



DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 28, 2025

Kelly Yong
San Francisco Public Utilities Commission
525 Golden Gate Avenue, 11th Floor
San Francisco, California 94102
kyong@sfwater.org

**Subject: Cherry Valley Dam Spillway Short-Term Improvement Project (Project)
Mitigated Negative Declaration (MND)
State Clearinghouse No. 2025091199**

Dear Kelly Yong:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the San Francisco Planning Department (Lead Agency) for the above-referenced Project pursuant to 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. While the CEQA comment period may have ended, CDFW respectfully requests that the San Francisco Public Utilities Commission (SFPUC) still consider our comments.

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.

Kelly Yong
 San Francisco Public Utilities Commission
 October 28, 2025
 Page 2

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.), related authorization as provided by the Fish and Game Code will be required.

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).

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. The fully protected bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) are known to occur in the Project area (CNDDDB 2025) (MND Table 9, p. E.15-5).

Other Special Status Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened on any State or federal list pursuant to CESA and/or the federal Endangered Species Act (ESA) to be considered Endangered, Rare, or Threatened under CEQA. If a species can be shown to meet the criteria specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for the Project.

Bird Protection: CDFW has jurisdiction over actions that may 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 section 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 3

PROJECT DESCRIPTION SUMMARY:

SFPUC is proposing the Cherry Valley Dam Spillway Short-Term Improvement Project. Debris from landslides on steep side slopes along the discharge channel has obstructed the channel and caused the spillway flows to be diverted east toward the Cherry Power Tunnel Adit entrance and public dispersed camping areas. The Project would rehabilitate a segment of the existing unlined spillway discharge channel that receives Cherry Valley Dam spillway flows and directs the water toward Cherry Creek, in a generally north-south orientation. The proposed design flow for the discharge channel will be 2,000 cubic-feet per second (cfs) as this is considered optimal.

In addition, the Project would include the following components:

- **Project Work Area:** Approximately 1.3-acres of the Project encompasses the segment of discharge channel to be restored. In this location, landslide debris would be removed, embankment blocking off the east channel would be constructed, and erosion protection measures would be installed. Access to this work area is provided via Lower Haul Road and Cherry Oil Road.
- **Road Improvement Areas:** Four road improvement areas may require site-specific improvements. One area consists of an approximately 535-foot-long segment along Lower Haul Road. Additional improvements and localized widening may be needed in a second segment of Lower Haul Road. Two other segments along Lower Haul Road, 530 feet long and 40 feet long, comprise the other two segments.
- **Staging Areas:** The Project includes four staging areas ranging in size from 0.69-acre to 5.22 acres.

Objectives: The primary objectives of the Project include the following:

- Provide operational flexibility by restoring and improving a portion of the original spillway discharge channel to allow occasional conveyance of up to the Project design flow of 2,000 cfs to reduce overflows into the east channel and the Cherry Power Tunnel Adit entrance.
- Provide erosion protection along the spillway channel side slopes and the proposed embankment upstream.
- Remove landslide debris.
- Construction of armored fill embankment.
- Erosion protection for side slopes of the discharge channel.
- Access road improvements.
- Other site preparation activities, including tree removal

Kelly Yong
 San Francisco Public Utilities Commission
 October 28, 2025
 Page 4

Location: Cherry Valley Dam and Lake are west of Lake Eleanor and Hetch Hetchy Reservoir in Tuolumne County, California, approximately 12 miles directly north of California State Route 120 or 23 miles north via Cherry Lake Road, within Assessor's Parcel Numbers (APN) 053-140-007 and 053-140-008.

Timeframe: For the single-shift scenario, construction activities are anticipated to start in June 2026 and extend over a duration of approximately 6 months. For the double-shift scenario, construction activities are anticipated to start in September 2026 and extend over a duration of approximately 4 months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (i.e., biological) resources. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDDB) records, and a review of aerial photographs of the Project and surrounding habitat, several special status species could potentially be impacted by Project activities.

