

Notice of Determination

To:

Office of Planning and Research
For U.S. Mail:
P.O. Box 3044
Sacramento, CA 95812-3044

Street Address:

1400 Tenth Street
Sacramento, CA 95814

From:

Department of Fish and Wildlife (CDFW)
Bay Delta Region
2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Contact: Marcia Grefsrud
Phone: (707) 644-2812

Lead Agency (if different than CDFW)
Alameda County Public Works Agency
399 Elmhurst Street, Hayward, CA 94544
Contact: Jim Browne
Phone: (510) 670-5796

RECEIVED

JUL 09 2019

Office of the General Counsel

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

State Clearinghouse Number: 201708069 2017082069

Project Title: Castlewood Tanks Replacement Project [California Endangered Species Act (CESA) Incidental Take Permit No. 2081-2018-081-03 (ITP)]

Project Location: The Project is located on and near Castlewood Drive, near the Castlewood County Club Golf Course, in with the City of Pleasanton, Alameda County, California.

Project Description: The Project includes replacement of two deteriorating 100,000-gallon redwood water tanks that provide water for domestic consumption and emergency fire control. The new steel tanks will be located on the site of the existing tanks, but improvements and grading will occur on currently undeveloped areas adjacent to the existing tanks.

The Project will result in the permanent loss or disturbance of 0.25 acres of habitat and temporary loss of 0.28 acres of habitat potentially used by Alameda whipsnakes (Masticophis lateralis euryxanthus) and California tiger salamanders (Ambystoma californiense) as movement and/or upland habitat.

The Project is expected to result in incidental take of Alameda whipsnake and California tiger salamander which are designated as 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 06/18/2019 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. [] An environmental impact report / [x] 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 [] were / [x] were not] made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.
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 Negative Declaration 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.

Signature: [Handwritten Signature] #585 Governor's Office of Planning & Research Date: 06/18/2019
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. 2081-2018-081-03**

**Alameda County Public Works Agency
Castlewood Tanks Replacement**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to comply with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). CDFW is a responsible agency under CEQA with respect to the Castlewood Tanks Replacement Project (hereafter, the 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 the incidental take of Alameda whipsnake (*Masticophis lateralis euryxanthus*) and California tiger salamander (*Ambystoma californiense*), (hereafter, collectively referred to as Covered Species) that could occur with implementation of the Project. (See generally Fish and G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4). The Alameda whipsnake and California tiger salamander are designated as threatened species under CESA. (Cal. Code Regs., Title 14, § 670.5, subd. (b)(4)(D) and (b)(3)(G), 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, Alameda County Public Works Agency (ACPWA). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367). ACPWA analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration prepared for the Project, and approved the Project on November 7, 2017. In so doing, ACPWA 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 avoided or substantially lessened, such that the impacts would be less-than-significant.

As approved by ACPWA, the Project activities include installation of high visibility and silt fence around work areas. Construction on the tank site will include demolition of the wood tanks, site preparation, grading, minor excavation activities, and the installation of 17 concrete piles per tank to support a steel mat/base for the installation of each steel tank. The cast-in-drilled-hole pile (CIDH) diameters will range from 30-36 inches with depths ranging from 35-45 feet into conglomerate bedrock. One tank at a time will be demolished and replaced in order to make water supply available to the residences at all times. Other improvements that will occur at the tank site include constructing a retaining wall; water main improvements; forming and pouring of concrete structures; installation of mechanical equipment; trenching for installation of connecting pipelines; connection of electrical supplies and controls; driveway and site paving (aggregate base, asphalt), various curbs and gutters; installing chain link fencing; and backfill and restoration.

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

The Project also includes disturbance of approximately 3,500 square feet (900 linear feet) of Castlewood Drive. Overflow pipe will be installed (trenching) within the existing paved roadway to discharge on the golf course fairway rock riprap protected outfall.

The Project also includes two possible staging areas, but only one of which would be used during construction. Staging Area 1 is approximately 5,000 square feet of undeveloped land and is located across the street from the tanks site. Staging Area 2 is approximately 12,000 square feet of undeveloped land and is located approximately 1,500 feet north of the tank site (off Castlewood Drive).

The Project includes the removal of approximately 30 trees. Construction equipment anticipated to be used include backhoe, excavator, trucks, concrete delivery, crane, and compactor. The Project site is within the range of the Covered Species and is known to or may support individuals of the species. The Project will result in the permanent loss or disturbance of 0.25 acres of habitat and temporary loss of 0.28 acres of habitat potentially used by Alameda whipsnakes and California tiger salamanders as movement and/or upland habitat and may result in take of the species as defined by the Fish and Game Code. These impacts fall within CDFW's permitting jurisdiction under CESA.

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency. [See CEQA Guidelines, § 15096, subs. (a), (f)]. 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 lead agency's prior analysis, CDFW has responsibility to mitigate or avoid only the direct or indirect significant 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, subs. (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. Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the Mitigated Negative Declaration 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).

FINDINGS:

CDFW has considered the Mitigated Negative Declaration adopted by ACPWA as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by ACPWA, 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 the potential for such 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 1.03 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. Permittee will prepare and submit a final mitigation report 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: 06/18/2019

By: Michael A. Smith #585 FOR GREGG ERICKSON

Gregg Erickson, Regional Manager
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE