



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 428-2002

www.wildlife.ca.gov

GAVIN NEWSOM, Governor

CHARLTON H. BONHAM, Director



March 29, 2023

Mr. Beau Kayser

City of Watsonville

250 Main Street

Watsonville, CA 95076

Beau.Kayser@cityofwatsonville.org

Subject: City of Watsonville - Zone 2 Water Reservoir and Booster Pump Station Modification Project, Mitigated Negative Declaration, SCH No. 2023030212, Santa Cruz County

Dear Mr. Kayser:

The California Department of Fish and Wildlife (CDFW) has received and reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the City of Watsonville (City) for the Zone 2 Water Reservoir and Booster Pump Station Modification Project (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW submits these comments on the IS/MND to inform the City, as the CEQA Lead Agency, of potentially significant impacts to biological resources associated with the Project.

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 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 these comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it

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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may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent 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 will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). If the Project will impact CESA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any such project modifications and mitigation measures must be incorporated into the Environmental Impact Report's (EIR) analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the lead agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the lead agency makes and supports findings of overriding consideration for impacts that remain significant despite the implementation of all feasible mitigation. Findings of consideration under CEQA; however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes, streams, rivers, or associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such

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aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds of prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Watsonville

Objective: The Project consists of the construction of a new water storage tank within the City's Zone 2 water service area. The tank would be constructed next to an existing water storage tank to provide back-up and emergency storage as the existing tank is reaching the end of its useful life. The new tank would be a 36.5-foot high, 121-foot diameter concrete tank which can hold up to 3 million gallons. In addition to the tank, a new gravel-based construction access road would be constructed, and may become a paved, permanent road after construction. Grading is needed to complete the Project and no import of fill is expected.

Timeframe: Construction is expected to start in the winter of 2023 or spring of 2024 and would take approximately 12 months.

ENVIRONMENTAL SETTING AND LOCATION

The Project is located on the City of Watsonville Airport property, adjacent to the City's existing Zone 2 water storage tank. The Project location is surrounded by residential neighborhoods to the north and east and undeveloped airport property consisting of grassland and riparian woodland to the west and south. The Project is proposed to stay outside of the dripline of the riparian area. The access road would be constructed from the end of Burchell Avenue. The majority of the airport property is designated critical habitat for Santa Cruz tarplant (*Holocarpha macradenia*), including the Project area.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

COMMENT 1: Santa Cruz tarplant Potential for Take

Issue: The proposed Project is likely to result in take of Santa Cruz tarplant but the IS/MND does not specify if an ITP will be obtained pursuant to CESA. The Project is located within a known population of Santa Cruz tarplant and one individual was observed within the Project's staging area during April and July 2021 biological surveys. The IS/MND states that the Project area could support a viable seedbank for the species within the grassland area. Mitigation Measure Bio-2 states that the topsoil would be salvaged and stockpiled to preserve the potential seed bank. Potential impacts to individuals during construction or stockpiling of soil containing a viable seedbank can be considered take of the species pursuant to Fish and Game Code § 86.

Occurrences: The Project site is on and adjacent to a known Santa Cruz tarplant population at the Watsonville Municipal Airport, which holds the largest population of Santa Cruz tarplant. At its highest, 28 million individuals were recorded in 1998. The number of individuals recorded has decreased since then with approximately 512,000 individual plants recorded in 2012 (U.S. Fish and Wildlife Service (USFWS), 2014).

Evidence the impact would be significant: Santa Cruz tarplant is an endangered species under the CESA (Fish & G. Code, § 2050 et seq.). Species listed under CESA may not be taken at any time except under the provisions of a Natural Communities Conservation Plan (NCCP), (Fish & G Code § 2081.7), a Memorandum of Understanding for scientific education or management purposes (Fish & G. Code §2081, subd. (a)), or an ITP (Fish & G. Code § 2081 (b)).

