

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE



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August 12, 2026

Robert Black, President  
Reclamation District 341  
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**Subject: San Joaquin River Multi-Benefit Project, Mitigated Negative Declaration, SCH No. 2026070535, Sacramento County**

Dear Robert Black:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Reclamation District 341 for the San Joaquin River Multi-Benefit Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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. 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.

**California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may

<sup>1</sup> 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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be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515).

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et. seq.

**Raptors and Other Nesting Birds**

CDFW has authority 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 protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

**PROJECT DESCRIPTION SUMMARY**

**Proponent:** Reclamation District 341

**Objective:** The objective of the Project is to maintain levee integrity and provide long-term flood protection to Sherman Island. Primary Project activities include rehabilitating the Sherman Island levee system from Levee Station 330+00 to 368+00 (approximately 0.75 mi), reconstructing approximately 0.75 mile of Sherman Island East Levee Road, relocating 10 Pacific Gas & Electric Company (PG&E) power poles, modifying two steel pump discharge conduits, modifying two siphons that function as pipelines, creating approximately 1 acre of riparian forest and scrub-shrub habitats as a hedgerow on the levee toe berm, and hydroseeding the new landside levee slope and toe berm (approximately 13 ac) with about 42 pounds of a native seed mix.

**Location:** The proposed Project is located on Sherman Island, along the landside of the southeastern levee. Sherman Island is situated on the northern shore of the San Joaquin River north of the cities of Antioch and Oakley which are located in Contra Costa County, while Sherman Island is located in Sacramento County, just upstream from the confluence of the Sacramento and San Joaquin rivers. 38°2'55.3"N 121°42'21.8"W.

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist Reclamation District 341 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:**

**Section 1.4.6, Page 10, MM-3**

**Issue:** The MND identifies that a special-status plant survey was done in 2025 and will only be re-conducted if construction will occur after 2030. Rare plants could become established in the Project area in any year where the correct environmental conditions occur.

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**Specific impact and why impact may occur and be significant:** If construction does occur prior to 2030 and rare plants do become established after the last survey, they will go unidentified and unprotected with no mitigation to reduce the impacts below significance.

**Recommended Mitigation Measure:** CDFW recommends the mitigation measure identify that special status plant surveys be conducted in the year leading up to construction at appropriate times of year as called for in the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* that you cite in the MND mitigation measure MM-3.

**COMMENT 2:**

**Section 1.4.6, Page 12, MM-6**

**Issue:** The MND identifies that ground-disturbing work may continue past October 1 and into the giant garter snake (*Thamnophis gigas*) inactive season if it was initiated prior to October 1. This statement is too vague as it could be interpreted to allow ground-disturbing work in previously undisturbed areas if that type of work was initiated prior to October 1.

**Specific impact and why impact may occur and be significant:** Giant garter snake begin to look for over-wintering habitat, often ground burrows, in which to brumate when air and water temperatures drop below 68° F, typically around October 1. Any ground-disturbing work could result in mortality to giant garter snake that have gone into brumation within the Project area. Consideration for ground-disturbing work to continue past October 1 should only be given to areas where the ground has been previously disturbed immediately leading up to October 1 and has no ground burrows present.

**Recommended Mitigation Measure:** CDFW recommends that the measure be modified to state that ground-disturbing work will only continue past October 1 after consulting with CDFW and obtaining CDFW's written approval and only in areas that were previously disturbed and have no ground burrows present. Also, the measure should identify that all ground-disturbing work approved to continue past October 1 will cease by October 31, if not required to cease earlier.

**COMMENT 3:**

**Section 1.4.6, Page 12, MM-6**

**Issue:** The MND identifies that the alternative erosion control material that will be used is tightly woven fiber netting or similar material. U.S. Fish and Wildlife Service (USFWS) currently identifies that the best wildlife friendly erosion control materials should be made of natural fiber netting that is loose weave, non-welded, and has moveable joints or uses no netting at all and the edges of any erosion blankets or mats should be staked to the ground and the edges should be buried to prevent wildlife from crawling under it (USFWS, 2026).

