

Haggerty, Nicole@Wildlife**Feb 29 2024**

From: Gibbons, Bridget@Wildlife
Sent: Thursday, February 29, 2024 1:41 PM
To: drobinson@bwgwater.com
Cc: MacLeod, Ian@Wildlife; Garcia, Jennifer@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject: CDFW's Comments on the IS/MND for the BWGWD 2024 Water Transfer Program Project (SCH No. 2024020099)

STATE CLEARINGHOUSE

Dear Danny Robinson:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) from Biggs-West Gridley Water District (BWGWD) for the Biggs-West Gridley Water District 2024 Water Transfer Program (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

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, the Project may be subject to CDFW's authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). 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

The Project area is defined by BWGWD's legal boundaries, which encompass approximately 34,800 acres in the northern Sacramento Valley in Butte and Sutter Counties. Within the BWGWD boundaries, there are approximately 31,300 irrigable acres of which approximately 22,739 acres are dedicated primarily to rice production.

The Project consists of the proposed transfer of up to 18,780 acre-feet of water to participating member districts of the State Water Contractors Inc., the Metropolitan Water District of Southern California, other South of Delta purchasers, including one or more Central Valley Project contractors, or a buyer diverting the transfer water from within or upstream of the Delta during the 2024 irrigation season. Transfer water will be made available by cropland idling.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist BWGWD 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: California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the Project.

Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code § 2081 (b)). To facilitate the issuance of an ITP, if applicable, CDFW recommends the IS/MND include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take. CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service to coordinate specific measures if both state and federally listed species may be present within the Project vicinity.

COMMENT 2: Giant Garter Snake

Giant garter snake (*Thamnophis gigas*, GGS) is a State- and federally-listed species with a well-established presence within the Project area. Most of the extant populations of GGS in the Sacramento Valley occur in approximately 494,000 acres of rice agriculture and its associated canals (Halstead et al. 2019).

The IS/MND proposes to limit the Project's adverse impacts on GGS by implementing Mitigation Measure Bio-1, which would limit the maximum amount of idled land to 20% of BWGWD's irrigable acreage; Mitigation Measure Bio-2, which would ensure that water remains in BWGWD's major irrigation and drainage canals; Mitigation Measure Bio-3, which would require implementation of avoidance practices during maintenance; and Mitigation Measure Bio-4, which would prevent lands with known important GGS populations or land abutting or adjacent to naturalized lands, state and federal refuges, and/or corridors between these areas from participating in the idling transfer. However, CDFW does not concur that these measures are sufficient to reduce the Project's adverse impacts on GGS to below significant for the following reasons:

Comment 2.1: GGS Habitat

Issue: GGS in the Sacramento Valley are strongly reliant on rice agriculture. Adult GGS survival rates are higher when a greater percentage of the lands surrounding their home ranges are actively cultivating rice^[1]. Reducing rice production may also impact GGS populations by reducing the productivity of prey species and/or by increasing the concentration of predators in the nearby canals (Halstead et al. 2019). It may prompt affected GGS to move into other surrounding habitats, increasing the density of GGS and the competition for prey. A significant reduction in the amount of rice grown in the Project area is likely to significantly reduce overall GGS survival rates in the area.

Recommendation: To reduce the significance of the Project's impact on GGS, CDFW recommends measures such as: reducing the proposed acreage of idled rice crops, restoring or enhancing existing GGS habitat, creating new GGS habitat, or preserving vegetative cover in edge rows and canals to provide areas of safe forage and shelter for GGS.

Comment 2.2: Cumulative Impacts Analysis

Issue: The IS/MND states that the lands proposed for idling in the 2024 Water Transfer Program were not idled in 2023, and the limited duration (only one year) of the proposed Project is cited as a factor that limits the severity of impacts to

GGs. However, the IS/MND later states that similar water transfer projects were implemented during at least 2010, 2012, 2014, and 2018. It is not clear if the proposed lands for 2024 have previously been idled, or what the rotational idling frequency is for participating lands in the BWGWD water transfer program. Statewide, rice production was cut by about 20% in 2021 (Cleary 2021), which likely increased mortality in the species overall. Continued habitat impacts on an already stressed population may have greater overall effects than they would in isolation.

