



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 9, 2022

Jamie Bax, Director
Madera County Community and Economic Development Department
200 West 4th Street
Madera, California 93637
Jamie.bax@maderacounty.com

**Subject: MD10A Madera Ranchos – Pipe Replacement and Meter Installation Project (Project)
Initial Study/Mitigated Negative Declaration
SCH No.: 2022100209**

Dear Jamie Bax:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Madera County Community and Economic Development Department (County) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under 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 (*Id.*, § 1802). Similarly, for

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.

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purposes of CEQA, CDFW is charged by law to provide, 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.). 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.), related authorization as provided by the Fish and Game Code may be required.

PROJECT DESCRIPTION SUMMARY

Proponent: County of Madera

Objective: The Project proposes to improve the existing water distribution system within the Madera Ranchos Maintenance District 10A (MD10A) through the installation of new and replacement water distribution pipelines, water meters, and fire hydrants. The Project would install up to approximately 41.21 miles (221,760 linear feet) of pipeline primarily within existing public rights-of-way and install new meter service connections to existing and additional customers within MD10A, providing water service to all 1,347 parcels within the Madera Ranchos.

Location: The Project is located within County MD10A along street segments throughout the unincorporated community of Madera Ranchos in Madera County, California.

Timeframe: The Project proposes to start in early 2023 and ending in 2024.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

There may be special-status resources present in and adjacent to the Project site. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned with potential impacts to

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special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State endangered and federally threatened succulent owl's-clover (*Castilleja campestris succulenta*), and the State endangered and federally threatened San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*).

California Tiger Salamander (CTS)

CTS have the potential to be present in the Project site. CTS breed and develop in vernal and seasonal pools and stock ponds within grassland, woodland, and scrub habitat types. They require upland refuges (i.e. small mammal burrows) when not breeding and are known to disperse up to 1.3 miles from breeding sites. The California Natural Diversity Database (CNDDDB) document multiple CTS occurrences north of the Project site (CDFW 2022), and aerial imagery show that there is also suitable habitat north from the Project site. As a result, CDFW finds that the Project site may serve as refugia for dispersing CTS. CDFW recognize that, according to Mitigation Measure 6, Project construction activities will avoid potential CTS habitat and that if such areas can't be avoided, protocol level surveys will be conducted.

CDFW advises avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows. If burrow avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, or if the County assumes presence, acquisition of an ITP is necessary prior to any ground-disturbing activities to comply with CESA. The timeline to obtain an Incidental Take Permit, pursuant to Fish and Game Code section 2081 subdivision (b) is greater than 30-days and CDFW recommends early consultation through the take process.

Special-Status Plant Species: Both succulent owl's-clover and San Joaquin Valley Orcutt grass tend to occur in seasonal wetland habitats, and there is the potential for these special status plant species to be present. CDFW recommends the swales identified in the MND and any other ephemeral freshwater habitat within the Project site be surveyed for special status plants by a qualified botanist following the "*Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*" (March 20, 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. Further, CDFW recommends special status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a State- or federally listed plant species is identified during botanical surveys, it is recommended that consultation with CDFW and/or the USFWS be conducted to determine permitting needs.

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Lake and Streambed Alteration

The Project may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires the Project proponent to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593.

Federally Listed Species

CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to CTS, succulent owl's-clover, and San Joaquin Valley Orcutt grass. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

CDFW appreciates the opportunity to comment on the Project to assist the County in identifying and mitigating the Project's impacts on biological resources. If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

ec: Patricia Cole, USFWS
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LITERATURE CITED

California Department of Fish and Game, 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. California Department of Fish and Game, March 2018.

California Department of Fish and Wildlife. 2022. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: MD10A Madera Ranchos – Pipe Replacement and Meter
Installation Project**

SCH No.: 2022100209

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: CTS	
CTS consultation	
CTS take authorization	
Mitigation Measure: Special-status plants	
Special-status plants consultation	
Special-status plants take authorization	
<i>Before Impacting the Bed, Bank, or Channel of any Stream or River</i>	
Mitigation Measure: Notification to CDFW's Lake and Streambed Alteration Program	
<i>During Construction</i>	
Mitigation Measure: CTS	
CTS avoidance buffer	
Mitigation Measure: Special-status plants	
Special-status plants avoidance buffer	