

Response to Comments
Twain Harte Community Services District
Water Distribution System
5/01/24

Comments Received:

- 1. State Water Resources Control Board**
- 2. Central Valley Regional Water Quality Control Board (RWQCB)**
- 3. California Department of Transportation (Caltrans)**
- 4. California Department of Fish and Wildlife (CDFW)**

1. State Water Resources Control Board



State Water Resources Control Board

Mr. Tom Trott
Twain Harte Community Services District
22933 Twain Harte Drive
Twain Harte, CA 95383

Dear Mr. Tom Trott:

DRAFT INITIAL STUDY / MITIGATED NEGATIVE DECLARATION (IS/MND) FOR TWAIN HARTE COMMUNITY SERVICES DISTRICT (DISTRICT); SYSTEM IMPROVEMENTS PROJECT (PROJECT); TUOLUMNE COUNTY; STATE CLEARINGHOUSE NO. 2024030516

We understand that the District is pursuing Drinking Water State Revolving Fund (DWSRF) financing for this Project. As a funding agency and a state agency with jurisdiction by law to preserve, enhance, and restore the quality of California's water resources, the State Water Resources Control Board (State Water Board) is providing the following water quality comments on the IS/MND circulating for the Project.

The State Water Board, Division of Financial Assistance, is responsible for administering the DWSRF Program (Program). The primary purpose for the Program is to implement the Safe Drinking Water Act and various state laws by providing financial assistance for drinking facilities improvements to provide clean potable drinking water, and thereby protect and promote health, safety and welfare of the inhabitants of the state.

1A

All applicants seeking funding must comply with the California Environmental Quality Act (CEQA) and provide appropriate documents to the State Water Board so that it can fulfill its CEQA responsibilities, see [CEQA Requirements](#). In addition, because the Program is partially funded by the United States Environmental Protection Agency additional federal environmental documentation (cross-cutters) may be required. For additional Program information, the complete environmental application package and instructions, please visit:

[Drinking Water State Revolving Fund Forms and Instructions.](#)

Following are specific comments on the District's draft IS/MND:

- The IS/MND indicates "The California Department of Water Resources (DWR) will act as a CEQA Responsible Agency and NEPA Lead Agency" (PDF page 9). A State Agency does not act as a NEPA Lead Agency; but as

1B

E. JOAQUIN ERQUIVEL, CHAIR | ERIC OPPERHEIMER, EXECUTIVE DIRECTOR

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- a requirement of funding, may ensure federal regulations are met outside of the CEQA process. Please clarify this.
- It appears like the Department of Water Resources may have been listed instead of the State Water Resources Control Board on PDF page 9. Please include the State Water Resources Control Board, Division of Financial Assistance as a possible responsible agency if funding may be obtained, instead of DWR (PDF page 9)- as appropriate, and/or in Table 2: "Other Public Agency Approvals or Reviews that May be Required" with revised sub-headers (PDF page 17).

1B

1C

Thank you for the opportunity to review the District's draft IS/MND. If you have any questions or concerns, please feel free to contact me at (916) 449-5285, or by email at Lori.Schmitz@waterboards.ca.gov or contact Mrs. Bridget Binning at (916) 449-5641, or by email at Bridget.Binning@waterboards.ca.gov.

Sincerely,

Lori Schmitz
 Digitally signed by Lori Schmitz
 Date: 2024.04.10 10:20:40 -07'00'

Lori Schmitz
 Environmental Scientist
 Division of Financial Assistance
 Special Project Review Unit
 1001 I Street, 16th floor
 Sacramento, CA 95814

cc: State Clearinghouse
 Bridget Binning, Division of Financial Assistance

Responses to State Water Resources Control Board

1A Comment: *Introductory information relative to the role of the State Water Resources Control Board (DWR), the Drinking Water State Revolving Fund (DWSRF) grant program, the California Environmental Quality Act (CEQA), and the USEPA Cross-Cutters addressing the National Environmental Policy Act (NEPA).*

1A Response:

Information only, no response required.

1B Comment: *The IS/MND identifies the California Department of Water Resources as both a CEQA and NEPA Lead Agency. DWR will act as a CEQA Responsible Agency, but does not act as a NEPA Lead Agency, but rather ensures compliance with federal regulations outside of the CEQA Process (page 9). Please clarify.*

1C Comment: *DWR was listed instead of the State Water Resources Control Board Division of Financial Assistance, if funding is obtained on page 9. The State Water Resources Control Board Division of Finance Assistance should be listed instead of DWR as a potential Responsible Agency and in Table 2.*

1B and 1C Response:

PDF Page 9 and Table 2 of the IS/MND are hereby amended as follows:

1.2 PROJECT DESCRIPTION / PURPOSE AND NEED

The Twain Harte Community Services District (THCSD) proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California (the Project) through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center as detailed in **Figures 2-3**. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF).

THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). ~~The California Department of Water Resources (DWR), State Water Resources Control Board, Division of Financial Assistance will act as a CEQA Responsible Agency and NEPA Lead Agency and ensure compliance with federal regulations outside of the CEQA process.~~

Table 2: Other Public Agency Approvals or Reviews that *May* be Required

Permitting Agency	Permit <u>(or Approval)</u>
Tuolumne County	Road encroachment permit
State Water Resources Control Board	Stormwater Pollution Prevention Plan (SWPPP)
California Department of Fish and Wildlife	1600 Lake or Streambed Alteration Agreement (LSAA) /a/
U.S. Army Corps of Engineers	Section 404 Clean Water Act Wetlands Permit/a/
State Water Resources Control Board	Section 401 Clean Water Act Water Quality Certification /a/
<u>State Water Resources Control Board Division of Financial Assistance</u>	<u>CEQA Responsible Agency. Ensure compliance with federal regulations outside of the CEQA process</u>
<i>All other applicable local, state and federal permits required by law.</i>	

/a/ May be eliminated through project design (i.e., eliminating Expanded Project Alternative)

2. Central Valley Regional Water Quality Control Board Comment



Central Valley Regional Water Quality Control Board

11 April 2024

Tom Trott
Twain Harte Community Services District
22912 Vantage Point Drive
Twain Harte, CA 95383
ttrott@twainhartecsd.com

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, TWAIN HARTE COMMUNITY SERVICES DISTRICT WATER SYSTEM IMPROVEMENTS PROJECT, SCH#2024030516, TUOLUMNE COUNTY

Pursuant to the State Clearinghouse's 14 March 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Twain Harte Community Services District Water System Improvements Project, located in Tuolumne County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has

2A

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

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adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

2A

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

2B

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the

2C

State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

2D

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

2E

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

2F

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources

Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

2G

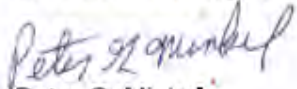
2H

2I

Twain Harte Community Services - 5 -
District Water System Improvements Project
Tuolumne County

11 April 2024

If you have questions regarding these comments, please contact me at (916) 464-4684
or Peter.Minkel2@waterboards.ca.gov.



Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

2A Comment: Summarizes the role of a Basin Plan generally. No specific comments are related to the project.

2A Response: The overview is acknowledged. No response required.

2B Comment: All wastewater discharges must comply with the anti-degradation policy and anti-degradation implementation policy in the Basin Plan.

2B Response:

The IS/MND Section 2.4 (Biological Resources), Section 2.7 (Geology and Soils) and Section 2.10 (Hydrology and Water Quality) address potential impacts to surface and ground water quality. In summary, the study states that potential impacts to water quality could occur and mitigation measures are required to minimize these potential impacts as follows:

Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention

Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Turnback Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.

Mitigation Monitoring BIO-4: Prior to commencing site disturbance or staging equipment, the construction contractor shall provide a staging and spill prevention plan to THCS D for compliance with this measure. Reduced setbacks must be approved prior to staging by the Project Biologist.

Avoidance and Minimization Measure BIO-5: Erosion Control

Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by THCS D.

Mitigation Monitoring BIO-5

The required plan will be implemented prior to site disturbance and implemented 48 hours in advance of any rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. The measure is the responsibility of the construction contractor.

Avoidance and Minimization Measure BIO-6: NPDES/SWPPP

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

Mitigation Monitoring BIO-6

The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.

Avoidance and Minimization Measure BIO-7: Environmental Awareness Training

All contractors involved in site development, affected THSD personnel, will attend a mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.

Mitigation Monitoring BIO-7

The required mitigation measure will be implemented prior to site disturbance and for new employees prior to commencing site work. The Project Biologist or other environmental consultant may be contracted by THCS D to accomplish this task. THCS D is responsible for contracting with a qualified entity to provide Environmental Awareness Training. Ensuring that all on-site workers have received training prior to working on site is the responsibility of the construction contractor.

Proposed mitigation addresses the comment. No additional response is required.

2C Comment: Construction activities which disturb more than one acre (or that disturb less than one acre, are required to obtain a Construction General Permit for stormwater discharges associated with construction activities.

2C Response: The IS/MND includes the following mitigation measure:

Avoidance and Minimization Measure BIO-6: NPDES/SWPPP

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

Mitigation Monitoring BIO-6

The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.

Proposed mitigation addresses the comment. No additional response is required.

2D, 2E, 2F Comment: Summarizes requirements for a Section 404 Clean Water Act permit addressing fill or dredged materials in navigable waters or wetlands, 401 Clean Water Act permit addressing water quality certification, and Waste Discharge Requirements (WDR) Permit for discharges to Waters of the State.