In particular, CDFW is concerned regarding potential impacts for the following special status wildlife species and habitats known to occupy the Project area: the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State endangered great gray owl (*Strix nebulosa*); the State and federally endangered foothill yellow-legged frog – South Sierra Distinct Population Segment (DPS) (*Rana boylei* pop. 5); the State fully protected golden eagle (*Aquila chrysaetos*); the State candidate endangered Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*); the State species of special concern (SSC) western mastiff bat (*Eumops Perotis* ssp. *californicus*), Yuma myotis (*Myotis yumanensis*), long-legged myotis (*Myotis volans*), and American goshawk (*Astur atricapillus*); the State SSC and federally proposed threatened California spotted owl (*Strix occidentalis occidentalis*); the State SSC and federally endangered California red-legged frog (*Rana draytonii*); the CDFW Watch List Species osprey (*Pandion haliaetus*); the California Rare Plant Rank (CRPR) 1B.2 Congdon's lomatium (*Lomatium congdonii*), Small's southern clarkia (*Clarkia australis*), Mariposa clarkia (*Clarkia biloba* ssp. *australis*), yellow-lip pansy monkeyflower (*Diplacus pulchellus*), slender-stemmed monkeyflower (*Erythranthe filicaulis*); CRPR 1B.3 slender lupine (*Lupinus gracilentus*); CRPR 4.2 Sanborn's onion (*Allium sanbornii* var. *sanbornii*), streambank spring beauty (*Claytonia parviflora* ssp. *grandiflora*); CRPR 4.3 Sierra clarkia (*Clarkia virgata*), Coleman's rein orchid (*Piperia colemanii*), Tompkin's sedge (*Carex tompkinsii*), and northern bugleweed (*Lycopus uniflorus*). Other species of birds, amphibians, reptiles, mammals, fish, invertebrates, and plants also compose the local ecosystem within the Project boundary.

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 5

CDFW recommends that the following modifications and/or edits be incorporated into the MND, including proposed avoidance, minimization, and compensatory measures, prior to its adoption by SFPUC.

Bald Eagle (BAEA) and Golden Eagle (GOEA)

BAEA and GOEA occurrences have been documented within the Project vicinity (CDFW 2025a). The MND acknowledges the presence of these species and an active BAEA nest approximately ½ mile from the Project site found during surveys. Mitigation Measure M-BI-1b states that pre-construction surveys for nesting raptors will commence a maximum of 14 day prior to Project activities that occur during the nesting season. Proposed pre-construction surveys for BAEA will be conducted within a 660-foot survey buffer surrounding the Project. A no-disturbance buffer of 660-feet is proposed around active BAEA nest sites. The MND analysis does not provide a biological basis of how this mitigation measure was determined adequate to avoid significant impacts, including but not limited to take of individuals through nest failure or other means, as a result of Project implementation. Without appropriate avoidance and minimization measures for BAEA and GOEA, potential significant impacts associated with Project activities include loss of forging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 1: Focused Surveys for Nesting Eagles

The MND did not cite the survey protocol followed for BAEA and GOEA. To avoid impacts to these species, CDFW recommends a qualified biologist survey for BAEA following the CDFW *Bald Eagle Breeding Survey Instructions* (CDFW 2010), and the *Protocol for Evaluating Bald Eagle Habitat and Populations in California* (Jackman and Jenkins 2004). For GOEA CDFW recommends a qualified biologist follow survey methods outlined in the *Interim Golden Eagle Inventory and Monitoring Protocols and Other Recommendations* (Pagel et al. 2010) protocol and *Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment* (Driscoll 2010). If Project activities take place during the bird nesting season of February 1 through September 15, CDFW recommends that additional pre-construction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 2: Eagle Avoidance

If an active eagle nest is found, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended and a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest site for survival.

Recommended Mitigation Measure 3: Eagle Take Authorization

Please note that BAEA and GOEA are State fully protected species pursuant to Fish and Game Code section 3511. With the passage of Senate Bill No. 147, the

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 6

incidental take of BAEA and GOEA may be authorized for certain categories of projects, including maintenance, repair, or improvement to critical regional or local water agency infrastructure. If nesting eagles are detected and the ½-mile no-disturbance buffer is infeasible, or if the Project proponent chooses to assume presence during Project implementation, consultation with CDFW is recommended to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP for BAEA and GOEA prior to Project activities, pursuant Fish and Game Code section 2081, subdivision (b).

California Spotted Owl (CSO), Great Gray Owl (GGO), Osprey, and American Goshawk (AMGO)

Proposed Mitigation Measure M-BI-1b states that pre-construction surveys for nesting raptors will commence a maximum of 14 days prior to Project activities that occur during the nesting season. Surveys for raptors other than bald eagle will consist of the Project site plus a 300-foot buffer. The MND analysis does not provide a biological basis of how this mitigation measure was determined to be adequate to avoid significant impacts, including but not limited to take of individuals through nest failure or other means, as a result of Project implementation. Without appropriate avoidance and minimization measures for these species, potential significant impacts associated with Project activities include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Recommended Mitigation Measure 4: CSO, GGO, Osprey, and AMGO Habitat Assessment and Surveys

