



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
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March 28, 2024

Governor's Office of Planning & Research

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Mar 28 2024

STATE CLEARINGHOUSE

SUBJECT: HAYFORK WATER TREATMENT PLANT UPGRADE PROJECT, STATE CLEARING HOUSE NUMBER 2024021126, TRINITY COUNTY

Dear Shane McDonald:

The California Department of Fish and Wildlife (CDFW) has reviewed the Trinity County Waterworks District #1 (Lead Agency) Draft Initial Study and Mitigated Negative Declaration (ISMND), for the above-referenced project (Project). CDFW appreciates this opportunity to provide comments on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

CDFW's 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 and G. Code, §§ 711.7, subd. (a) & 1802; Public Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its Trustee Agency 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.

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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CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. 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 and G. Code, § 2050 et seq.), or state listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description

The Project summary, as described in the ISMND, is as follows:

“The proposed project includes improvements to the Trinity County Waterworks District No. 1 [Water Treatment Plant]. Improvements include constructing a new water treatment building, including new water treatment system, filtration, and disinfection, 600,000-gallon potable clearwell tank, 110,000-gallon backwash storage tank, backwash water recycle pump station, leach field and septic tank, and a potassium permanganate (KMnO₄) dosing station. Aggregate base would be installed throughout the WTP site to provide access to the new and the existing facilities, and a small parking area would be installed adjacent to the new water treatment building.

Power poles, overhead electrical lines, a ground-mounted transformer, a Supervisory Control and Data Acquisition (SCADA) control system, ~3,415 feet of pipeline, and a new 400 kW emergency back-up generator would be installed at the WTP site, and modifications would be made to the regulation reservoir and existing 500,000-gallon water storage tank. Installation of a new SCADA control system at the WTP site will require SCADA equipment to be updated at the Ewing Pump Station; improvements would include either constructing a ~30-foot communications tower adjacent to the Pump Station building or mounting a ~30-foot antenna to the building. For purposes of this Initial Study, “study area” and “project site” shall mean the project’s footprint, and includes access roads, staging areas, and areas in which improvements would occur. Details on the proposed improvements are included in Section 3.2 (Project Components/Physical Improvements).”

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Comments and Recommendations

CDFW commends the Lead Agency for providing a comprehensive biological review in the ISMND and impact analysis of biological resources with potential to occur. While many measures in the ISMND adequately avoid and minimize potentially significant impacts to biological resources, CDFW offers the following comments and recommendations below to further assist the Lead Agency in adequately identifying, avoiding, minimizing and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on biological resources.

Western Bumble Bee

The California Fish and Game Commission accepted a petition to list western bumble bee (*Bombus occidentalis*) as endangered under CESA, advancing the species to the candidacy stage of the CESA listing process on September 30, 2022. Western bumble bee is granted full protection of a threatened species under CESA. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Additionally, Crotch's bumble bee has a State ranking of S1/S2, of which are imperiled/critically imperiled and extremely rare (often five or fewer populations) and Crotch's bumble bee is listed as an invertebrate of conservation priority under the [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#)².

As noted in the ISMND, the Project area contains suitable foraging habitat for western bumble bee. However, based on the habitat description of the Project area in the ISMND, the Project area is likely to also contain suitable nesting and/or overwintering habitat for western bumble bee, which was not mentioned. CDFW supports the implementation of avoidance and minimization measures to avoid and reduce potentially significant impacts to western bumble bee, specifically with the use of Mitigation Measure (MM) 4.4.3 however, considering the potential for nesting habitat, and the challenges with bumble bee identification, CDFW recommends revising the measure to better align with the survey protocol outlines in the [June 2023 Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#)³.

² <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>

³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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CDFW recommends MM 4.4.3 be revised to state:

“To prevent impacts to special-status bumble bees, the following steps shall be implemented, in accordance with CDFW guidelines:

- a. A qualified biologist, specifically those qualified under a research Memorandum of Understanding or authorizing Incidental Take Permit (as described on page 7 of CDFW's Guidelines), shall conduct surveys for special-status bumble bees during the peak months of western bumble bee colony flight season (April to September) prior to the start of construction and in accordance with the CDFW's June 2023 Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Three on-site surveys shall be conducted two to four weeks apart, weather depending, and when floral resources are present.*
- b. Species identification and photographic vouchers shall be submitted to CDFW and experts from the [Bumble Bee Watch](#)⁴ for species verification by an experienced taxonomist prior to the start of land modification and/or vegetation removal.*
- c. If special-status bumble bees are detected, a nesting survey as the protocol is described in CDFW's June 2023 Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, shall be performed throughout the Project area.*
- d. If special-status bumble bees and/or their nests are detected, the potential for "take" as defined by Fish and Game Code section 86 shall be analyzed and quantified. If suitable avoidance and minimization measures to fully avoid take are not feasible, CDFW shall be consulted regarding the need for take authorization pursuant to Fish and Game Code section 2081 (b). Otherwise, suitable avoidance and minimization measures to fully avoid take should be employed, and/or the formulation of a Mitigation and Monitoring Plan should be developed for impacts to suitable western bumble bee habitat.*
- e. All data, including negative and/or positive observations, shall be submitted to the Bumble Bee Watch. “*

California Endangered Species Act

Please be advised that a [CESA permit](#)⁵ must be obtained if the Project has the potential to result in “take” (hunt, pursue, catch, capture, kill, or attempt thereof) of plants or animals listed under CESA, either during construction or

⁴ <https://www.bumblebeewatch.org/>

⁵ <https://wildlife.ca.gov/Conservation/CESA/Permitting>

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over the life of the project. Issuance of a CESA permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project has the potential to result in the take of a CESA-listed species, early consultation is encouraged, as significant modification to the Project may be necessary to minimize and fully mitigate impacts as required by Fish and Game Code Section 2081(b)(2).

