



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



Governor’s Office of Planning & Research

**Nov 16 2023**

**STATE CLEARINGHOUSE**

November 15, 2023

Gavin Glascott, Associate Civil Engineer  
Napa Sanitation District  
1515 Soscol Ferry Road  
Napa, CA 94558  
[GGlascott@napasan.com](mailto:GGlascott@napasan.com)

Subject: Soscol Recycled Water Pump Station Upgrade Project, Mitigated Negative Declaration, SCH No. 2023100547, Napa County

Dear Mr. Glascott:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from Napa Sanitation District (District) for the Soscol Recycled Water Pump Station Upgrade Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the MND to inform the District, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

**CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state’s fish and wildlife trust resources.

**PROJECT DESCRIPTION SUMMARY**

**Proponent:** Napa Sanitation District

**Objective:** The Project would replace the existing jockey pump and add a jockey pump, vertical turbine pump, and pump bay. These new components at the Suscol Recycled Water Facility (SRWF) would prolong the life of the existing vertical turbine pumps and conserve energy during periods of lesser demand. Overall, the Project would benefit all

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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.

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of the District's recycled water customers and provide additional drought resiliency by increasing the dependability of recycled water delivery.

**Location:** The Project is located at the SRWF at 1515 Soscol Ferry Road, just north of the Napa County Airport. Work associated with the Project would be within the portion of the property referred to as the Suscol Recycled Water Pump Station at approximately Latitude: 38.235610, Longitude: -122.284362.

## **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 or NPPA, unless exempted pursuant to certain provisions of NPPA, either during construction or over the life of the Project. **The Project has the potential to impact Swainson's hawk (*Buteo swainsoni*), CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. I & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and in **Attachment 1**, CDFW concludes that an MND is appropriate for the Project.

**Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

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**Comment 1:** MND Pages 4-6, Swainson's Hawk – Mitigation Measure and Related Impact Shortcoming

**Issue:** The MND Mitigation Measure BIO-1.1 may not reduce impacts to Swainson's hawk to less-than-significant or ensure compliance with CESA. The MND indicates that:

- Several occurrences of Swainson's hawk have been reported to the northeast, east, and south of the Project site, and although no nests of Swainson's hawk have been reported within about a half mile of the Project site and no signs of any large stick nests were observed in any of the trees near the SWRF during the field reconnaissance survey, *new nests could be established in the future*;
- Raptors may roost and possibly nest in the larger trees in the riparian corridor along Suscol Creek and other mature trees in the surrounding area;
- Project construction would occur in relatively close proximity to mature trees and dense vegetation along the west side of the SWRF; and
- Project construction activities initiated during the nesting season could adversely affect nesting birds if new nests are established in the surrounding trees, which would be a potentially significant impact of the proposed Project.

Although the Project is located within existing highly disturbed areas within the developed SWRF, based on the MND's above conclusions that nesting birds could be impacted within 500 feet of Project construction, it appears that Project construction would exceed ambient levels of disturbance and nesting Swainson's hawk may also be impacted. Additionally, the California Natural Diversity Databased (CNDDDB) includes 2008, 2020, and possibly 2022 records of nesting Swainson's hawk approximately 0.3 miles east and south of the Project site (Occurrence Nos. 1717 and 2844). Based on the number of Swainson's hawk nesting occurrences in the Project vicinity reported in CNDDDB, including those above and more, the area appears to be valuable nesting habitat for the species.

**Specific impacts and why they may occur and be significant:** MM BIO-1.1 includes nesting bird surveys within 500 feet of Project construction; however, nesting Swainson's hawks may be impacted by visual or audio disturbances above ambient levels up to 0.5 miles away. Therefore, MM BIO-1.1 may not detect nesting Swainson's hawk that could be impacted by the Project. Impacts may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young. Swainson's hawk is CESA listed as a threatened species and therefore, is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a

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*Mandatory Finding of Significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measure.

Mitigation Measure BIO-2. Swainson's Hawk Surveys and Avoidance Buffers. If Project activities are scheduled during the nesting season for Swainson's hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey results prior to Project activities occurring between March 1 to September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

## **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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported

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to CNDDDB can be found at the following link:  
<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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

CDFW appreciates the opportunity to comment on the MND to assist the District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1. Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023100547)

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## ATTACHMENT 1

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
<b>BIO-2</b>	<p><i>Swainson's Hawk Surveys and Avoidance Buffer.</i> If Project activities are scheduled during the nesting season for Swainson's hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline</a>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey results prior to Project activities occurring between March 1 to September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>	<p>Prior to Ground Disturbance and Continuing over the Course of the Project</p>	<p>Project Applicant</p>