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[] Office of Planning and Research
For U.S. Mail:
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Sacramento, CA 95812-3044

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From:
California Department of Fish and Wildlife (CDFW)
Bay Delta Region
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Contact: Marcia Grefsrud
Phone: (707) 644-2812

Lead Agency (if different than CDFW)
City and county of San Francisco Planning Department
1650 Mission Street, Suite 400, San Francisco, CA 94103
Contact: Steve Smith
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JUL 09 2019

DFG
Office of the General Counsel

SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108

State Clearinghouse Number: 2007102030

Project Title: San Antonio Backup Pipeline Pit F3 Project [California Endangered Species Act (CESA) Incidental Take Permit No. 2081-2018-008-03 (ITP)]

Project Location: The San Antonio Backup Pipeline Pit F3 Erosion Project (Project) is located at Pond F3 East, adjacent to Calaveras Road, approximately six miles north of Calaveras Reservoir and one mile west of San Antonio Reservoir in unincorporated Alameda County, south of the Interstate 680/State Route 84 interchange and west of Calaveras Road.

Project Description: The Project includes erosion repair at two stormwater outfalls which developed subsequent to installation of the outfalls associated with the San Antonio Backup Pipeline Project, which was completed in 2015.

The Project will result in temporary loss of 0.69 acres of habitat and permanent loss of 0.25 acres California tiger salamander (Ambystoma californiense) habitat. This same acreage is considered a temporary loss of habitat for Alameda whipsnake (Masticophis lateralis euryxanthus) also known as Alameda striped racer (Coluber lateralis euryxanthus) habitat. The Project is expected to result in incidental take of California tiger salamander and/or Alameda whipsnake which are designated as a threatened species under CESA. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as [] the lead agency / [X] a responsible agency] approved the above-described project on 5-23-19 and made the following determinations regarding the above described project:

- 1. The project [] will / [X] will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
2. [X] An environmental impact report / [] A negative declaration] was prepared by the lead agency for the original project.
3. Additional mitigation measures [X] were / [] were not] made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan [X] was / [] was not] adopted by CDFW for this project.
5. A Statement of Overriding Considerations [] was / [X] was not] adopted by CDFW for this project.
6. Findings [X] were / [] were not] made by CDFW pursuant to Public Resources Code § 21081(a).
7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):

- [] Payment is submitted with this notice.
[X] A copy of a receipt showing prior payment was submitted to CDFW.

[X] Responsible Agency statement: The EIR prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

Governor's Office of Planning & Research

Signature [Handwritten Signature]

Date: 5-23-19

Gregg Erickson, Regional Manager

JUL 11 2019

STATE CLEARINGHOUSE

Date Received for filing at OPR: _____

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2018-008-03**

**San Francisco Public Utilities Commission
San Antonio Backup Pipeline Pit F3 Erosion Project**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the San Antonio Backup Pipeline Pit F3 Erosion Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish and Game Code, § 2050 *et seq.*). [See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a)].¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize San Francisco Public Utilities Commission (Permittee) to incidentally take California tiger salamander (*Ambystoma californiense*), Alameda whipsnake (*Masticophis lateralis euryxanthus*) also known as Alameda striped racer (*Coluber lateralis euryxanthus*) (hereafter, collectively referred to as Covered Species) during implementation of the Project. (See generally Fish and Game Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4). The California tiger salamander and Alameda whipsnake are designated as threatened species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G) and (b)(4)(D), respectively).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, San Francisco Planning Department (San Francisco). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367). San Francisco analyzed the environmental impacts associated with implementation of the Project in an Environmental Impact Report for San Antonio Backup Pipeline Project (EIR) (SCH No. 2007102030), and approved the Project on September 20, 2012. In so doing, San Francisco imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less-than-significant.

As approved by San Francisco, the Pit F3 Project involves erosion repair at two stormwater outfalls which developed subsequent to installation of the outfalls associated with the San Antonio Backup Pipeline Project, which was completed in 2015. The Project site is within the range of the Covered Species and is known to/may support individuals of the species. Development of the Project site will result in the temporary loss of 0.69 acres of habitat and permanent loss of 0.25 acres California tiger salamander habitat but is this considered a temporary loss of habitat for Alameda whipsnake, and take of the Covered Species as defined by Fish and Game Code is expected. (Fish and Game Code, § 86). These impacts fall within CDFW's permitting jurisdiction under CESA. [*Id.*, §§ 2080, 2081, subd. (b)].

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the San Francisco's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. [Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)]. Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941). Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130).

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 (significant effect on the environment defined); CEQA Guidelines, § 15382). Because the EIR certified by San Francisco for the Project identifies potentially significant impacts on the Covered Species, CDFW adopts the findings set forth below to fulfill its obligations as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. V. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898).

FINDINGS:

CDFW has considered the EIR certified by San Francisco as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by San Francisco, along with the mitigation measures and Conditions of Approval set forth in CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. A Designated Biologist who is knowledgeable and experienced in the biology and natural history of the Covered Species will monitor construction and/or surface-disturbing activities

to minimize habitat disturbance and take of individual Covered Species. The Designated Biologist will have the authority to stop construction and/or surface-disturbing activities and/or order any reasonable measure to avoid take of the Covered Species.

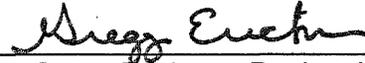
- B. Orientation will be provided to construction staff to familiarize them with the conditions of the Permit and the measures to avoid and minimize impacts to the Covered Species.
- C. The Permittee will acquire and permanently preserve 1.19 acres of Covered Species' habitat approved by CDFW and provide for the maintenance and management of the habitat in perpetuity.
- D. Compliance monitoring will be reported monthly and annual reports will be sent to CDFW by January 31 of each year.
- E. Non-compliance will be reported to CDFW within 24 hours during the construction phase.
- F. Covered Species found on the Project site shall be relocated by the Designated Biologist to a protected off-site location.
- G. Restoration of Project lands where temporary impacts occur will be monitored and the status included in Annual Reports beginning after completion of the Project. Restoration of all areas subject to temporary ground- or vegetation disturbance shall be recontoured, as necessary, covered with stockpiled topsoil, and seeded with native species. If the temporary impact lands have not returned to pre-Project conditions after completion of the Project, additional mitigation and an amendment to the Project ITP may be required.
- H. Permittee will prepare and submit a final mitigation report within 60 days following completion of the Project to notify CDFW of the success and effectiveness of required mitigation measures.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 5-23-19

By: 
Gregg Erickson, Regional Manager
Bay Delta Region
California Department of Fish and Wildlife