2D, 2E, 2F Response:

The IS/MND states the following (Biological Resources):

... the project area:

- A. Crosses a man-made ditch (which is piped below the roadway in the project area and will not be impacted by the project)
- B. Will occur surrounding an upper and lower pond within a central open space within the Sherwood Forest Subdivision
- C. Will occur around a central open space containing Turnback Creek (a USGS perennial stream) within the Sherwood Forest Subdivision

- D. Will cross Turnback Creek in two locations within the Sherwood Forest Subdivision over existing roadways without furthering encroachments into the creek
- E. Could encroach within 25 feet of Turnback Creek in the Alternative Expanded Project Area.
- F. Will avoid an intermittent drainage near the Twain Harte Shopping Center where the drainage is piped beneath the shopping center.

No fill of the identified drainages, ponds, or ditch ...or alterations within the banks of streams is proposed or anticipated in conjunction with the proposed Project. The introduction of machinery and construction materials to the site has the potential to introduce non-native invasive species and runoff from site construction could indirectly impact water quality in the on-site ponds, ditch and creek adjacent to the construction area—a potentially significant adverse impact. To avoid inadvertent encroachment within these sensitive habitats, and to ensure that non-native invasive species are not spread to these habitats and the protection of water quality, the following measures are included:

Avoidance and Minimization Measure BIO-14: Minimize the Spread of Invasive Plant Species

Throughout project construction:

- All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed¹ seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).
- All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).
- All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds² and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).

Mitigation Monitoring BIO-14:

The measure shall be implemented throughout project construction and is the responsibility of the construction contractor.

Avoidance and Minimization Measure BIO-3: ESA Fencing

Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention

Avoidance and Minimization Measure BIO-5: Erosion Control

¹ Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy - Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

² Ibid.

Avoidance and Minimization Measure BIO-6: NPDES/SWPPP

Avoidance and Minimization Measure BIO-7: Environmental Awareness Training

As stated above, no fill or alteration within the banks of waterways will occur, therefore, there permits are not required. Proposed mitigation ensures that the waterways will be avoided and water quality maintained. No additional response is required.

2G and 2H Comment: Addresses requirements for construction or groundwater dewatering to be discharged on land (Dewatering Permit)

2G and 2H Response: The project does not include dewatering to be discharged to land.

2I Comment: Addresses requirements for a National Pollution Discharge Elimination System Permit

2I Response: See response to 2C. Proposed mitigation addresses the comment. No additional response is required.

3. California Department of Transportation Comment

California Department of Transportation

OFFICE OF THE DISTRICT 10 PLANNING
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April 8, 2024

Tom Trott
General Manager
Twain Harte Community
Services District
22912 Vantage Point Dr
Twain Harte, CA 95383

TUO-108-PM R11.396
IS-MND Twain Harte Sewer
Replacement -
SCH 2024030516

Dear Mr. Trott,

The California Department of Transportation (Caltrans) appreciates the opportunity to review and comment on the Initial Study. The proposed project consists of the replacement of existing deteriorating 4- to 10-inch diameter sewer pipelines within existing road rights of way and utility easements. In addition, severely damaged manhole covers will also be replaced to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System through pipeline replacement, upsizing, relocation into road right of way (ROW) and/or pipeline abandonment.

3A

The project site is at various locations in the community of Twain Harte.

Caltrans has the following comments:

Environmental

If any construction activities encroach into Caltrans Right of Way (ROW), the project proponent must apply for an Encroachment Permit (EP) to the Caltrans District 10 Encroachment Permit Office. All California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation, with supporting technical studies, must be submitted with the Encroachment Permit Application. These studies will include an analysis of potential impacts to any cultural sites, historic properties, biological resources, hazardous waste locations, scenic highways, and/or other environmental resources within Caltrans Right of Way, at the project site(s).

3B

Evidence of consultation with local Native American tribes and interested parties will need to be presented within the technical documents for approval of encroachment in the Caltrans ROW.

"Provide a safe and reliable transportation network that serves all people and respects the environment"

There are mature trees within and/or near Caltrans ROW that could provide suitable nesting habitat. If work will occur between February 1 and September 30 of any year, a pre-construction bird survey must be conducted by a qualified biologist prior to the start of any construction related activities in Caltrans ROW. If an active nest is observed, a protective buffer must be established around the nest per CDFW guidelines. No work is allowed within the protective buffer limits until the young have fledged and until authorized by the Caltrans District 10 Environmental Office. Results of the pre-construction bird survey(s) must be provided to the Caltrans District 10 Environmental Office prior to the start of construction.

3C

If there are impacts to protected water resources within Caltrans ROW, Caltrans will need to see the correspondence with the permitting authorities (California Department of Fish and Wildlife (CDFW), United States Army Corps of Engineers, Regional Water Quality Control Board) and/or be provided copies of any required permits prior to the start of any construction in Caltrans ROW.

3D

Informal or Formal Section 7 consultation with U.S. Fish & Wildlife Service (USFWS) is required for potential affects to Foothill yellow-legged Frog (FYLF). If there are potential impacts to FYLF in Caltrans ROW, Caltrans will need to review the Letter of Concurrence or Biological Opinion obtained from USFWS. Western Pond Turtle (WPT) and California Spotted Owl (CSO) Proposed Threatened species under the Federal Endangered Species ACT (FESA). Due to assumed presence/habitat presence and identification in the project area in past years, the project proponent will need to conference with USFWS under Section 7 of FESA prior to the species becoming federally listed or complete Section 7 consultation when the species become officially listed. If there are potential impacts to WPT and/or CSO in Caltrans ROW, Caltrans will need to review the conferencing or consultation results provided by USFWS.

3E

If any cultural resources are found in Caltrans ROW during operations, immediately stop all work within a 60-foot radius of the discovery and notify both the assigned Caltrans Professionally Qualified Staff (PQS) and Caltrans Encroachment Permit Office immediately. The sites will be flagged for avoidance and recorded. Work will not continue within 60 feet of the discovery until the assigned Caltrans PQS has determined its significance and until authorized by the Caltrans D10 Environmental Office.

3F

If there is any demolition, excavation, or ground disturbance within Caltrans ROW, an Initial Site Assessment for that work must be completed. Aerially Deposited Lead (ADL) is known to exist across the roadways and shoulders of the State Highway System. As a result, if any demolition, excavation, or ground disturbance occurs within Caltrans ROW a Lead Compliance Plan must be completed by a Certified Industrial Hygienist to address the potential for encountering ADL during construction.

3G

Tom Trott
April 8, 2024
Page 3

Encroachment Permits

If any project activities encroach into Caltrans ROW, the project proponent must submit an application for an Encroachment Permit to the Caltrans District 10 Encroachment Permit Office. Appropriate environmental studies must be submitted with this application. For more information, please visit the Caltrans Website at: <https://dot.ca.gov/programs/traffic-operations/ep/applications>

3H

Caltrans suggests that the Twain Harte Community Services District continue to coordinate with Caltrans in identifying and addressing potential pedestrian safety and cumulative transportation impacts from this project and other developments near this location. This will assist Caltrans in ensuring that pedestrian, traffic safety, and quality standards are maintained for the traveling public on existing and future state transportation facilities in Tuolumne County.

3I

If you have any questions or concerns, please contact Shiferaw Jemberie (209) 986-9635 (email: Shiferaw.jemberie@dot.ca.gov) or me at (209) 483-7234 (email: Gregoria.Ponce@dot.ca.gov).

Sincerely,

Gregoria Ponce'

Gregoria Ponce', Chief
Office of Rural Planning

c: Quincy Yaley, Community Development Department Director, Tuolumne County

Responses to Comments California Department of Transportation

3A Comment: *Summarizes the Project Description.*

3A Response: No response required.

3B Comment: *Construction within the Caltrans ROW requires an encroachment permit with supporting CEQA and NEPA documentation and technical studies including cultural resources, historic properties, biological resources, hazardous waste locations, scenic highways and/or other environmental resources in Caltrans ROW. Evidence of consultation with local Native American tribes also is required.*

3B Response:

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit.

3C Comment: *Potential nesting habitat occurs in or near the Caltrans ROW. Preconstruction bird surveys are required for construction between February 1 and September 30th. Active nests shall require buffers in accordance with Caltrans guidelines. For work within Caltrans ROW, results of preconstruction surveys shall be reported to Caltrans.*

3C Response:

The current project does not encroach into Caltrans ROW. The IS/MND requires preconstruction surveys nearly identical to Caltrans' standards. For consistency, the IS/MND mitigation measure is amended as follows for consistency with Caltrans standards.

Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds

Prior to construction occurring between February 1st and September 30th (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds will be conducted in accordance with the CDFW guidelines and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA.

If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors, the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests,

unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.

- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged).
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

Mitigation Monitoring BIO-10: The measure shall be implemented prior to any constructing occurring between February 1st and September 30th of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1st and September 30th of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

Proposed mitigation ensures that nesting avian species subject to the Migratory Bird Treaty Act will be avoided until fledging occurs. The measure has been amended for consistency with Caltrans preconstruction survey windows. No additional response is required.

3D Comment: For work in the Caltrans ROW, provide Caltrans documentation of permits secured for impacts to wetland resources.

3D Response: The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. See also response to 2D, 2E, 2F.

3E Comment: For work in the Caltrans ROW, informal Section 7 consultation with USFWS is required for the foothill yellow-legged frog. Conferencing with USFWS is required for the western pond turtle (WPT) and California spotted owl (CSO), which area proposed for listing as threatened. If the WPT or CSO become listed, a Section 7 consultation would be required.

3E Response

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. The project IS/MND and Biological study address all three of these species and would be submitted to USFWS in support of an informal Section 7 consultation and/or conferencing with the USFWS should the project encroach into Caltrans ROW.

3F Comment: *For work in the Caltrans ROW, if unanticipated cultural resources are discovered during project construction, work will stop immediately, a 60-foot buffer shall be established, and the discovery shall be reported to Caltrans where a Caltrans Professionally Qualified Staff (PQS) shall be assigned to address the resource.*

3F Response:

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. It is noted that the project IS/MND identifies **Mitigation Measure CULT-1: Inadvertent Discoveries** requiring a work stoppage should a cultural resource be encountered during construction (but does not specify a 60-foot buffer). At this time, it is recommended that the mitigation measure remain as stated allowing the qualified archaeologist to establish an appropriate buffer based on the nature of the resource discovered. Should the project change and require a Caltrans encroachment permit, the measure can be amended to incorporate the buffer.

3G Comment: *Any demolition, excavation, or ground disturbance within the Caltrans ROW shall require an initial site assessment including evaluation of aerially deposited lead (ADL), a Lead Compliance Plan, and Certified Industrial Hygienist also shall be required.*

3G Response: The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit.

3H Comment: *Identifies the appropriate location for securing an online application for an encroachment permit.*

3H Response: The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the identified link, application and online submittal shall be pursued.

3I Comment: *Recommends ongoing coordination with Caltrans including addressing pedestrian safety and ongoing cumulative traffic impacts.*

3I Response: The requirement does not identify a potentially significant adverse impact. The District acknowledges the comment and will continue ongoing coordination with Caltrans.

4. California Department of Fish and Wildlife (CDFW)



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, CA 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 10, 2024

Tom Trott
Twain Harte Community Services District
22912 Vantage Pt. Dr.
Twain Harte, California 95383
(209) 586-3172
ttrott@twainhartecsd.com

**Subject: Twain Harte Community Services District Water Distribution System
(Project)
MITIGATED NEGATIVE DECLARATION (MND)
SCH: 2024030516**

Dear Tom Trott:

The California Department of Fish and Wildlife (CDFW) received a MND from the Twain Harte Community Services District (THCSD) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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.

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.

4A

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CDFW is also submitting comments 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.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

4A

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for the Project.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Twain Harte Community Services District

Objective: The proposed Project would improve water system fire flow in pressure zones 4 and 6, referred to as the Sherwood Distribution System, through pipeline replacement, upsizing, relocation into road right of ways (ROWS) and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center.

4B

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Location: The Project is located in the community of Twain Harte, in Tuolumne County, and extends through portions of Sections 9 and 16, T2N, R16E, Mount Diablo Base and Meridian (MDB&M), in the central Sierra Nevada foothills. The Project footprint is entirely located within the Twain Harte USGS 7.5' Quadrangle and includes a portion of the Twain Harte Community and most of the Sherwood Forest subdivision.

Timeframe: Spring 2025 – Fall 2025

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist THCS D 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 CEQA document prepared for this Project.

Aerial imagery shows the Project site is situated between Yosemite National Park-Hetch Hetchy Reservoir and New Melones Lake within mixed-coniferous forest with sparsely residential infrastructure (CDFW 2024). Based on a review of the Project description, California Natural Diversity Database (CNDDB) records, and the surrounding habitat, several special-status species could potentially be impacted by Project activities.

Currently, the MND acknowledges that the Project area is within the geographic range of several special status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status animal species, including the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State endangered great gray owl (*Strix nebulosa*); and the State Species of Special Concern pallid bat (*Antrozous pallidus*), spotted bat (*Euderma maculatum*), Townsends big-eared bat (*Corynorhinus townsendii*), and western mastiff bat (*Perotis californicus*).

CDFW also has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status plant species, including, but not limited to, the CRPR 1B.2 Mariposa clarkia (*Clarkia biloba ssp. australis*), the CRPR 4.2 mountain lady's-slipper (*Cypripedium montanum*), and the State Rare and CRPR 4.3 Tompkins' sedge (*Carex tompkinsii*).

4B

4C

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Bald Eagle

The MND did not evaluate and address potential Project-related impacts to bald eagle (BAEA), even though the Project site is within the geographic range of the species and a historical occurrence was documented 4.75 miles from the Project site. BAEA inhabits forested areas that contain large bodies of water and perching trees, and these habitat features are present within the Project vicinity. As BAEA was not addressed within the MND, CDFW recommends the following:

Recommended Mitigation Measure 1: BAEA Surveys

CDFW recommends that focused BAEA surveys following the Bald Eagle Breeding Survey Instructions (CDFW 2010) protocol be conducted by qualified biologists prior to Project implementation.

Recommended Mitigation Measure 2: BAEA Avoidance Buffer

If a BAEA is found prior to, or during construction, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer. CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon parental care for survival. In the event that a BAEA is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

4D

Great Gray Owl

The MND did not evaluate and address potential Project-related impacts to great gray owl (GGO), even though the Project site is within the geographic range of the species and a historical occurrence was documented 4 miles from the Project site. GGO generally nest in closed canopy forested areas where they forage for pocket mice and voles. As it appears that mixed-coniferous forest is present within and surrounding the Project site, CDFW recommends the following:

Recommended Mitigation Measure 3: GGO Surveys

CDFW recommends that focused GGO surveys be conducted by a qualified biologist familiar with GGO to evaluate potential impacts prior to ground disturbing activities.