**Specific impact and why impact may occur and be significant:** If netting is used as part of erosion control, giant garter snake and other wildlife can become ensnared in the netting if the joints aren't moveable. Erosion control products with moveable joints should allow snakes to be able to free themselves if they attempt to pass through (Kapfer and Paloski, 2011). Also, burying the edges was found to reduce the likelihood that snakes would become entangled in erosion control blankets (Ward et al., 2020). Giant garter snake that become entrapped would be more susceptible to mortality due to overheating and predation and would result in significant impacts to the species.

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**Recommended Mitigation Measure:** CDFW recommends that the last bullet in MM-6 be changed to identify that the erosion control materials that will be used will be made of 100 percent biodegradable material with either no netting or natural fiber netting with loose weave, non-welded, movable joints. Also, it should state that edges of any erosion blankets or mats will be buried.

**COMMENT 4:**

**Section 1.4.6, Page 12, MM-6**

**Issue:** The MND does not address take authorization in the event that the CESA-listed species, Giant garter snake, cannot be fully avoided. This species is protected by CESA and may not be taken without prior take authorization from CDFW.

**Specific impacts and why they may occur and be significant:** Project activities have the possibility of resulting in the incidental take of giant garter snake. The activities that could result in incidental take of giant garter snake include vegetation removal, earth moving, excavation, grading, grubbing, levee construction, and moving vehicles/equipment.

**Recommended Mitigation Measure:** To comply with CESA, CDFW recommends modifying the current MM-6 to identify that take coverage for giant garter snake will be sought.

**COMMENT 5:**

**Section 1.4.6, Page 13, MM-8**

**Issue:** The MND states ‘No construction activities will occur within the buffer zone until a qualified biologist has determined that the young have fledged or that construction activities within the buffer zone are not disturbing the birds.’ The second half of the ‘or’ statement is a logical paradox. A determination about construction activities within the buffer zone can’t be made if construction activities aren’t going to occur in the buffer zone prior to that determination.

**Recommended Change:** Based on the actions identified in the following sentence in the MND, CDFW recommends that this sentence be changed to ‘No construction activities will occur within the buffer zone until a qualified biologist has determined that the young have fledged or CDFW has provided written approval following consultation.’

**COMMENT 6:**

**Section 1.4.6, Page 13, MM-9**

**Issue:** The MND states ‘If burrowing owl presence is demonstrated, an appropriate buffer of up to 1,600 feet (as recommended in the *Staff Report on Burrowing Owl Mitigation*) will be established by a biologist in consideration of surrounding waterways.’ Surrounding waterways are not a consideration for Western burrowing owl (*Athene cunicularia hypugaea*) or a buffer for them. What should be considered is the time of year and the potential level of disturbance (Department of Fish and Game, 2012). Also, the measure identifies that work necessary within the buffer could proceed if there is a qualified biologist monitoring the owls. This should only be allowed if CDFW is consulted and a plan for monitoring the owls is developed. The plan could include use of visual obstructions, limiting time of work to minimize impacts on foraging opportunities, etc.

**Recommended Change:** CDFW recommends that the sentence be changed to ‘If burrowing owl are determined to be potentially present, an appropriate buffer of up to 1,600 feet (as recommended in the *Staff Report on Burrowing Owl Mitigation*) will be established by a biologist in consideration of the time of year and the level of disturbance.’ And the following sentence should be modified to state ‘If Project-related

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activities are deemed necessary within the buffer, CDFW will be consulted and a monitoring plan will be developed by a qualified biologist to ensure that Project construction does not impact the owls.'

**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 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 MND to assist Reclamation District 341 in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alec Strachan, Senior Environmental Scientist (Specialist), at (209) 234-3454 or [Alexander.Strachan@wildlife.ca.gov](mailto:Alexander.Strachan@wildlife.ca.gov); or Todd Gardner, Senior Environmental Scientist (Supervisory), at (209) 401-0452 or [Todd.Gardner@wildlife.ca.gov](mailto:Todd.Gardner@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*  
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ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2026070535)  
Melissa Farinha, CDFW Bay Delta Region- [Melissa.Farinha@wildlife.ca.gov](mailto:Melissa.Farinha@wildlife.ca.gov)

**REFERENCES**

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