Dorman, April@Wildlife

From: Wood, Dylan@Wildlife
Sent: Tuesday, May 17, 2022 4:00 PM
To: gzlotnick@sjwd.org
Cc: Wildlife R2 CEQA; Torres, Juan@Wildlife; Barker, Kelley@Wildlife; Thomas, Kevin@Wildlife; 'state.clearinghouse@opr.ca.gov'; Seapy, Briana@Wildlife; Hutton, Tiffanee@Wildlife
Subject: Comments on the IS/ND for the 2022 Temporary Water Transfer of Pre-1914 Water Rights Water to the Santa Clara Valley Water District and consortium of State Water Contractors (SWC)(SCH: 2022040400)
Attachments: Attachment 1.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Yellow Category

Dear Mr. Zlotnik:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study and Negative Declaration (IS/ND) from the San Juan Water District (SJWD) for the 2022 Temporary Water Transfer of Pre-1914 Water Rights water to the Santa Clara Valley Water District and a consortium of State Water Contactors (Project) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines. (Public Resources Code § 2100 et seq.)

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.) 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 is also submitting comments as a potential **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, 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. CDFW also administers the 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

As part of a regional water transfer proposed to be conducted by several American River water agencies to provide supplemental water supplies to the Buyers during 2022, SJWD will temporarily transfer up to 4,302 acre-feet of its pre-1914 water rights water supplies that have been quantified and are made available on a perpetual, no-cut basis by the United States Bureau of Reclamation under a 1954 settlement contract. The water demands that would otherwise be served by SJWD's delivery of this surface water to its wholesale customers Fair Oaks Water District (FOWD) and Citrus Heights Water District (CHWD) will instead be satisfied by increased groundwater pumping by FOWD and CHWD to serve their respective retail customers. The transfer water will be delivered to the buyers by DWR using existing SWP facilities from July through November 2022. However, the transfer water may be temporarily stored in San Luis Reservoir for later delivery to an individual Buyer's service area.

COMMENTS AND RECOMMENDATIONS

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

Groundwater Substitution Transfer Comments

Groundwater Management

The IS/ND indicates the proposed Project will not adversely impact groundwater. CDFW is concerned with potential localized and cumulative impacts associated with proposed and pending groundwater substitution water transfers within or adjacent to the North American 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 have the potential to affect groundwater hydrology due to increased groundwater use. 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.

CDFW is specifically concerned with SJWD's reliance on 'historical baseline groundwater pumping' as a threshold for significant impacts during the transfer period. SJWD purports the transfer will result in no significant hydrological impacts by noting consistency of operations with the North American Subbasin Groundwater Sustainability Plan (NAsb GSP). Per comments submitted by CDFW on the NAsb Draft and Final GSP on October 7, 2021, and March 29, 2022 (Attachment A), CDFW does not believe NAsb GSP minimum groundwater elevation thresholds to be protective of GDEs. A significant lowering of groundwater elevations, as permitted within the NAsb GSP, 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. To protect against adverse impacts to GDEs, including increased streamflow temperature, that have occurred during dry and critically dry water years with historically low groundwater levels (DFW 2019), CDFW recommends selecting a more conservative groundwater elevation trigger that would result in a reduction in pumping volume or a cessation of transfer pumping. The groundwater level trigger should be shallower than the historical low groundwater level to avoid adverse impacts of transfer-related pumping on GDEs, especially

cumulative impacts that may manifest after sequential dry or critically dry water years when groundwater reliance and streamflow depletion compound, and the cumulative volume of NAsb groundwater substitution transfers maintains or increases, as it may this year.

