

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE



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July 22, 2026

Ana Chiono, Project Manager
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Subject: Stockton San Joaquin River Pipeline Remediation Project, Initial Study/Mitigated Negative Declaration, SCH No. 2026061007, City of Stockton, San Joaquin County

Dear Ana Chiono:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from the City of Stockton, Municipal Utilities Department (City) for the Stockton San Joaquin River Pipeline Remediation Project (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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

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 (LSA) 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

Proponent: City of Stockton, Municipal Utilities Department

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.

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Objective: The objective of the Project is to bring an approximate 350-foot long and 36-inch pipeline into compliance with state and federal regulations by maintaining a 5-foot natural riverbed material cover depth. Primary Project activities involve both in-water and terrestrial work, including grading on the landside of the levee, dredging/excavation of the channel bed above and around the pipeline, and the addition of gravel and rip rap fill above and around the pipeline.

Location: City of Stockton, CA, San Joaquin County, Latitude 37.93504, Longitude -121.32995.

Timeframe: Project-related construction activities are expected to begin in the summer of 2027, with an estimated total construction window of 6 to 7 weeks: 3 weeks to construct the staging area, access pad and ramp; one week for dredging; 1 week for rip rap placement and up to 2 weeks for removal of the access pad and ramp after the in-water work is completed.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

COMMENT 1: San Joaquin Multi-Species Habitat Conservation and Open Space Plan & Compensatory Mitigation

Section 2.2 Local Plans and Policies, Page 9 & 7.3 Aquatic Resources, Page 35

The IS/MND references the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) multiple times noting that the plan facilitates countywide land use and mitigation planning and offers a streamlined permitting process for entities that impact listed species and require mitigation. Although measures from the SJMSCP are cited as mitigation to reduce impacts to a less-than-significant level, the document does not clearly state whether the City intends to participate in the SJMSCP for this Project. CDFW recommends revising the IS/MND to explicitly indicate whether or not the City plans to participate in the SJMSCP to mitigate all potential impacts of this Project.

However, participating in the SJMSCP does not on its own reduce impacts to a less-than-significant level. For example, Section 7.3 of the IS/MND describes the Project's temporary and permanent impacts on aquatic resources, including temporary impacts to 0.30-acre and permanent impacts to 0.11-acre of the San Joaquin River. Please be advised that the SJMSCP does not cover aquatic habitat or fish species, therefore, participation in the SJMSCP would not mitigate impacts to those species described in Comment 4 of this letter (see page 4 below).

CDFW recommends revising the IS/MND to clearly describe how the Project will compensate for all Project-related permanent and temporary impacts and identify and describe alternative compensatory mitigation options should participation in the SJMSCP not be feasible.

COMMENT 2: Special-Status and Nesting Birds, Buffers and Survey Requirements

Section 3.2.7, Page 27 & 7.1.2, Page 28-29

The Project has the potential to disturb nesting bird species and impact associated nesting habitat. Impacts to nesting birds could occur through increased stress, nest abandonment, mortality to birds or direct damage to nests. Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in

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the federal Migratory Bird Treaty Act (MBTA) is a violation of Fish and Game Code § 3503, 3503.5, 3513, respectively.

The IS/MND describes measures BIO-1 and BIO-2 to reduce potential impacts to nesting birds. However, these measures do not adequately avoid potential impacts.

CDFW recommends that measure BIO-1 (Nesting Bird Surveys) be modified to ensure two surveys are conducted within 14 days prior to the beginning of Project construction, with the final survey conducted within 48 hours prior.

Additionally, CDFW recommends that measure BIO-02 be modified to include adequate and quantified minimum buffers in the event occupied nests are discovered during surveys. CDFW recognizes that this measure is adopted from the SJMSCP, however, the described buffer distance of "two times the dripline of the tree, measured from the nest" is insufficient in reducing impacts to a less-than-significant level. CDFW recommends revising this measure in the IS/MND to include the following:

- The establishment of appropriate buffers to be in compliance with the MBTA and Fish and Game Code sections 3503 and 3503.5 for all species that could potentially nest within the Project area and surrounding areas;
- Monitoring nesting birds and increasing the buffer if the Qualified Biologist determines that the birds are showing signs of unusual or distressed behavior;
- Qualified Biologist authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure;
- Encroachment prevention, by clearly marking the established buffer(s) for avoidance; and
- Established buffer(s) remaining in effect until the young have fledged or the nest has been abandoned as confirmed by the Qualified Biologist.

