



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
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(858) 467-4201  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

March 18, 2020

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**STATE CLEARINGHOUSE**

Ms. Lilly Rudolph  
City of Malibu  
28128 Pacific Coast Highway  
Malibu, CA 90265  
[lrudolph@malibucity.org](mailto:lrudolph@malibucity.org)

**Subject: Mitigated Negative Declaration for the Malibu Wastewater Treatment Plant Upgrade Project, City of Malibu, Los Angeles County**

Dear Ms. Rudolph:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the Malibu Wastewater Treatment Plant Upgrade Project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. 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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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## Project Description and Summary

**Objective:** The Project proposes the installation of an upgraded wastewater treatment plant to replace two existing on-site wastewater treatment systems (OWTS) through three phases:

- Phase 1: Site Preparation
  - o Relocation of existing mobile home park OWTS components to an interim location
  - o Demolition of portions of existing mobile home park OWTS
- Phase 2: Mobile Home Park Wastewater Treatment Plant Construction and Equipment Installation
  - o Construction of an electrical panel, electrical alcove, and retaining walls
  - o Installation of a recycled water plants and retaining walls
  - o Construction of a 1,058-square-foot structure to house sludge and disinfectant equipment
  - o Demolition of interim equipment
- Phase 3: Pipeline Installation and System Connection
  - o Installation of a 1,400-foot-long pipeline from the new Mobile Home Park Wastewater Treatment Plant to the existing Beach Café secondary treatment system
  - o Abandonment of one of the four Beach Café tanks located in the Beach Café parking lot
  - o Connection of all piping
  - o Exterior lighting
  - o Nonexempt grading

**Location:** The Project site consists of 69.6 acres located at 28128 Pacific Coast Highway on the south side of the highway. The property consists of two parcels of land within immediate proximity to the Pacific Ocean. The property includes the Paradise Cove Mobile Park and the Beach Café, both of which have their own OWTSs.

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Malibu (City) in adequately identifying, avoiding and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

## Project Description and Related Impact Shortcoming

### Comment #1: Impacts to Streams

**Issue:** *Figure 4. Upgraded Wastewater Treatment Plant* of the MND indicates that the pipeline running from the Mobile Home Park Treatment System to the Beach Café Secondary Treatment System will cross Ramirez Canyon Creek. Project-related activities, such as trenching and installation of the pipeline, are likely to impact on-site hydrologic features. CDFW has concerns about loss of aquatic habitat and Project runoff affecting water quality in the immediate area.

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**Specific impacts:** The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

**Why impacts would occur:** Ground disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project-related releases of sediment, organic matter, pathogens, and altered watershed effects resulting from Project activities.

**Evidence impacts would be significant:** The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide written notification to CDFW pursuant to Fish and Game Code, Section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW’s web site at [www.wildlife.ca.gov/habcon/1600](http://www.wildlife.ca.gov/habcon/1600).

CDFW’s issuance of an LSA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the City for the Project. However, the MND does not currently meet CDFW’s standard. To minimize additional requirements by CDFW pursuant to Fish and Game Code, Section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

**Mitigation Measure #2:** Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

**Filing Fees**

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

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## Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Malibu in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines; § 15073(e)]. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist, at [Andrew.Valand@wildlife.ca.gov](mailto:Andrew.Valand@wildlife.ca.gov) or (562) 342-2142.

Sincerely,

DocuSigned by:

*Erinn Wilson*

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Erinn Wilson

Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos  
Andrew Valand – Los Alamitos  
Felicia Silva – Los Alamitos  
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State Clearinghouse



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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

<b>Biological Resources</b>			
	<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1 – Notification for a Lake &amp; Streambed Alteration Agreement</b>	For activities resulting in the alteration of streams, the Project proponent must provide written notification to CDFW pursuant to Section 1600 <i>et seq.</i> of the Fish and Game Code. To minimize additional requirements by CDFW pursuant to Fish and Game Code, Section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document shall fully identify the potential impacts to the stream or riparian resources and shall provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.	Prior to construction	The City of Malibu  Project proponent
<b>MM-BIO-2 – Additional Measures in Lake &amp; Streambed Alteration Agreements</b>	To compensate for any on-site and off-site impacts to riparian resources, the Project proponent shall provide measures of avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.	Prior to construction	The City of Malibu  Project proponent