Recommended Mitigation Measure 4: GGO Avoidance Buffer

In the event an active GGO nest is found during surveys, CDFW recommends that a ½-mile no-disturbance buffer be implemented if ground-disturbing activities are to occur during the owl nesting season. In the event that a GGO nest is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

4E

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Special-Status Bats

Several special-status bat species have historical occurrences within 5.25 miles of the Project site, including pallid bat, spotted bat, Townsend's big-eared bat, and western mastiff bat (CDFW 2024). The MND lists the spotted bat as having the potential to occur on the Project site, and states, "The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the Project boundaries." Avoidance and Minimization Measures BIO-12, BIO-13, and BIO-7 are provided to mitigate for Project impacts for this species. CDFW concurs with these measures and recommends that they be implemented within the portions of the Project site that contain suitable habit for pallid bat, Townsend's big-eared bat, and western mastiff bat as well.

4F

Special-Status Plants

The MND lists Mariposa clarkia, mountain lady's-slipper, and Tompkins' sedge, as having the potential to be present within the Project site. Expanded Alternative Project BIO-A and BIO-C are provided as mitigation for these species, but only if the Expanded Project Alternative is pursued. CDFW concurs with conducting special-status plant surveys prior to construction, but recommends the following:

4G

Recommended Mitigation Measure 5: Special-status Plant Surveys

CDFW recommends that the Project area (regardless of alternative selected) be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Expanded Alternative Project BIO-A also states, "If Tompkins sedge or Mountain lady's slipper or other special-status plant species is observed during the preconstruction surveys, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGCA Section 1900- 1913) to allow sufficient time to transplant the individuals to a suitable location." CDFW would like to note that the California Native Plant Protection Act of 1977 (NPPA) is only applicable to the 64 species, subspecies, and varieties of plants that are specifically identified as part of the NPPA. Additionally, the unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the NPPA is a violation of Fish and Game Code. As such, CDFW recommends the following:

4H

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Recommended Mitigation Measure 6: Special-status Plant Consultation and Take Authorization

If special-status plant species, including State endangered, threatened, or rare plants, are identified during botanical surveys, consultation with CDFW is recommended. For State CESA and NPPA listed species, If take cannot be avoided, CDFW recommends the Project obtain an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) and/or California Code of Regulations, Title 14, Section 786.9, subdivision (b) to comply with CESA and the NPPA.

4H

Editorial Comments and/or Suggestions

CNDDDB Positive Submission of Data: Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

4I

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 CNDD. The CNDD 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>.

4J

FILING FEES

The Project, as proposed, could 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. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

4K

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CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist THCSD in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist at (559) 807-1453 or john.riedel@wildlife.ca.gov.

}
4L

Sincerely,

DocuSigned by:

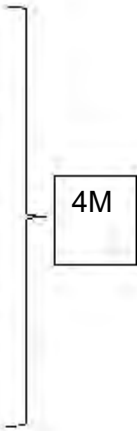
F483F09FE08945
Julie A. Vance
Regional Manager

cc: State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

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REFERENCES

- California Department of Fish and Wildlife. 2010. Bald eagle breeding survey instructions. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2024. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 03 April, 2024.
- California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife. Sacramento, California, USA.



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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

**PROJECT: Twain Harte Community Services District Water System
 Improvements Project**

SCH No.: 2024030516

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Bald Eagle	
Recommended Mitigation Measure 1: BAEA Surveys	
Great Gray Owl	
Recommended Mitigation Measure 3: GGO Surveys	
Special-status Plants	
Recommended Mitigation Measure 5: Special-status Plant Surveys	
<i>During Construction</i>	
Bald Eagle	
Recommended Mitigation Measure 2: BAEA Avoidance Buffer	
Great Gray Owl	
Recommended Mitigation Measure 4: GGO Avoidance Buffer	
Special-status Plants	
Recommended Mitigation Measure 6: Special-status plant Consultation and Take Authorization	

4N

Comment 4A Addresses the California Department of Fish and Wildlife's (CDFW) jurisdictional authority.

Response to Comment 4A No specific impacts are identified, no response required.

Comment 4B Describes the project and habitat.

Response to Comment 4B

No specific impacts are identified, no response required

Comment 4C Identifies CDFW concerns that identified mitigation will not adequately address potential impacts to the following species: bald eagle, great grey owl, pallid bat, spotted bat, Townsend's big eared bat, western mastiff bat, Mariposa clarkia, mountain lady's slipper and Tompkin's sedge.