COMMENT 3: Swainson's Hawk

Section 7.1.2, Page 28-29 & Appendix C (Page 172)

Swainson's hawk (*Buteo swainsoni*) is listed as State Threatened under the California Endangered Species Act (CESA), and as indicated in the IS/MND, is likely to occur within the Project area. The IS/MND states that implementation of Measure BIO-2 will reduce potential impacts to Swainson's hawk to a less-than-significant level, however as described in the previous comment, measure BIO-2 does not describe use of an appropriate survey protocol and sufficient buffer distances to avoid impacts to nesting Swainson's hawks.

If Project activities will occur during the Swainson's hawk nesting season (March 1 to September 15), a Qualified Biologist should conduct multiple Swainson's hawk surveys within a minimum 0.5-mile radius around the Project area prior to beginning Project activities. The surveys should be conducted according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Tech. Advis. Comm., 5/2000; available online at <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>):

If an occupied Swainson's hawk nest is found, CDFW recommends establishment of a minimum 0.5-mile buffer and consulting with CDFW to develop a Swainson's hawk take avoidance and monitoring plan. If take of Swainson's hawk cannot be completely avoided as a result of Project-related activities, and take coverage through the SJMHCP

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is not feasible, then the Project proponent should consult with CDFW to obtain an Incidental Take Permit (ITP).

COMMENT 4: Special Status Fish Species

Section 3.6.4 Biological Resources, Page 29

The IS/MND describes the following six special-status fish species with moderate or high potential to occur in the vicinity of the Project; green sturgeon (*Acipenser medirostris*) federally endangered (FE) under the Endangered Species Act (ESA), steelhead – Central Valley Distinct Population Segment (DPS) (*Oncorhynchus mykiss irideus*) federally threatened (FT) under ESA, delta smelt (*Hypomesus transpacificus*) FT and State Endangered (SE) under CESA, Central Valley spring-run (ESU) Chinook salmon (*Oncorhynchus tshawytscha*) FT and state threatened under CESA, Sacramento River Winter-run (ESU) Chinook salmon (*Oncorhynchus tshawytscha*) FE and SE, and white sturgeon (*Acipenser transmontanus*) a candidate species as threatened under CESA. Pursuant to Fish and Game Code sections 2074.2 and 2085, candidate species are legally granted the same protections as listed endangered or threatened species under CESA.

The Project could impact these special-status fish species in the Project area from direct take, mortality or injury via crushing or entombment, and adverse impacts to water quality. Avoidance measures described in the IS/MND may not avoid take or reduce impacts to a less-than-significant level.

Measure BIO-07 identifies an in-water work window of August 1 through November 30, during which time delta smelt and salmonids have lower potential to occur near the Project area. However, the IS/MND states that because green sturgeon is not known to spawn in the San Joaquin River and observations are rare, impacts to green sturgeon are not anticipated; but resident sturgeon may be present in the San Joaquin River year-round and white sturgeon do spawn in the San Joaquin River. No mitigation measures are described in the IS/MND for white sturgeon. CDFW recommends revising the IS/MND to include appropriate and effective take avoidance measures for white sturgeon. Mitigation measures could include conducting sonar surveys to determine the presence or absence of adult sturgeon in the Project area prior to starting Project activities and an approved soft-start procedure for rock placement that would reduce the initial placement of rock preceded by a waiting period to allow sturgeon to leave the area.

In addition, longfin smelt (*Spirinchus thaleichthys*), a threatened species under CESA, is not included as a species with potential to occur in the Project area. However, the species known range and occurrences include the San Joaquin River near the City of Stockton. CDFW recommends including longfin smelt as a species with potential to occur within the Project area and including appropriate and effective mitigation measures to completely avoid take under CESA and ensure impacts to the species remain at a less-than-significant level under CEQA.

CDFW recommends the Project proponent consult with CDFW to obtain an ITP if take of CESA-listed fish species is expected to occur as a result of Project-related activities.