If Project activities will occur during the nesting season (approximately February 1 through September 30th), CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area and a ¼-mile buffer contain suitable nesting habitat for CSO, GGO, Osprey, and AMGO. If suitable nesting habitat is present, CDFW recommends a qualified biologist conduct protocol level surveys for these species. For CSO, CDFW recommends following the methodology in *Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* prepared by the United States Fish and Wildlife Service (USFWS 2011, revised 2012). For GGO, CDFW recommends completing two-year GGO protocol surveys following the methodology described in *Survey Protocol for the Great Gray Owl in the Sierra Nevada of California* (Beck and Winter 2000). If conducting a two-year GGO survey is infeasible, consultation with CDFW is warranted to determine if abbreviated surveys are appropriate for the Project.

Recommended Mitigation Measure 5: CSO, GGO, Osprey, and AMGO Avoidance

If an active nest is found, CDFW recommends implementing a ½-mile no-disturbance buffer for GGO nest, and a ¼-mile no-disturbance buffer around any

Kelly Yong
 San Francisco Public Utilities Commission
 October 28, 2025
 Page 7

active nests of CSO, osprey, and AMGO. CDFW recommends that the no-disturbance buffer be maintained until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Recommended Mitigation Measure 6: GGO Take Authorization

If nesting GGO are detected and the ½-mile no-disturbance buffer is infeasible, or if the Project proponent chooses to assume presence during Project implementation, consultation with CDFW is recommended to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP for GGO prior to Project activities, pursuant Fish and Game Code section 2081, subdivision (b).

Foothill Yellow-Legged Frog (FYLF) and California Red-Legged Frog (CRLF)

FYLF are primarily stream-dwelling and require shallow, flowing water in streams and rivers with at least some cobble-sized substrate (Thomson et al. 2016). CRLF spend the bulk of their life in or near water sources like streams or stock ponds, which the species uses for breeding. FYLF and CRLF move into neighboring upland areas to shelter when stream flow levels are high. In the summer, CRLF seek relief from the heat by hiding under rocks or boulders, leaf litter, small stream channels or animal burrows (USFWS, 2024).

FYLF and CRLF have been documented within the Project vicinity (CDFW 2025a). The Project site therefore contains habitat that may support both frog species. However, the MND did not address potential biological impacts to these species. Without appropriate avoidance and minimization measures for FYLF and CRLF, potentially significant impacts associated with the Project's construction and subsequent Reservoir operation include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

Recommended Mitigation Measure 7: FYLF and CRLF Surveys

CDFW recommends that a qualified biologist conduct surveys for FYLF and CRLF in accordance with the *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS 2005) to determine if FYLF or CRLF will be impacted by Project construction. These surveys should be conducted within, upstream, and adjacent to the Project area. While the survey is designed for CRLF, it may also be used for FYLF with a focus on stream/river habitat.

Recommended Mitigation Measure 8: FYLF and CRLF Avoidance

If any FYLF or RLF are found during preconstruction surveys or at any time during construction, consultation with CDFW is warranted to determine if the Project can avoid take. CDFW recommends that initial ground-disturbing activities be timed to

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 8

avoid the period when FYLF and CRLF are most likely to be moving through upland areas (i.e., November 1 to March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily for FYLF and CRLF.

Recommended Mitigation Measure 9: FYLF and CRLF Take Authorization

If take avoidance of FYLF is infeasible, then take authorization would be required via an ITP for FYLF pursuant to Fish and Game Code section 2081, subdivision (b), prior to any Project activities to comply with CESA.

Special-Status Bat Species

Western mastiff bat, long-legged myotis, and Yuma myotis have been documented to occur in the vicinity of the Project area (CDFW 2025a), and are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees (CDFW 2025b, CDFW 2025c, CDFW 2025d). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations. Without appropriate avoidance and minimization measures, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project activities include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality.

Recommended Mitigation Measure 10: Bat Roost Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

Recommended Mitigation Measure 11: Bat Surveys

If suitable habitat is present, CDFW recommends assessing presence or absence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as evening emergence surveys or bat detectors to determine whether bats are present.

Recommended Mitigation Measure 12: Bat Roost Disturbance Minimization and Avoidance

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the roost for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

Kelly Yong
 San Francisco Public Utilities Commission
 October 28, 2025
 Page 9

Crotch's Bumble Bee (CBB) and Western Bumble Bee (WBB)

The Project is within the known range for CBB and historic range of WBB, and a review of aerial imagery shows that the Project area supports suitable habitat for these species (CDFW 2023a) such as grasslands and upland scrub. CBB and WBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, underneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites for CBB and WBB mated queens include soft, disturbed soil (Goulson 2010) or leaf litter or other debris (Williams et al. 2014). Without appropriate avoidance and minimization measures for CBB and WBB, potentially significant impacts from ground- and vegetation-disturbing Project activities include direct mortality, loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, and reduced health and vigor of eggs, young and/or queens.