Santa Cruz tarplant is an annual species and the number of individuals recorded in a year is highly dependent on rainfall and other factors. Santa Cruz tarplant produces two types of seeds, ray achenes and disk achenes (USFWS 2014). Generally, the seeds fall within the vicinity of the plant and do not have a structural means for dispersal, although it is possible that some ray achenes may be dispersed long distances by animals (USFWS 2014). Ray achenes also form lasting seed banks with seeds that remain viable for an unknown amount of time, with seeds up to 15 years old successfully germinating (USFWS 2014). While the IS/MND states that no individuals were found during a July 2022 survey, surveys over consecutive seasons may be necessary to increase the likelihood of detection and account for variances in weather and other disturbances. Furthermore, given that one individual was observed within the Project

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site during 2021 surveys, and the proximity of the site to the largest Santa Cruz tarplant population, presence of the species within the Project site as a viable seedbank is likely.

Recommended Mitigation Measure 1 – Focused Survey: An experienced botanist, familiar with the native plant communities of the City shall conduct a focused Santa Cruz tarplant survey during the blooming period of the species, from June to October, over a minimum of two consecutive seasons. The surveys shall occur throughout the entire Project where potential Santa Cruz tarplant habitat has been identified, prior to the initiation of construction and the results shall be included in the Project environmental document. Surveys shall be conducted according to: *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (CDFW 2018), available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

Recommended Mitigation Measure 2 – Santa Cruz Tarplant Incidental Take Permit: Because Santa Cruz tarplant has been detected on the site and is likely to occur within the Project area, additional measures are needed to avoid, minimize, and/or mitigate potential Project impacts. CDFW recommends obtaining an ITP pursuant to Fish and Game Code § 2081, subd.(b). Information on the ITP process is available at <https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>. In addition, CDFW recommends continued coordination to develop additional measures which may include work stoppage, flagging and avoidance of occurrences, collection of propagation material, and site restoration.

COMMENT 2: Crotch Bumble Bee

Issue: The IS/MND does not identify potential impacts to and avoidance measures for Crotch bumble bee (*Bombus crotchii*).

Occurrences: The California Natural Diversity Database (CNDDDB) contains a 1994 occurrence of Crotch bumble bee from the Watsonville airport (CNDDDB 2023). Habitat for the species includes open grassland and scrub (Hatfield et al. 2018). Because the species was historically found at this site and there is potential for the species to occur, it should be included in pre-construction surveys and monitoring.

Specific impacts, why they may occur and be potentially significant: Crotch bumble bee is a candidate species for listing under CESA; therefore, it should be considered a threatened, endangered, or rare species under CEQA pursuant to CEQA Guidelines section 15380. If found on-site, the Project could result in crushing or killing Crotch bumble bees, reduction in sufficient food resources such as nectar and pollen, and/or removal of nesting and overwintering sites. Many bumble bee species, once common in the western United States, have undergone a dramatic decline in both distribution and abundance and are now extirpated from much of their historic ranges

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(Hatfield et al. 2018). Many bumble bees are threatened with extinction due primarily to reductions in habitat from urbanization, intensive agriculture, and invasive species introductions (ibid). If Crotch bumble bee occur at the Project site and Project impacts to Crotch bumble bee would occur, this may result in a substantial reduction in the species' population, which would be a mandatory finding of significance (CEQA Guidelines, § 15065).

Recommended Mitigation Measure: To reduce potential impacts to Crotch bumble bee to less-than-significant, CDFW recommends including the below mitigation measure in the IS/MND.

Recommended Mitigation Measure 3 – Crotch Bumble Bee: A survey for Crotch bumble bee shall be conducted prior to the start of ground-disturbing activities. The biologist conducting the survey and the survey protocol shall be approved in writing by CDFW prior to the survey. The Project shall submit a survey report to CDFW within one month of survey completion and shall notify CDFW within 24 hours if Crotch bumble bee or other special-status bumble bees are detected. The Project shall obtain a CESA ITP from CDFW if impacts to Crotch bumble cannot be avoided.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 online field survey form and other methods for submitting data can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.


CONCLUSION

Thank you for the opportunity to comment on the Project's IS/MND. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or

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Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

ec: State Clearinghouse

REFERENCES

Hatfield, R., S. Jepsen, S. F. Jordan, M. Blackburn, and A. Code. 2018. A petition to the state of California Fish and Game Commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered under the California Endangered Species Act. Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. Sacramento, CA.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161902&inline>

[USFWS] U.S. Fish and Wildlife Service. 2014. *Holocarpha macradenia* (Santa Cruz tarplant) 5-Year Review: Summary and Evaluation. U.S. Fish and Wildlife Service, Ventura, California.