated management actions (e.g., decrease in volume of pumping; cessation of pumping). Though GW-1 includes requirements for replacement of lost vegetation, CDFW recommends increased early monitoring to avoid vegetation loss entirely during the proposed transfer. Reporting on the pre-pumping, mid-pumping, and post-pumping assessment, and any findings of significant adverse impacts on GDEs, should be made publicly accessible.

The IS/MND states that in the Sacramento Valley Groundwater Basin, following the 2021 transfer period, several locations recovered to pre-transfer levels, or showed a trend toward recovery. CDFW recommends that 2021 transfer locations that have not fully recovered to pre-transfer levels, including those that have only shown a trend toward recovery, not be included as transfer locations during the 2022 transfer period.

## **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 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](mailto:CNDDDB@wildlife.ca.gov).

## FILING FEES

The Project, as proposed, would have an effect on fish and 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 sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the 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.

CDFW appreciates the opportunity to comment on the IS/MND to assist the TCCA in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts.

If you have any questions regarding this letter or wish to schedule a meeting, please contact Carol Wallen, Environmental Scientist at (916) 216-6253 or carol.wallen@wildlife.ca.gov.

Sincerely,

Carol Wallen  
Environmental Scientist  
CEQA/CESA/LSA/NCCP

  
CALIFORNIA DEPARTMENT OF  
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[<sup>1</sup>] 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.

### Literature Cited

Beedy, E. C. 2008. Tricolored Blackbird (*Agelaius tricolor*). In California bird species of special concern, edited by W. D. Shuford and T. Gardali, 437-443. Studies of West. Birds. <https://www.westernfieldornithologists.org/docs/TricBB.pdf>

Beedy, E. C., W. J. Hamilton, III, R. J. Meese, D. A. Airola, and P. Pyle (2020). Tricolored Blackbird (*Agelaius tricolor*), version 1.0. In Birds of the World (P. G. Rodewald, Editor). Cornell Lab of Ornithology, Ithaca, NY, USA. <https://doi.org/10.2173/bow.tribla.01>

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