Recommended Mitigation Measure 13: CBB and WBB Surveys

CDFW recommends that a qualified biologist conduct a habitat assessment for CBB and WBB that documents foraging resources and potential nesting sites, including small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs. In areas of suitable habitat, CDFW recommends that a qualified biologist conduct a bumble bee survey according to the CDFW (2023b) *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* to identify bumble bees and potential nesting sites during the vegetation blooming period prior to activities at Project sites.

Recommended Mitigation Measure 14: CBB and WBB Avoidance

If CBB and/or WBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB and/or WBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 15: CBB and WBB Take Authorization

If avoidance of take of any CBB and WBB is not feasible, take authorization would be required via an ITP, pursuant to Fish and Game Code section 2081, subdivision (b).

Special-Status Plants

Special-status plant species meeting the definition of rare, threatened, or endangered pursuant to CEQA (Cal. Code Regs., tit. 14, Chapter 3, § 15380) are known to occur in

Kelly Yong
 San Francisco Public Utilities Commission
 October 28, 2025
 Page 10

the Project vicinity, including the species listed above (CDFW 2025a). Many of these species are threatened by vehicles, logging, grazing, and development, and many historical occurrences of these species are presumed extirpated (CNPS 2025). Impacts to existing populations have the potential to significantly impact populations of plant species. Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent Project-specific activities include loss of habitat, loss or reduction of productivity, and direct mortality.

Recommended Mitigation Measure 16: Special-Status Plant Surveys

CDFW recommends that individual Project sites 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 Natural Communities* (CDFW 2018). This protocol is intended to maximize detectability and includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Recommended Mitigation Measure 17: Special-Status Plant Avoidance

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 18: Listed Plant Species Take Authorization

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, then take authorization is required through acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b) in order to comply with CESA.

EDITORIAL COMMENTS AND/OR SUGGESTIONS

Lake and Streambed Alteration: The MND did not evaluate whether the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Project activities that substantially change the bed, bank, and channel of streams and associated wetlands or divert or store flow are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake.

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 11

“Any river, stream, or lake” includes those that are ephemeral or intermittent as well as those that are perennial.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. Additional information on notification requirements is available through the Central Region LSA Program at (559) 243-4593 or R4LSA@wildlife.ca.gov, and the CDFW website: <https://wildlife.ca.gov/Conservation/LSA>.

Nesting Birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (i.e., February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline for all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends that the work causing that change cease and that CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so. CDFW recommends that a qualified biologist advise and support any variance from these buffers.

CNDDDB Positive Submission of Data: Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 12

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 to determine whether or not any special-status species are present at or near the Project site.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 CNDDDB. The CNDDDB field survey form can be obtained at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address:

CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

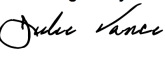
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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).

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 13

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist SFPUD in identifying and mitigating Project impacts on biological resources. A Mitigation Monitoring and Reporting Plan (MMRP) (Attachment 1) is included to assist with incorporating the recommended mitigation measures provided above. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 580-3202 or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment 1: MMRP

cc: State Clearinghouse
Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov

San Francisco Planning Department
Timothy Johnson, Timothy.Johnson@sfgov.org

United States Fish and Wildlife Service
Stephanie Eyes, Stephanie_Eyes@fws.gov

California Department of Fish and Wildlife
Annette Tenneboe
Annette.Tenneboe@wildlife.ca.gov