Response to Comment 4C:

It is noted that CDFW's responses are confined to the IS/MND, but do not make reference to the more detailed Biological Study Report (APA, January 2024) prepared for the project and incorporated by reference in the IS/MND. That report addresses several of the issues raised by CDFW. The District is providing a copy of the Biological Study Report to CDFW in conjunction with these responses.

Response acknowledged. Because each of these species is addressed specifically and individually by CDFW, species specific responses are found in responses to comments 4D through 4I.

Comment 4D: IS/MND did not address potential impacts to the bald eagle. CDFW recommends the addition of two mitigation measures to the IS/MND.

Response to Comment 4D

Table 2 (Page 25) of the Biological Study Report evaluates the potential for the bald eagle to occur on site as follows:

The Project boundaries lack large bodies of water and rivers. While the species could temporarily roost during its movements throughout the county; impacts to the species are not anticipated. It was not identified during surveys. The nearest suitable habitat is Twain Harte Lake which is well outside the project boundaries

Based on biological studies conducted over the past 12 years by the project biologist of the same project footprint (and surrounding areas), the conclusion of the Biological Study Report for the project is reiterated. The site does not provide suitable breeding habitat for the species. Therefore, CDFW's recommendation to follow bald eagle breeding habitat protocols for surveys is inconsistent with the project habitat conditions and findings of recurring surveys over a period of more than ten years. However, because preconstruction surveys for raptors already are required, the addition of a modified CDFW recommended mitigation measure is easily accommodated, and therefore, the following amendment to the IS/MND is made:

Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds

Prior to construction occurring between February 1st and September 30th (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds, including bald eagles and great grey owls, will be conducted in accordance with the CDFW guidelines by a qualified biologist familiar with bald eagle and great grey owls, and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA. If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors (including bald eagles and great grey owls), the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests (including bald eagles and great grey owls), unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.
- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged). For bald eagles, this period extends beyond fledging to a period when the young are no longer reliant on parental care for survival.
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

Mitigation Monitoring BIO-10: The measure shall be implemented prior to any constructing occurring between February 1st and September 30th of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1st and September 30th of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

Comment 4E: IS/MND did not address potential impacts to the great gray owl. CDFW recommends the addition of two mitigation measures to the IS/MND.

Response to Comment 4E: Table 2 (Page 26) of the Biological Study Report evaluates the potential for the great grey owl to occur on site as follows:

The nearest CNNDDB record is just under 4 miles from the project site. However, the species was historically reported to forage along the Twain Harte Golf Course within two miles of the project site. The project does not provide edge-of-meadow suitable nesting habitat for the species. However, the species may temporarily roost within the project boundaries as it passes between preferred foraging areas. The project would be unlikely to create a significant impact on the species given its mobility and limited potential use of the site.

Based on biological studies conducted over the past 12 years of the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project is reiterated. However, because preconstruction surveys for raptors already is required, the addition of CDFW's recommended mitigation measures are easily accommodated, and therefore, the amendment to the IS/MND is made per the Response to Comment 4E.

Comment 4F: The IS/MND addresses the spotted bat. CDFW recommends that the mitigation measures proposed for that species are also applied to the pallid bat, Townsend's big-eared bat and mastiff bat.

Response to Comment 4F:

Table 2 (Page 26) of the Biological Study Report evaluates the potential for the pallid to occur on site as follows:

The nearest CNDDDB record occurs more than 5 miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, the species is not expected to occur on site.

Table 2 (Page 27-28) of the Biological Study Report evaluates the potential for the Townsend's big-eared bat to occur on site as follows:

The nearest CNDDDB record occurs more than 2 miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, and the lack of mines or caves, lava tubes suited to the species; it is not expected to occur on site

The Biological Study Report did not evaluate the potential for the Western mastiff bat to occur on site. That analysis is added as follows to Table 2 of the Biological Study Report as follows:

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
Mammals			
Western mastiff bat <i>Eumops perotis californicus</i>	CDFW SSC BLM-S	Many open, semi-arid to arid habitats. Chaparral Cismontane woodland Coastal scrub Valley & foothill grassland. Roosts in crevices in cliff faces, high buildings, trees and tunnels.	U – The nearest CNDDDB record is 3.7± miles from the project site. The project site lacks the species preferred high cliffs, tunnels and buildings for roosting sites of appropriate height to fill the large wingspan of the species for take-off. While tree

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
			crevices are present, they are not present in combination with preferred semi-arid to arid habitat. Neither the species nor evidence of the species was identified during surveys. The species is, therefore, not expected to occur.

