**Haggerty, Nicole@Wildlife**

**From:** Hosea, Robert@Wildlife
**Sent:** Tuesday, November 14, 2023 4:59 PM
**To:** dgiacomini@ppeng.com
**Cc:** Wildlife R2 CEQA
**Subject:** Comments for IS/MND for Orland-Artois Water District Annexation, Sphere of Influence Update, and Infrastructure Project

Dena Giacomini
Provost & Pritchard
1800 30th Street, Ste 280, Bakersfield, CA 93301

Dear Dena Giacomini:
The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) from the Orland-Artois Water District (District) for the Orland-Artois Water District Annexation, Sphere of Influence Update, and Infrastructure Project (project) in the County of Glenn 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, plants, and their habitats. 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 (Fish & G. 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 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.) 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 lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) 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 & 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 is located in Glenn County, California, approximately 78 miles northwest of Sacramento and 55 miles south of Redding. The District currently serves approximately 29,000 acres using 110 miles of pipeline and over three hundred (300) metered deliveries in the Orland and Artois area within the Sacramento Valley. The District receives water from eight diversions located off the CVP Tehama-Colusa Canal (TCC). The TCC commences as a diversion from the Sacramento River in Red Bluff and ends in Dunnigan, about 120 miles south.

As discussed above, the proposed Project includes annexation of 11,000 acres into the District boundary. To accomplish the annexation, the District, on behalf of the proposed annexed landowners, would apply to the Glenn LAFCO. The proposed Project would also include infrastructure needed to deliver water to the newly annexed parcels. The infrastructure components would include seven (7) turnouts (with pumps) on the TCC; twenty-four (24) new farm turnout locations; two (2) new pump stations (approximate capacity of 30 cubic-feet per-second) added to existing pipelines; and approximately eight (8) miles of new pipeline.
The operation and maintenance (O&M) of the Project would be consistent with that of the District's other similar facilities. O&M would take place on an as-needed basis in the event that facilities are damaged or otherwise not operating as intended.

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations presented below to assist the Orland-Artois Water District in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed project with respect to impacts on biological resources. CDFW recommends that the IS/MND address the following:

**SURVEY TIMING TO DETERMINE WILDLIFE AND SPECIAL STATUS PLANT PRESENCE**

The IS/MND appears to rely on a single biological resource survey conducted during daylight hours. The presence of bats and other nocturnal and crepuscular wildlife would not necessarily have been identified during this survey. Additionally, though the nearest known occurrence of Crotch's bumblebee (*Bombus crotchii*) is slightly over six (6) miles from the area of any proposed infrastructure expansion, surveys for this species were not conducted to specifically exclude it other than an assumption of distance from a known occurrence.

**BAT SURVEYS**

The project site may contain habitat that may be suitable for tree roosting bats like Western red bat (*Lasiurus blossevillii*) as well as structure roosting species such as Mexican free-tailed bats (*Tadarida brasiliensis*). Disturbance of roost sites during the maternity and hibernation seasons are considered primary factors that may negatively impact bats and have the potential to result in take. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). During the hibernation period, bats are very slow to respond to disturbance during torpor and can lose fat stores needed to survive the winter, while pups in a maternity colony may not have the ability to fly. The disturbance and removal of roost sites may have a significant adverse effect on resident or migratory bat species. CDFW recommends the following to reduce impacts to a less than significant level:

- Habitat Assessment. The special-status plant surveys indicated the presence of potentially suitable bat habitat. A qualified bat biologist should conduct presence/absence surveys during the peak activity periods for both structure roosting (old bridge) and vegetation roosting species. If bats are present, then the qualified bat biologist should prepare a Bat Avoidance Plan.

- Bat Avoidance Plan. The bat avoidance plan should identify: 1) the location of the-roosting sites; 2) the number of bats present at the time of assessment (count or estimate); 3) species of bats present; 4) the type of roost (e.g., day/night, maternity, hibernaculum, bachelor); and 5) species specific measures to-avoid and minimize impacts to bats. The bat avoidance plan should evaluate the length of time of disturbance, equipment noise, type(s) of habitat present at the project and potential impacts to the habitat.