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 14

REFERENCES

- Beck, Thomas W., and J. Winter. 2000. Survey protocol for the Great gray owl in the Sierra Nevada of California. Prepared for the U.S. Department of Agriculture, Forest Service. Vallejo, California.
- California Department of Fish and Wildlife (CDFW). 2010. Bald eagle breeding survey instructions. California Department of Fish and Wildlife, Sacramento, California, USA.
- CDFW. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. California Department of Fish and Wildlife. March 20, 2018.
- CDFW. 2023a. Crotch's Bumble Bee (*Bombus crotchii*) Current and Historic Species Ranges. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213184&inline>.
- CDFW. 2023b. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife. June 6, 2023. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>
- CDFW. 2025a. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 21 October 2025.
- CDFW. 2025b. California Wildlife Habitat Relationships System. Western Mastiff Bat. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2357>. Accessed 22 October 2025.
- CDFW. 2025c. California Wildlife Habitat Relationships System. Yuma Myotis. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2319&inline=1>. Accessed 22 October 2025.
- CDFW. 2025d. California Wildlife Habitat Relationships System. Long-legged Myotis <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2327>. Accessed 22 October 2025.
- California Native Plant Society, Rare Plant Program. 2025. Rare Plant Inventory (online edition, v9.5.1). <https://www.rareplants.cnps.org>. Accessed 22 October 2025.
- Driscoll, D. E. 2010. Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment. American Eagle Research Institute, Apache Jct., AZ. 55pp.
- Goulson, D. 2010. Bumblebees: behaviour, ecology, and conservation. Oxford University Press, New York. 317pp.

Kelly Yong
San Francisco Public Utilities Commission
October 28, 2025
Page 15

Hatfield, R., S. Jepsen, R. Thorp, L. Richardson, and S. Colla. 2015. *Bombus crotchii*. The IUCN Red List of Threatened Species.

<https://www.iucnredlist.org/species/44937582/46440211>. Accessed 10 February 2024.

Jackman, R. E. and J. M. Jenkins. 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California. Prepared for U.S. Fish and Wildlife Service Endangered Species Division, Sacramento, CA, USA.

Pagel, J. E., D. M. Whittington, and G. T. Allen. 2010. Interim golden eagle inventory and monitoring protocols; and other recommendations. Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Sacramento, California, USA.

Thomson, R. C., A. N. Wright, and H. B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press: 84-92.

United States Fish and Wildlife Service (USFWS). 2005. Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog. March 2005. 26 pp.

USFWS. 2012. Protocol for surveying proposed management activities that may impact northern spotted owls. February 2, 2011; Revised January 9, 2012.

USFWS. 2024. Red-legged Frog Species Account.

<https://www.fws.gov/species/california-red-legged-frog-rana-draytonii>

Weintraub, K., T. L. George, and S. J. Dinsmore. 2016. Nest survival of tricolored blackbirds in California's Central Valley. *Condor* 118(4): 850–861.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

Attachment 1

Attachment 1

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

**PROJECT: Cherry Valley Dam Spillway Short-Term Improvement
Project, SCH No. 2025091199 (Project)**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Bald Eagle and Golden Eagle	
Recommended Mitigation Measure 1: Focused Surveys for Nesting Eagles	
Recommended Mitigation Measure 2: Eagle Avoidance	
California Spotted Owl (CSO), Great Gray Owl (GGO), Osprey, and American goshawk (AMGO)	
Recommended Mitigation Measure 4: CSO, GGO, Osprey, and AMGO Habitat Assessment and Surveys	
Recommended Mitigation Measure 6: GGO Take Authorization	
Foothill Yellow-Legged Frog (FYLF) and California Red-Legged Frog (CRLF)	
Recommended Mitigation Measure 7: FYLF and CRLF Surveys	
Recommended Mitigation Measure 9: FYLF and CRLF Take Authorization	
Special-Status Bat Species	
Recommended Mitigation Measure 10: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 11: Bat Surveys	
Crotch's Bumble Bee (CBB) and Western Bumble Bee (WBB)	
Recommended Mitigation Measure 13: CBB and WBB Surveys	
Recommended Mitigation Measure 15: CBB and WBB Take Authorization	

Attachment 1
Cherry Valley Dam Spillway Short-Term Improvement Project
Page 2

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Special-Status Plants	
Recommended Mitigation Measure 16: Special-Status Plant Surveys	
Recommended Mitigation Measure 18: Listed Plant Species Take Authorization	
<i>During Construction</i>	
Bald Eagle and Golden Eagle	
Recommended Mitigation Measure 3: Eagle Take Authorization	
California Spotted Owl (CSO), Great Gray Owl (GGO), Osprey, and American goshawk (AMGO)	
Recommended Mitigation Measure 5: CSO, GGO, Osprey, and AMGO Avoidance	
Foothill Yellow-Legged Frog (FYLF) and California Red-Legged Frog (CRLF)	
Recommended Mitigation Measure 8: FYLF and CRLF Avoidance	
Special-Status Bat Species	
Recommended Mitigation Measure 12: Bat Roost Disturbance Minimization and Avoidance	
Crotch's Bumble Bee (CBB) and Western Bumble Bee (WBB)	
Recommended Mitigation Measure 14: CBB and WBB Avoidance	
Special-Status Plants	
Recommended Mitigation Measure 17: Special- Status Plant Avoidance	