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From: Metzger, Annalise@Wildlife
Sent: Friday, August 29, 2025 9:33 AM
To: Ford, Kristin@DWR
Cc: Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject: CDFW Comments - 2023 Storm Damage DWR Levee Rehabilitation Repair Site 23-078 Project (2025080059)

Subject: 2023 Storm Damage, Department of Water Resources Levee Rehabilitation Repair Site 23-078
MITIGATED NEGATIVE DECLARATION (MND)
SCH No. 2025080059

Dear Kristin Ford:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from the California Department of Water Resources (DWR) for the 2023 Storm Damage, Department of Water Resources Levee Rehabilitation Repair Site 23-078 (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW 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 site is located in Colusa County along the landside left bank of the Colusa Basin Drainage Canal East Levee at Levee Mile 15.47. The local maintaining agency of the levee is Reclamation District 108.

The Project consists of rehabilitation and repair to an eroded levee site, damaged during the 2022-2023 winter storms. Loose soil will be excavated from repair site, clean earth fill will be placed, levee will be contoured to match the existing 3:1 slope, and soils will be compacted. The repair site will be rehabilitated by installing erosion fabric over disturbed areas and seeding all disturbed areas with a native erosion control seed mix.

During Project pre-consultation, DWR informed CDFW that a biodegradable coconut fiber erosion control fabric will be used to stabilize the bank and aid in revegetation survival. The fabric will have adjustable joints and will be installed such that all fabric edges are fully buried and unable to be pulled out using hand tools.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist DWR in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

CDFW is primarily concerned with the project impacts to Giant gartersnake (*Thamnophis gigas*; GGS).

COMMENT 1: Preconstruction Biological Surveys, GM-02 Preconstruction Biological Surveys, page 2-6

Issue: GM-02 states that a qualified biologist will conduct preconstruction surveys to identify special-status species and associated habitats, then specifies northwestern Pond Turtle (*Actinemys marmorata*; WPT) survey characteristics, but does not specify survey characteristics for any other species.

Recommendation or Recommended Mitigation Measure: CDFW recommends that each special-status species with a potential to occur within the Project area (WPT, GGS, Swainson's hawk (*Buteo swainsoni*), Monarch Butterfly (*Danaus Plexippus*)) have its own survey measure separate from GM-02 or each have a survey sub-measure within GM-02, describing methods and timing of preconstruction surveys.

COMMENT 2: GGS Seasonal Work Restrictions, Section 2.4.3 Measure BIO-2a: Seasonal Work Restrictions, page 2-9

Issue: BIO-2a states that activities occurring in GGS habitat "may continue after October 1 in areas where construction was initiated during the giant gartersnake active season and remained continuous thereafter and if ambient air temperatures exceed approximately 75 degrees Fahrenheit during work and maximum daily air temperatures have exceeded 75°F for at least 3 consecutive days immediately preceding work."

- A. This measure mentions the possibility of repair activities occurring during the GGS inactive season, beginning October 1, but does not mention the end date of the

conditional work period, November 1 (as stated in section, 2.3.5 *Construction Timing and Equipment*).

- B. This measure also states work can occur after three consecutive days of 75°F temperatures but does not state from which location the temperature shall be read and recorded.

Recommendation or Recommended Mitigation Measure:

- A. CDFW recommends rewriting the measure to include the end date of the conditional work period to read "Repair work may continue between October 1-November 1 in areas where construction was initiated..."
- B. CDFW also recommends ambient air temperatures be measured by a CDFW-approved designated biologist at the Project site to obtain the most accurate temperature measurement.

COMMENT 3: GGS Preconstruction Surveys, Section 2.4.3 Measure BIO-2b: Preconstruction Surveys, page 2-9 and 2-10

Issue: BIO-2b states that GGS preconstruction surveys will be completed no more than 3 days prior to ground-disturbing activity and another survey will take place if activities stop for more than 14 days.

Recommendation or Recommended Mitigation Measure: CDFW recommends altering the timeframes to require another preconstruction survey if activities stop for more than 7 days, instead of 14 days.

COMMENT 4: GGS; Section 2.4.3 Measure BIO-2i: Restoration to Pre-Project Conditions, page 2-11

Issue: The IS/MND contains at least five (5) sections where restoration and revegetation of the project site is discussed, however the sections are inconsistent with each other. Section 2.3.3 (page 2-4) states seeding will occur after erosion control fabric (ECF) is placed. GM-10 (page 2-7) is phrased as not knowing whether ECF will be used. Section 2.4.3i (page 2-11) mentions geotextiles will not be used and does not mention use of ECF. Section A.2.4 (page A-2) states EFC will be placed within 48 hours of seeding, and Section 2.4.2d (page 2-8) is the only place in the IS/MND where revegetating with milkweed and nectar plants is mentioned.

Pre-project discussions with DWR stated that biodegradable coconut fiber erosion control fabric is included within this project's design plans, to aid in bank stabilization and revegetation survival, and that installation methods will include each end of the fabric being buried to minimize wildlife entrapment. The IS/MND does not discuss ECF edges being buried or other measures to minimize wildlife entrapment in the ECF. Measure BIO-2i partially describes how disturbed upland habitat will be restored but does not mention the installation of coconut erosion control fabric or fabric installation methods to decrease impact to GGS, WPT, and other species (i.e., edges of fabric being buried).

Recommendation or Recommended Mitigation Measure: CDFW recommends DWR confirm whether ECF will be used and recommends rewriting each of the sections and measures above to ensure consistency, including a full description of how the disturbed habitats will be restored, which plant species will be used to revegetate the disturbed site, methods of ECF installation (if applicable), monitoring after revegetation, and adaptive management measures and tools to ensure revegetation success criteria are met.

COMMENT 5: Anticipated Regulatory Permits and Approvals; Section 2.5 Table 2-1. Permits and Approvals Potentially Needed to Conduct Permitted Activities; page 2-13

Issue: The IS/MND states that a CDFW permit may be required per Fish and Game Code section 1602 for “permitted activities on facilities that would impact the bed or bank of a stream channel.” This definition of California Fish and Game Code 1602 is incomplete. Fish and Game Code section 1602 requires any person, state or local government agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change or use any material from the bed, channel, or bank of any river, stream, or lake;
- Deposit or dispose of material into (or where it may pass into) any river, stream, or lake.

Recommendation or Recommended Mitigation Measure: CDFW recommends the relevant IS/MND table be modified to include the full language of Fish and Game Code section 1602 and if an Incidental Take Permit is intended to be requested, CDFW recommends including that permit in Table 2-1 as well.

COMMENT 6: AECOM Biological Reconnaissance Survey; Section 3.2.4: Biological Resources; page 3-19

Issue: The IS/MND references a Biological Reconnaissance Survey conducted on June 16, 2024, and August 6, 2024, but the survey is not provided in the IS/MND to review.

Recommendation or Recommended Mitigation Measure: To appropriately analyze the biological impacts associated with this project, CDFW recommends the Biological Reconnaissance Survey be included in the IS/MND or in Appendix C, Biological Resources.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the MND for the 2023 Storm Damage, Department of Water Resources Levee Rehabilitation Repair Site 23-078 Project to assist DWR in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Annalise Metzger, Environmental Scientist at 916-358-1097 or annalise.metzger@wildlife.ca.gov.

Annalise Metzger

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