



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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**GAVIN NEWSOM, Governor**

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July 26, 2024

Emily Pappalardo, Principal Engineer  
Brannan-Andrus Levee Maintenance District  
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Subject: Georgiana Slough Erosion Control and Habitat Enhancement Project, Initial Study/Mitigated Negative Declaration, SCH No. 2024061227, Sacramento County

Dear Emily Pappalardo:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Initial Study/Mitigated Negative Declaration (IS/MND) from Brannan-Andrus Levee Maintenance District (District) for the Georgiana Slough Erosion Control and Habitat Enhancement Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of 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. (*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.

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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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## PROJECT DESCRIPTION SUMMARY

**Proponent:** Brannan-Andrus Levee Maintenance District

**Objective:** The objective of the Project is to resolve upper slope erosion problems and a major lower slope undercutting issue and create fish-friendly habitat through the creation wetland and riparian shaded riverine aquatic habitat on the channel margin along the right bank levee of Georgiana Slough, on Lower Andrus Island. The Project activities include clearing, grubbing, and trimming of vegetation on levee slopes, removing overburden material from the waterside slope and placing the overburden material on the back/landside slope, placing rock slope protection and six-inch minus backfill material on the waterside levee slope, placing soil and planting fill to complete final grade on the wetland bench and the levee slope, as well as direct impact to the bank and riparian zone of Georgiana Slough.

**Location:** The Project is located at Lower Andrus Island on the right bank of Georgiana Slough between Levee Mile 5.51 and 5.80 approximately a quarter mile from the confluence of the Mokelumne River in Sacramento County. The approximate center of the site is located at Latitude 38.129361, Longitude -121.584520.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Brannan-Andrus Levee Maintenance District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that an IS/MND is appropriate for the Project.

### COMMENT 1: Special-Status Plant Survey Methodology

**Issue:** The IS/MND does not adequately mitigate potential impacts to special-status plants because it does not provide any methodology by which to conduct special-status plant surveys. CDFW's recommended survey protocols, *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) should be identified as the methodology to be followed.

**Specific impacts and why they may be potentially significant:** The Project has the potential to result in direct impacts to special-status plant species if populations are present in the Project site. Botanical surveys other than CDFW's recommended survey protocols may cause inconclusive results and therefore may not prevent impacts to special-status plant species.

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**Recommended Mitigation Measures:** To reduce potential impacts to special-status plant species, CDFW recommends modifying current Mitigation Measure BIO-1 to survey all suitable habitat for special-status plant species using *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities*.

### **COMMENT 2: Special-Status Plant Avoidance, Minimization, and Mitigation**

**Issue:** The IS/MND does not adequately address take authorization in the event CESA-listed and/or Native Plant Protection Act (NPPA) listed plant species cannot be fully avoided during Project activities. Plants protected by CESA and the NPPA may not be taken (Fish & G. Code, § 86) without prior take authorization from CDFW.

**Specific impacts and why they may be potentially significant:** The IS/MND identifies that where avoidance is not feasible, rhizomes of Mason's lilaeopsis (*lilaeopsis masonii*) shall be salvaged. This would result in take of a NPPA-listed plant species.

**Recommended Mitigation Measures:** CDFW recommends modifying current Mitigation Measure BIO-1 to identify that take coverage from CDFW will be sought if impacts to Mason's lilaeopsis and other CESA and/or NPPA-listed plant species cannot be fully avoided.

### **COMMENT 3: Roosting Bats Avoidance and Minimization**

**Issue:** The IS/MND does not adequately mitigate potential impacts to roosting bats in areas where trees will be removed or disturbed.

**Specific impacts and why they may be potentially significant:** While the MND identifies measures to avoid impacts to bats if trees within suitable bat habitat are removed, it does not identify measures to avoid impacts to bats if trees within suitable bat habitat may be disturbed. Additionally, the IS/MND does not identify timing of tree removal or disturbance as an avoidance and minimization measure. Therefore, the Project has the potential to result in direct impacts to bats if trees identified as suitable bat habitat are removed or disturbed.

**Recommended Mitigation Measures:** CDFW recommends modifying current Mitigation Measure BIO-3 to include the following language:

*A qualified biologist shall conduct a habitat assessment for potentially suitable bat habitat prior to Project activities commencing. If the habitat assessment reveals suitable bat habitat, the qualified biologist shall submit an avoidance and protection plan to CDFW for review. The avoidance and protection plan shall: 1) evaluate the suitable habitat present within the Project area, 2) develop work windows for tree trimming and/or tree removal (typically August 31 through October 15 when young bats would be*

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*self-sufficiently volant and prior to hibernation, and March 1 to April 15 to avoid hibernating bats and prior to formation of maternity colonies), 3) identify appropriate protective buffers, and 4) outline timing of tree trimming and removal.*

#### **COMMENT 4: Raptor Avoidance and Minimization**

**Issue:** The IS/MND does not adequately mitigate potential impacts to white-tailed kite (*Elanus leucurus*) because it does not identify a suitable buffer for active nests within or near the Project area.

**Specific impacts and why they may be potentially significant:** The IS/MND identifies a minimum 500-foot buffer to be established if active white-tailed kite nests are identified within 0.5 miles of the Project. This buffer distance may not be adequate in protecting white-tailed kite nests and could potentially result in mortality from nest abandonment.

**Recommended Mitigation Measures:** To reduce potential impacts to a State Fully Protected Species, CDFW recommends modifying current Mitigation Measure BIO-4 to include establishment of a minimum avoidance buffer of 0.25 miles around white-tailed kite nests until such time that CDFW agrees that a reduced buffer is appropriate.

#### **COMMENT 5: Non-Raptor Nesting Bird Avoidance and Minimization**

**Issue:** The IS/MND does not adequately mitigate potential impacts to nesting birds because it does not identify a suitable buffer for active nests within or near the Project area.

**Specific impacts and why they may be potentially significant:** The IS/MND identifies a minimum 50-foot buffer to be established if active nests are identified within 250 feet of the Project. This buffer distance is not adequate in protecting nesting birds and could potentially result in mortality from nest abandonment.

**Recommended Mitigation Measures:** To reduce potential impacts to birds protected under the Migratory Bird Treaty Act and/or Fish and Game Code, CDFW recommends modifying current Mitigation Measure BIO-5 to include establishment of a minimum avoidance buffer of 100 feet around bird nests, in consultation with CDFW until such time that CDFW agrees that a reduced buffer is appropriate.

#### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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

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communities detected during Project surveys to the California Natural Diversity Database (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 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. (See 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 IS/MND to assist Brannan-Andrus Levee Maintenance District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Brianne O'Rourke, Senior Environmental Scientist (Specialist), at (209) 234-3456 or [Brianne.Orourke@wildlife.ca.gov](mailto:Brianne.Orourke@wildlife.ca.gov); or Mr. Todd Gardner, Senior Environmental Scientist (Supervisory), at (209) 401-0452 or [Todd.Gardner@wildlife.ca.gov](mailto:Todd.Gardner@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024061227)