For groundwater substitution transfers, DWR requires groundwater monitoring and a mitigation plan designed to alleviate possible injury to other legal users of water including environmental users. SJWD notes in the IS/ND that they have DWR-approved groundwater monitoring, reporting, and mitigation plans which ensure no unreasonable and adverse impacts to the groundwater basin. CDFW requests SJWD provide CDFW with groundwater monitoring and mitigation plans, documentation demonstrating the NAsb groundwater sustainability agencies (GSAs) have been notified of the proposed transfer, and details on how the proposed groundwater substitutions will be consistent with GSP requirements. Absent shared information on the mitigation measures built-in to this specific transfer, it is difficult to assess potential impacts to GDEs and the species therein. Effective, comprehensive monitoring and mitigation will help understand hydrologic patterns and their relationship to corresponding habitat/GDE trends to inform groundwater transfer operations. Accordingly, groundwater monitoring should be accompanied by habitat monitoring designed and deployed to capture seasonal and operational variability and follow accepted technical procedures and best practices established by the USGS (Cunningham 2011) and DWR (DWR 2016) respectively. Monitoring plans and data should be made publicly accessible.

Streamflow Depletion Factors

According to DWR's 2019 Draft Technical Information for Preparing Water Transfer Proposals (Draft Technical Information), a minimum streamflow depletion factor (SDF) of 13 percent will be applied to each groundwater substitution transfer when determining the volume of surface water made available for transfer, unless information supports the need for development of a site-specific SDF (DWR 2019). The minimum SDF value is based on analysis completed within the updated Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report (LTWT EIS/R), prepared by the Bureau of Reclamation and the San Luis & Delta-Mendota Water Authority. The LTWT EIS/R analysis shows a range of potential streamflow depletions resulting from groundwater transfer pumping that suggests the reduction in streamflow may be more significant in sequential dry water years, and impacts of back-to-back transfers can compound over time (Reclamation 2019).

Streamflow depletion is a function of many factors, including the distance of a pumping well from a nearby stream. Streamflow depletion can occur relatively quickly from continued pumping from wells adjacent to surface waters (USGS 2012). The LTWT EIS/R states that the minimum 13 percent SDF would mitigate the impacts of streamflow depletions to be less than significant (Reclamation 2019), but the mitigation measure fails to provide adequate reasoning for the selection of the 13 percent SDF value from among the range of modeled depletions, nor does it justify the uniform application of the minimum standard SDF to all proposed groundwater substitution transfers, which have varied geographies, hydrogeologic conditions, well specifications, and proximities to major surface waters.

CDFW recommends the development of site-specific SDFs that consider multiple criteria impacting streamflow depletion rates and more accurately account for the volume of streamflow depletion attributable to pumping transfer water. Absent accurate streamflow depletion factors, groundwater transferors may be 'double-counting' by selling their surface water rights while pumping additional river water via subsurface stream depletion. In the interim, until site-specific SDFs are developed, CDFW recommends selecting a higher SDF than the *minimum* 13%, particularly when transfer pumping wells are located proximate to surface water bodies.

Well Recovery

The Petitioner indicates that the proposed groundwater pumping is consistent with the GSP, basin management objectives, and the SGA accounting framework and would not adversely impact the groundwater basin. If records for transfer production wells and/or associated monitoring wells do not show that groundwater levels have fully recovered to pre-transfer levels, alternative production wells that do demonstrate full recovery between transfer seasons should be used to avoid adverse impacts related to the cumulative effects of repeated groundwater depletion.

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 (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@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.

CDFW appreciates the opportunity to comment on the IS/ND and recommends that the San Juan Water District address CDFW's comments and concerns in the forthcoming EIR. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter, please contact Dylan Wood, Environmental Scientist at (916) 358-2384 or dylan.wood@wildlife.ca.gov.

Sincerely,

Dylan Wood
California Department of Fish and Wildlife
Environmental Scientist
(916) 358-2384

CALIFORNIA DEPARTMENT OF FISH and WILDLIFE

REFERENCES

Bureau of Reclamation, San Luis & Delta-Mendota Water Authority (Reclamation). 2019. Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report

Cunningham, W. L., and C. W. Schalk. 2011. Groundwater Technical Procedures of the U.S. Geological Survey

Department of Water Resources. 2016. Best Management Practices for Sustainable Management of Groundwater.

Department of Water Resources (DWR). 2018. Natural Communities Commonly Associated with Groundwater Dataset.

DWR. 2019. Draft Technical Information for Preparing Water Transfer Proposals.