Recommendation: CDFW recommends the IS/MND be revised to include an analysis of the cumulative effects of the repeated reductions of the density of active rice fields within BWGWD’s boundaries that have taken place as a result of its water transfer program.

Comment 2.3: GGS Best Management Practices

Issue: Mitigation Measure Bio-3 states, “BWGWD will perform GGS best management practices (BMPs), including educating maintenance personnel to recognize and avoid contact with GGS, clean only one side of a major conveyance and drainage channel per year, and raise flail mower blades to at least six inches above the canal operation and maintenance road surfaces.” It is not clear whether the inclusion of this measure implies that the Project will include physical alterations to GGS habitat.

Recommendation: CDFW recommends revising the IS/MND to more clearly describe planned operations, whether they will include physical alterations to GGS habitat, and any monitoring or reporting data associated with actions taken to implement this mitigation measure. For instance, what maintenance activities will the maintenance personnel be conducting? In what locations? What type of education will be provided?

Comment 2.4: Identification of Important GGS Populations

Issue: Mitigation Measure Bio-4 identifies identify Gray Lodge Wildlife Area and Upper Butte Basin Wildlife Area as areas of local known important GGS populations^[2].

Recommendation: CDFW recommends that the IS/MND also consider the importance of the Butte Sink Wildlife Management Area, the Traynor lateral, Belding lateral, and Schwind lateral to GGS populations and the potential impacts to GGS associated with idling lands adjacent and directly abutting these areas. Additionally, CDFW recommends the use of available data sources beyond those referenced above to identify important GGS populations. For example, the Gray Lodge Wildlife Area Water Supply Project 2014 Annual Status Report (Swaim 2015) and the 2020 and 2021 Annual Status Reports for the Biggs-West Gridley Water District Gray Lodge Water Supply Project (Swaim 2020, Swaim 2021) have documented a high number of GGS occurring within the project area and adjacent to or directly abutting BWGWD lands.

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 mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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 IS/MND to assist 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 Bridget Gibbons, Environmental Scientist at (916) 767-3993 or bridget.gibbons@wildlife.ca.gov.

Sincerely,

Bridget Gibbons

Environmental Scientist | Water Rights and Groundwater Coordinator
California Department of Fish & Wildlife | North Central Region
Cell: 916.767.3993 | bridget.gibbons@wildlife.ca.gov

Value science? [Value Scientists](#).

^[1] A study found that the annual estimated survival of adult GGS was 73% for individuals with active rice fields on 86% of the land within 500 meters of their home range. Alternatively, the annual estimated survival for GGS was just 8.5% for individuals with active rice fields on only 18% of the land near their home range (Halstead et al. 2019).

² The IS/MND references GGS locations identified in the Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report Final (September 2019) and the Biological Opinion for the Bureau of Reclamation's Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report Final (May 2019) (United States Fish and Wildlife Service).

REFERENCES

Cleary, Luke. "California rice harvest impacted by drought after farmers slashed plantings 20%." ABC 10, September 29, 2021, <https://www.abc10.com/article/news/local/california-rice-harvest/103-aa80b23a-9c8b-461c-8897-650f040bc3f8>.

Halstead, B.J., Rose, J.P., Reyes, G.A., Wylie, G.D. and Casazza, M.L. 2019. Conservation reliance of a threatened snake on rice agriculture. *Global Ecology and Conservation*, 19:e00681.

Swaim Biological Inc. 2015. "Gray Lodge Wildlife Area Water Supply Project 2014 Annual Status Report." Biggs-West Gridley Water District. ITP#2081-2013-039-02. California Department of Fish and Wildlife.

Swaim Biological Inc. 2020. "Gray Lodge Wildlife Area Water Supply Project 2020 Annual Status Report." Biggs-West Gridley Water District. ITP#2081-2019-024-02-A2. California Department of Fish and Wildlife.

Swaim Biological Inc. 2021. "Gray Lodge Wildlife Area Water Supply Project 2021 Annual Status Report." Biggs-West Gridley Water District. ITP#2081-2019-024-02-A2. California Department of Fish and Wildlife.

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