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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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June 20, 2019

Governor's Office of Planning & Research

JUNE 20 2019

Mr. Brian Lockwood
Pajaro Valley Water Management Agency
36 Brennan Street
Watsonville, CA 95076
eir@pvwater.org

STATE CLEARINGHOUSE

Subject: Watsonville Slough System Managed Aquifer Recharge and Recovery Projects,
Notice of Preparation of a Draft Environmental Impact Report, SCH #2019059130,
Santa Cruz County

Dear Mr. Lockwood:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) prepared by the Pajaro Valley Water Management Agency (PV Water) for the Watsonville Slough System Managed Aquifer Recharge and Recovery Projects (Project) located in the County of Santa Cruz. CDFW is submitting comments on the NOP regarding potential impacts to biological resources associated with the proposed Project.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION

The proposed Project would provide supplemental water supply outlined in PV Water's Basin Management Plan. The supplemental supply is to relieve groundwater usage and meet Sustainable Groundwater Management Act requirements. The Project is separated into the Harkins Slough Project and the Struve Slough Project.

The proposed Harkins Slough Project would include upgrades to the Harkins Slough pump station, installation of a backwater and raw water pipeline from the filter plant at the Harkins Slough pump station to an existing gravity sewer in West Beach Street, and construction of two new recharge basins and associated recovery wells and pipelines.

The proposed Struve Slough Project would include a new screened intake, new pump station, a new pipeline to connect the new pump station to the Harkins Slough pump station, a new

pipeline to connect the Harkins Slough pump station to recharge basins, and a new recharge basin and associated recovery wells and pipelines.

The CEQA Guidelines (§§15124 and 15378) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the following Project components in the Project description:

- Operation of the Struve Slough diversion, including operation during wet years, dry years, and drought conditions;
- Operation of ground water recharge basins;
- Protective bypass flows to maintain native fish and wildlife resources in good condition while the instream diversion is in use and/or restrictions of diversion of water at the Point of Diversion (POD) that could effectively dewater downstream reaches during times that sensitive species would normally be present;
- The maximum amount of water that will be diverted from Struve Slough per year;
- Additional water that will be diverted from Harkins Slough;
- Service area and proposed recipients the additional water source would serve; and
- Basis for establishing a new water diversion and ground water recharge basins (e.g., water right, LSAA).

ENVIRONMENTAL SETTING

The special-status species that are known to occur, or have the potential to occur in or near the Project site, include:

- California red-legged frog (*Rana draytonii*), a federally threatened species listed under the Endangered Species Act (ESA) and a state species of special concern;
- Monterey gilia (*Gilia tenuiflora* ssp. *arenaria*), a federally endangered species listed under ESA and a state threatened species listed under CESA;
- Northern California legless lizard (*Anniella pulchra*), a state species of special concern;
- Santa Cruz tarplant (*Holocarpha macradenia*), a federally threatened species listed under ESA and a state endangered species listed under CESA;
- Tricolored blackbird (*Agelaius tricolor*), a state threatened species listed under CESA;
- Western pond turtle (*Emys marmorata*), a state species of special concern; and
- Nesting/migratory birds

COMMENTS

Comment 1: Installation of new instream water diversion direct and cumulative impacts

CDFW recommends exploring and discussing alternatives to adding a new water intake along Struve Slough in the draft EIR, such as implementation of water conservation measures and alternative water sources. Installation of an instream diversion may have direct and cumulative

adverse impacts on fish and wildlife resources of Struve Slough. The proposed Project could impact instream and downstream resources (e.g., California red-legged frog), by further reducing instream flow and water availability necessary to maintain riparian habitat and native fish in good condition. Please discuss these effects in the analysis, and include mitigation to address significant impacts.

Comment 2: Species baseline

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species (CEQA Guidelines, §15380).

Habitat assessments and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project vicinity.

Comment 3: Special-status species surveys

CDFW recommends that the time leading up to Project implementation, special-status species surveys be conducted for species that have the potential to occur or will be impacted by the Project implementation. CDFW recommends, if available, using established species survey protocols. Survey and monitoring protocols and guidelines are available at:
<https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at:
<https://www.wildlife.ca.gov/Conservation/Plants>.

Comment 4: Direct and indirect impact analysis

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g. snags, roosts, overhanging banks);
- Direct and cumulative impacts to species (e.g., California red-legged frog) and biological resources (e.g., riparian habitat);
- The cumulative impact of the installation of an additional water intake among other water diversions within the watershed; and

- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence.

The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a listed species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Comment 5 Notification of Lake or Streambed Alteration

PV Water is responsible for complying with all applicable local, state, and federal laws, including Fish and Game Code section 1602. Fish and Game Code section 1602 requires a person, or any other entity, to notify (CDFW) before beginning certain activities, and if necessary, obtaining an LSAA from CDFW. These activities include substantially diverting or obstructing the natural flow of a river, stream, or lake, or substantially changing or using any material from the bed, channel, or bank of a river, stream, or lake. Any person who engages in an activity subject to Fish and Game Code section 1602 without first notifying CDFW is in violation of section 1602.

In CDFW's view, based on the Project description in the NOP, notification under Fish and Game Code section 1602 is required for your Project. For information on notifying CDFW, please go to <https://www.wildlife.ca.gov/conservation/lsa>.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 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 section 2080.

Lake and Streambed Alteration Agreement

CDFW will require an LSAA, pursuant to Fish and Game Code section 1600 et. seq. for Project-related activities within any 1600-jurisdictional waters within the proposed Project area. Notification is required for any activity that will substantially divert or obstruct the natural flow;

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change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSAA until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code section 711.4; Public Resources Code section 21089). 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.

If you have any questions, please contact Ms. Monica Oey, Environmental Scientist, at (707) 428-2088 or monica.oey@wildlife.ca.gov; or Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786.

Sincerely,

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Regional Manager
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cc: State Clearinghouse

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