- No Disturbance Buffer. If during the habitat assessment the qualified bat biologist identifies a bat roost within the project boundary that is not proposed for demolition or removal, then a no disturbance buffer should be established around the roost in consultation with CDFW. The width of

the buffer should be determined by the qualified bat biologist based on the bat species, specific site conditions, and level of disturbance. The buffer should be maintained until the qualified bat biologist determines that the roost is no longer occupied.

- Replacement Structures. If the bat roost cannot be avoided, replacement roost structures (bat houses or other structures) are recommended to accommodate the bat species impacted by the project. Replacement roost structures should be in place for a minimum of one full year prior to implementing the project. The replacement structures should be monitored to document bat use. Ideally, the project would not be implemented unless and until replacement roost structures on site are documented to be acceptable and used by the bat species of interest.

- Roost Removal Timing. Project activities that result in the loss or modification of the original roost structure should be implemented outside hibernation and maternity seasons, Nov. 1 – Feb. 1 and April 1 – August 31 respectively.

- Bat Exclusion. If an active bat roost is found in a tree or structure that must be removed, the qualified bat biologist should prepare a Bat Exclusion Plan for the passive exclusion of the bats from the roost. CDFW recommends that exclusion devices are installed either (1) between March 1 and March 31, prior to parturition of pups; or (2) between September 1 and October 31 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). The qualified bat biologist should confirm the absence of bats prior to the start of construction.

- Tree Removal. Tree removal shall be scheduled either (1) between approximately March 1 March 31, prior to parturition of pups; or (2) between September 1 and October 31 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). Removal of trees containing suitable bat habitat should be conducted under the supervision of a qualified bat biologist.

**STATE LISTED CESA SPECIES**

**CROTCH'S BUMBLEBEE (*Bombus crotchii*)**

Crotch's Bumblebee (CBB) (*Bombus crotchii*) is currently a candidate species under the CESA. As a candidate species, it receives the same legal protections afforded to CESA-listed endangered and threatened species. The IS/MND should include an analysis of the potential presence of this species within the project site beyond a simple distance measurement when suitable foraging habitat is known to occur throughout the area between the known occurrence and the area of proposed disturbance. Without appropriate avoidance and minimization measures for CBB and its habitat, project-related activities involving ground and vegetation-disturbance could result in significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality of individuals.

CDFW recommends CBB specific surveys be conducted by qualified biologists possessing CESA take authorization (i.e., CESA Memorandum of Understanding, Fish and G. Code, § 2081(a)), specific to CBB surveys, to determine if this species is present within the project site. The timing and number of the surveys should be appropriate to make a valid determination of presence or absence. CDFW believes a single survey for this species is not deemed to be sufficient to determine presence/absence. CDFW recommends the IS/MND analyze the project's potentially significant impacts if the species is determined to be present during surveys and propose additional avoidance, minimization, and mitigation measures to reduce impacts to a less-than-

significant level. Measures may include, but are not limited to, the following: avoidance of nesting sites, timing of grading, or planting of pollinator plant species.

**SWAINSON'S HAWK AND TRICOLORED BLACKBIRD**

Swainson's Hawk (*Buteo swainsoni*) and Tricolored Blackbird (*Agelaius tricolor*) are both listed species under CESA. Due to the unpredictable nesting behavior of Tricolored Blackbirds, CDFW recommends that surveys for the presence of nesting colonies of this species be conducted at all construction locations. In an effort to further protect these two species CDFW would recommend that the District consider obtaining an Incidental Take Permit (ITP) with specific protective measures for each species if project activities have the potential to cause take of CESA-listed species. At a minimum CDFW strongly recommends that timing of construction activities be scheduled between September 15 and January 31 in order to fall outside of the regular nesting season for both species.

**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 (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov.

**FILING FEES**

The project, as proposed, would have an effect on fish and 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 sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the IS/MND for Orland-Artois Water District Annexation, Sphere of Influence Update, and Infrastructure Project and recommends that the Orland-Artois Water District address CDFW's comments and concerns. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this email, or wish to schedule a meeting and/or site visit, please contact Robert Hosea, Environmental Scientist at (530) 708-1199 or by email at robert.hosea@wildlife.ca.gov.