Based on biological studies conducted over the past 12 years in the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project related to bats is reiterated. However, because preconstruction surveys for bats already are required, the addition of CDFW’s recommendation to include all four bat species is easily accommodated. It is noted, however, that the mitigation measure for the project is generic and refers only to preconstruction surveys for bats, rather than for a specific bat species; amendments to the text only, rather than the mitigation measure are made as follows to the Biological Study Report:

Bats

The following bat species has the potential to occur within the BSA (see Table 2):

Spotted bat (Euderma maculatum)

This bat is a CDFW species of special concern and at high-risk per the Western Bat Working Group. It occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. The bat feeds over water and along washes almost entirely on moths. The species needs rock crevices or caves for roosting. The nearest CNDDDB record occurs more than seven miles from the project site. The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the project boundaries. To ensure that no impacts to this species may occur, the following is required:

CDFW further recommends that the following be extended to include, in addition to the spotted bat; Western mastiff bats, pallid bats, and Townsend’s big-eared bats; although evaluations indicate they are unlikely to occur. The following mitigation therefore, is applicable to spotted bats, Western mastiff bats, pallid bats, and Townsend’s big-eared bats:

Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified

At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery.

Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.

Avoidance and Minimization Measure BIO-13: Hours of Construction.

Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.

Avoidance and Minimization Measure BIO-7: Environmental Awareness Training

Proper implementation of the preceding is expected to minimize or avoid impacts to bat species to a level of less than significant.

Comment 4G: Regardless of the Alternative Selected, Special Status Plant Surveys should be conducted by a qualified biologist in accordance with 2018 CDFW Protocols.

Response to Comment 4G:

It is noted that CDFW's responses are confined to the IS/MND, but do not make reference to the more detailed Biological Study Report (APA, January 2024) prepared for the project and incorporated by reference in the IS/MND. That report addresses several of the issues raised by CDFW, including methodologies and evaluations of additional individual species. The District is providing a copy of the Biological Study Report to CDFW in conjunction with these responses.

All potential special status plant species were surveyed for by a qualified biologist. As stated in the Biological Study Report:

Site Surveys:

Site surveys were conducted by foot on the following dates: 4/23/23, 5/13/23, and 6/11/23. Surveys were conducted using Nikon Monarch M7 8 X 42 binoculars, Nikon D3300 digital camera (18- 55mm and 70-300mm lens), and standard field and collection supplies.

Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

The Biological Study Report is hereby amended as follows to clarify that 2018 CDFW Protocols were applied in botanical surveys.

Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

Botanical surveys were surveyed a minimum of three times throughout the blooming period of potentially occurring special status plant species. Blooming periods were determined based on biologist experience, CalFlora, the California Native Plant Society Rare Plant Inventory, and observations of blooming periods of known populations of the same species

in the project vicinity by the project biologist. All suitable habitats were surveyed on foot on multiple occasions. The USDA NRCS Soils maps were studied to determine potential soils supporting special status plants.

Based on biological studies conducted over the past 12 years in the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project related to special status plants is reiterated.

It is further noted that the project biologist has, in fact, identified several special status plant species in close proximity to the site over many years. However, the locations of these previously identified populations are near, but lack the same soil characteristics, of the project site (e.g., a volcanic ridge is located outside the project footprint, but adjacent and supports numerous special status plant species).

Based on the preceding, no changes to the IS/MND or additional changes to the Biological Study Report are proposed.

Comment 4H: Only the 64 plant species identified in the Native Plant Protection Act may rely on seed collection as adequate mitigation. Tomkins Sedge and Mountain Lady's Slipper are not included in that list. Therefore, additional mitigation is recommended.

Response to Comment 4H: The following mitigation measures are hereby incorporated into the IS/MND and Biological Study Report as follows:

Expanded Alternative Project BIO-A

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If Tompkins sedge or Mountain lady's slipper or any other special-status plant species are not found, then no further measures are necessary. If Tompkins sedge or Mountain lady's slipper or other special-status plant species are observed, consultation with CDFW will occur. For species listed pursuant to the California Endangered Species Act and Native Plant Protection Act; if take cannot be avoided, the project will obtain an incidental take permit pursuant to Fish and Game Code Section 2018(b) and/or California Code of Regulations, Title 14, Section 786.9(b) to comply with CESA and the NPPA.

Comment 4I: Lack of CNDDDB records does not indicate species absence where suitable habitat exists. Surveys by qualified biologists/botanists in accordance with CDFW survey protocols are recommended.

Response to Comment 4I:

Comment editorial or suggested, no response required. However, a qualified biologist/botanist conducted surveys in accordance with CDFW protocols—see Biological Study Report.

Comment 4J: Special status species identified in the IS/MND should be recorded in the California Natural Diversity Database.

Response to Comment 4J:

Comment editorial or suggested, no response required. However, special status species identified on site will be entered into the CNDDDB.

Comment 4K: A CDFW Filing fee is required for IS/MNDs.

Response to Comment 4K:

The applicable fee will be paid in conjunction with filing a Notice of Determination.

Comment 4L: Thank you for coordination, contact information.

Response to Comment 4L:

Comment noted, no response required.

Comment 4M: References cited.

Response to Comment 4M:

Comment noted, no response required.

Comment 4N: Summary of Recommendations

Response to Comment 4N:

See responses to Comments 4D-4H.