COMMENT 5: Crotch's Bumble Bee Survey Protocol

Section 3.6.4 Biological Resources, Page 32

The IS/MND identifies Crotch's bumble bee (*Bombus crotchii*), a state candidate species for listing as threatened under CESA, as a species with the potential to occur within the Project area. Mitigation measure BIO-04 outlines a Crotch's bumble bee survey intended to avoid impacts to the species; however, the measure does not specify the number of surveys to be conducted.

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CDFW recommends multiple on-site surveys be conducted, with at least one survey occurring during the Colony Active Period (April through August). CDFW further recommends that the IS/MND specify that surveys will be conducted according to the 2023 Survey Considerations for CESA Candidate Bumble Bee Species document at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline> to adequately determine presence or absence of Crotch's bumble bee within the Project area and reducing impacts to a less-than-significant level.

CDFW recommends the Project proponent consult with CDFW to obtain an ITP if take of Crotch's bumble bee is expected to occur as a result of Project-related activities.

COMMENT 6: Western Burrowing Owl

Section 3.6.4 Biological Resources, Page 27

The IS/MND describes 14 special-status species with moderate or high potential to occur in the vicinity of the Project area but does not include western burrowing owl (*Athene cunicularia hypugaea*) among them.

The Biological Resources Technical Report included in the IS/MND as Appendix A indicates that burrowing owl is a species of special concern and the potential for occurrence is unlikely stating "Ground squirrel activity is present in the Study Area to support potential nesting for this species. However, the close proximity to existing development provides anthropogenic disturbance that is likely to dissuade this species from occupying the area." Please note that western burrowing owl is a candidate species as threatened under CESA and the IS/MND should be updated to reflect this change. In addition, western burrowing owl have been known to occupy both natural and artificial nest structures and may establish nests in urban and developed areas. Occupied nests have been observed adjacent to train tracks, alongside walking paths, and near housing developments. Moreover, several occurrences of burrowing owl have been recorded in the California Natural Diversity Database (CNDDB) within one mile of the Project area.

CDFW recommends revising the IS/MND to include western burrowing owl as a species with potential to occur within the Project area and including appropriate and effective measures to completely avoid take during both the overwintering and nesting seasons. The IS/MND should include a mitigation measure describing surveys to determine presence of the species within and surrounding the Project area. Surveys should follow methods described in the CDFW Staff Report on Burrowing Owl Mitigation, Appendix D (2012),

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjx96GL-YiQAXWYSaQEhahBE5UQFnoECBcQAQ&url=https%3A%2F%2Fnrm.dfg.ca.gov%2FFileHandler.ashx%3FDocumentID%3D83843&usq=AOvVaw0IRL4bg13OVIi0jwC8jXwZ&opi=89978449>, and the measure should also apply the report's recommended no-disturbance buffers during both the overwintering and nesting seasons if owls are found.

CDFW recommends the Project proponent consult with CDFW to obtain an ITP if take of western burrowing owl is expected to occur as a result of Project-related activities.

COMMENT 7: Suction Dredging

Section 3.2 Detailed Description of Proposed Project, Page 6

The Project description in the IS/MND indicates that a clamshell dredging process will be used to excavate the existing natural cover necessary to complete the substrate repairs. However, the Project description then states that, subject to agency approval, suction dredging may also be utilized within the channel to remove existing material. CDFW

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considers suction dredging to be more impactful to aquatic resources than clamshell dredging and would require additional minimization measures, such as fish screens on any equipment that pumps or draws in water. The California Salmonid Stream Habitat Restoration Manual Volume 1, Fourth Edition outlines fish screen criteria, including screen sizes and allowable pumping velocities:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=22610&inline>. CDFW recommends reviewing these criteria and including mitigation measures specific to suction dredging in the IS/MND if the activity is an anticipated component of the Project. However, CDFW strongly recommends the IS/MND describe the use of clamshell dredging only.

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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the City of Stockton in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Benjamin Huffer, Senior Environmental Scientist (Specialist) at (707) 815-9950 or Benjamin.Huffer@wildlife.ca.gov; or, Brenda Blinn, Senior Environmental Scientist (Supervisory), at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Erin Chappell
Regional Manager
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