Western Pond Turtle

Western pond turtle (*Emys marmorata*) is a California Species of Special Concern (SSC). The SSC designation is given to species native to California satisfying one or more of the following criteria: 1) is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; 2) is listed as federally, but not State threatened or endangered; 3) meets the State definition of threatened or endangered but has not formally been listed; 4) is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; or 5) has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Therefore, if western pond turtle is present in the Project area, Project impacts to western pond turtle may be potentially significant.

Appendix B of the ISMND states that potentially suitable habitat is not present in the Project area. However, descriptions throughout the ISMND of the regulation reservoir indicate that the reservoir may provide suitable habitat for western pond turtle during times of the year when the reservoir is not drained. CDFW recommends including a more detailed analysis as to why the regulation reservoir does not provide suitable habitat for western pond turtle in Section 4.4 and Appendix B of the ISMND.

If after further evaluation the regulation reservoir is identified as providing potentially suitable habitat for western pond turtle, the ISMND should include an analysis of why the reservoir is suitable, and the inclusion of avoidance and minimization measures to avoid and reduce potentially significant impacts from Project implementation, such as employing pre-construction surveys, relocation and/or exclusionary fencing.

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Low Impact Development

Aerial imagery indicates an unnamed stream begins just south of the Project area, and the ISMND indicates an increase in impervious surfaces. It was unclear from the ISMND if [Low Impact Development](#)⁶ (LID) strategies are to be employed for the avoidance and reduction in potentially harmful stormwater runoff. CDFW recommends the implementation of LID strategies to prevent a net-increase in stormwater runoff from new development and parking lots that may occur during the life of the Project.

LID strategies may include permeable pavement, vegetated stormwater bio-swales and retention basins to treat, retain and infiltrate stormwater runoff on-site. These LID strategies are typically designed to prevent project generated stormwater runoff from exceeding that of a 100-year storm event, to protect water quality and manage stormwater as close to its source as possible, thus mitigating potential flooding and the outflow of toxic pollutants such as 6-ppd quinone, a chemical contaminant derived from vehicle tires, suspected to negatively impact aquatic organisms⁷, including CESA-listed salmonids. Ideally, post project stormwater run-off volume, rate and duration will match pre-project conditions and hydro modification would not occur as a result of the Project. CDFW supports and encourages the use of LID strategies because they have been found to minimize impacts to aquatic habitats by filtering out pollutants, decrease peak flows, minimize erosion, and increase ground water recharge. Use of LID strategies should be included in the ISMND.

Wildlife Friendly Fencing

CDFW understands fences are essential for human safety and the control of trespass, however, inappropriately designed and/or installed fencing may create serious hazards for wildlife. Therefore, CDFW encourages the Lead Agency to consider designing and constructing perimeter fencing with wildlife friendly fencing techniques to reduce the potential of injury or death. Please consult [A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind](#)⁸ for construction recommendations and use of wildlife friendly fencing. CDFW staff are also available to assist in providing further recommendations for effective wildlife friendly fencing techniques.

⁶ https://www.waterboards.ca.gov/water_issues/programs/low_impact_development/

⁷ Tian, Z. et al. 2021. A ubiquitous tire rubber-derived chemical induces acute mortality in coho salmon. *Science* 371: 185-18.

⁸ https://fwp.mt.gov/binaries/content/assets/fwpcconservation/land-owner-wildlife-resources/a_landowners_guide_to_wildlife_friendly_fences.pdf

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Submitting Data

CEQA requires that information developed in environmental documents is incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Public Resources Code, § 21003, subd. (e).) Accordingly, please report any observation of special status species to the CNDDDB. Use this link to access the [CNDDDB field survey form](#)⁹ and this link for additional information on the type of [information reported to CNDDDB](#)¹⁰.


Future CEQA Consultation

CDFW would like to emphasize that our staff are available for consultation at every stage of the project development process. CDFW strongly encourages the Lead Agency to consult with CDFW before and during the development of future projects and those equivalent CEQA documents, specifically regarding the analyses of biological resources and the formulation of avoidance, minimization, and mitigation measures for such resources. Engaging with CDFW early-on plays a critical role in allowing our agency to fulfill our mandate to conserve California's valuable fish and wildlife resources and will simultaneously aid the Lead Agency in an efficient and comprehensive CEQA review.

Conclusion

CDFW appreciates the opportunity to comment on the Project to assist the Lead Agency in adequately analyzing and minimizing impacts to biological resources. If you have any questions regarding the information above, or for future CEQA consultation requests, please contact Erika Iacona, Senior Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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⁹ <https://nrm.dfg.ca.gov/fieldSurvey/default.aspx>

¹⁰ <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>