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Apr 11 2024

STATE CLEARINGHOUSE

From: Obester, Alyssa@Wildlife
Sent: Wednesday, April 10, 2024 4:18 PM
To: devensen@sewd.net
Cc: Wildlife R2 CEQA; Gibbons, Bridget@Wildlife; Garcia, Jennifer@Wildlife; Kilgour, Morgan@Wildlife
Subject: Aquifer Storage and Recovery Well ND Comments, SCH No. 2024030522

Dear Darrel Evensen:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an ND from Stockton East Water District (District) for the Aquifer Storage and Recovery Well (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines. 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.

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 may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) 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 Project Site is located in San Joaquin County, east of the City of Stockton at Latitude 37.967397, Longitude - 121.215361 (NAD83/WGS84). The Project consists of the installation of a new aquifer storage and recovery well to replace an existing well on the premises of the Dr. Joe Waidhofer Drinking Water Treatment Plant (WTP). Construction involves drilling a well approximately 800 feet deep. The well will serve as a dry year supplemental supply of raw water to the WTP and will serve to restore groundwater supplies via aquifer storage in wet years. To support the new well, two pipelines would be installed underground for recharge and recovery water.

COMMENTS AND RECOMMENDATIONS

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

COMMENT 1: Impacts on Giant Garter Snake

Issue: The Project Site provides potentially suitable habitat for the state and federally threatened Giant Garter Snake (GGS; *Thamnophis gigas*). It is unlawful to take a State-listed endangered or threatened species (Fish & G. Code §2050 et seq.). Take is defined as “hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill” (Fish & G. Code § 86). Although Exhibit A of the Initial Study describes the Project Site as having low potential for species occurrence at the site, construction activities at the Project Site have the potential to impact GGS. Accordingly, Exhibit A includes a list of “conservation measures” to be implemented by the District to avoid and minimize potential adverse effects on GGS and other fish and wildlife species. As the measures are not referenced within the Biological Resources section, it is unclear whether the District plans to implement these measures.

Recommendation: CDFW recommends the District implement the GGS conservation measures described in Exhibit A and reference the measures in the Biological Resources section.

Conservation measures from Exhibit A state that a Qualified Biologist will be onsite monitoring for the presence of GGS during vegetation removal and initial ground disturbance. CDFW recommends that the Qualified Biologist is present for the duration of ground-disturbing project activities. The Qualified Biologist should be knowledgeable and experienced in the biology and natural history of GGS.

Exhibit A measures also state that any GGS encountered in the Project area be allowed to leave of their own volition, and Project activities in the immediate vicinity will stop until the animal moves away. The Qualified Biologist shall be authorized to stop any project activities if necessary to protect GGS. Handling of any GGS in the Project area is not permitted, as “catch” and “capture” are methods of take and would require CESA take authorization. If GGS are encountered during Project activities, the Qualified Biologist and District should suspend project activities and notify and consult with CDFW.

CDFW also recommends the District provide additional detail on GGS bioassessment survey methods and timing. The District can review U.S. Fish and Wildlife Service’s Guidelines for Permits Specific to the Giant Garter Snake available at <https://www.fws.gov/sites/default/files/documents/survey-protocols-for-the-giant-garter-snake.pdf>.

COMMENT 2: Inclusion of Minimization, Avoidance, or Mitigation Measures

Issue: Section 15370 of the CEQA Guidelines defines mitigation as:

- a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

As previously described in Comment 1, Exhibit A includes measures that would be implemented by the District to “avoid and minimize potential adverse effects on fish and wildlife habitats”. However, Exhibit A and its conservation measures are not referenced in the ND, and the ND makes no mention of any measures necessary to minimize impacts to biological resources.

Recommendation: CDFW recommends the District modify the Biological Resources section to include the measures described in Exhibit A. CDFW believes that these measures should be considered mitigation under CEQA; thus this document should be identified as a “Mitigated Negative Declaration” with the incorporation of measures that serve to avoid, minimize, and reduce/eliminate the effects of the Project to a point where no significant effect on the environment would occur. Subsequently, the Initial Study/Negative Declaration checklist should be updated to reflect which environmental factors would have impacts determined to be less than significant with mitigation incorporated.

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 (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.

FILING FEES

The Project, as proposed, would have an impact on fish and/or 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 § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed 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 ND for the Aquifer Storage and Recovery Well Project to assist Stockton East Water District 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. Questions regarding this letter or further coordination should be directed to Alyssa Obester, Senior Environmental Scientist (Specialist) at alyssa.obester@wildlife.ca.gov.

Sincerely,
Alyssa Obester

Alyssa Obester (she/her/hers)
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