

Notice of Determination, CEQA Findings, and Mitigation Monitoring and Reporting Program



Bethany Dams Improvements Project

Mitigated Negative Declaration

SCH # 2014-04-2030



California Department of Water Resources

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Notice of Determination

Appendix D

To:

[X] Office of Planning and Research
U.S. Mail: P.O. Box 3044 Sacramento, CA 95812-3044
Street Address: 1400 Tenth St., Rm 113 Sacramento, CA 95814

[] County Clerk
County of:
Address:

From:

Public Agency: CA Dept of Water Resources
Address: 1416 Ninth Street Sacramento, CA 95814
Contact: Anthony Chu
Phone: 916-653-9978

Lead Agency (if different from above):
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2014042030

Project Title: Bethany Dams Improvements Project

Project Applicant: California Department of Water Resources

Project Location (include county): Bethany Reservoir, Alameda County, 10 miles northwest of Tracy

Project Description:

The proposed project includes maintenance actions to ensure the continued safe operation of the Bethany Reservoir, part of the State Water Project. These actions include the replacement of a seepage monitoring weir near the Bethany Forebay Dam's north abutment; removal of a palm tree growing from the interim plant outlet structure; and drainage ditch improvements to control vegetation, improve flow of water away from dam faces, and for seepage monitoring.

This is to advise that the Californial Department of Water Resources has approved the above (X) Lead Agency or () Responsible Agency)

described project on 10/9/2014 and has made the following determinations regarding the above (date) described project.

- 1. The project [] will [X] will not] have a significant effect on the environment.
2. [] An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. [X] A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [X] were [] were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [X] was [] was not] adopted for this project.
5. A statement of Overriding Considerations [] was [X] was not] adopted for this project.
6. Findings [X] were [] were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

http://www.oandm.water.ca.gov/bethany_dams_improvements.cfm

Signature (Public Agency): [Signature] Title: Program Manager

Date: 10/9/2014 Date Received for filing at OPR:

Adoption of the Mitigated Negative Declaration

Pursuant to the California Environmental Quality Act (CEQA), the California Department of Water Resources (DWR) finds the Mitigated Negative Declaration (including Initial Study; IS/MND) for the Bethany Dams Improvements Project (Project) has been completed in compliance with the California Environmental Quality Act (CEQA), that the IS/MND and all comments were reviewed and considered, and adopts the IS/MND. The IS/MND was filed at the State Clearinghouse (SCH) on April 9, 2014 (SCH # 2014-04-2030) and no comments requiring response were received during the 30 day review period. The IS/MND, NOI, and NOD can be found online at:
http://www.oandm.water.ca.gov/bethany_dams_improvements.cfm.

Findings

The following Findings are hereby adopted by DWR:

Potentially Significant Impacts that would be mitigated to Less-than-significant levels:

- **Air Quality**
Construction of the Project has the potential to violate air quality standards by temporarily generating emissions such as ROG, NOx, PM10, and PM2.5. Implementation of Mitigation Measure AQ-1 will reduce impacts from construction equipment emissions to less-than-significant.
- **Biological Resources**
Project activities including site preparation and vegetation removal have the potential to adversely affect sensitive or listed species, sensitive natural community, and federally protected wetlands. Implementation of Mitigation Measures Bio-1 – Bio-7 will reduce impacts to less-than-significant.
- **Cultural Resources**
Project activities including site preparation and vegetation removal have the potential to cause a substantial adverse change in the significance of an archaeological resource or disturb human remains. Mitigation Measures Cul-1 and Cul-2 will reduce impacts to less-than-significant.

The proposed Project will have a less-than-significant or no impact on Aesthetics; Agricultural and Forest Resources; Land Use and Planning, Mineral Resources; Population and Housing; Public Services; Recreation; Transportation/Traffic; Air Quality; Geology and Soils; Greenhouse Gas Emissions; Hydrology and Water Quality; Noise; and Utilities and Service Systems.

Mitigation Monitoring and Reporting Program

Table 1 includes the Mitigation Measures that will reduce Project impacts to less-than-significant, the party responsible for monitoring, implementation timeframes, and reporting.

Table 1. Summary of mitigation measures, responsible parties, and timing of monitoring compliance for the DWR Bethany Dams Improvements Project.

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
3.1 AESTHETICS			
None.			
3.2 AGRICULTURE AND FORESTRY RESOURCES			
None.			
3.3 AIR QUALITY			
<p>Mitigation Measure AQ-1: Reduce Construction-Related Emissions from Off-Road Equipment and Heavy-Duty Vehicles</p> <ul style="list-style-type: none"> ▶ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered as necessary to control fugitive dust. ▶ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▶ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▶ All vehicle speeds on unpaved roads shall be limited to 15 mph. ▶ All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. ▶ The simultaneous occurrence of excavation, grading, and ground-disturbing 	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <ul style="list-style-type: none"> ▶ Idling time of diesel powered construction equipment shall be no more than two minutes. ▶ Low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings) shall be used. ▶ All construction equipment, diesel trucks, and generators shall be required to be equipped with Best Available Control Technology for emission reductions of NOx and PM. ▶ All contractors shall be required to use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines. 			
3.4 BIOLOGICAL RESOURCES			
<p>Mitigation Measure Bio-1: General wildlife and plant protection measures</p> <ul style="list-style-type: none"> ▶ Before any construction activities begin, a US Fish and Wildlife Service-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description and discussion of the mitigation measures within this document and a brief description of each species listed in these measures including a discussion of identification, habitat and legal protections. ▶ A Service-approved biologist will be present during all ground disturbing 	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>activities and activities in wetted areas.</p> <ul style="list-style-type: none"> ▶ Project activities shall be performed during daylight hours. Work in wetted areas with standing water will take place between September 1st and October 31st. ▶ Absorbent materials will be available on site. Any accidental leaks or spills will be immediately cleaned up, and the equipment will not be able to return to the project area until it has been repaired sufficiently to prevent further leaks or spills. ▶ All trash shall be properly contained, removed from the work site, and disposed of properly to prevent attracting predators. ▶ Any observations of federally or state-listed species will be reported to the Service and the CDFW within three (3) working days of the observation. ▶ With the exception of California red-legged frogs and California tiger salamanders, all federally and state-listed species observed will be allowed to leave the project area on their own. The on-site Service-approved biologist will have the authority to determine whether activities must cease in order to ensure their protection. 			
<p>Mitigation Measure Bio-2: Avoid and minimize impacts to special status plants</p> <ul style="list-style-type: none"> ▶ Botanical surveys will be conducted by a botanist in the appropriate seasons for special status species that are potentially present within the project footprint. If any special status plants are detected, they will be flagged and avoided as 	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>appropriate, or in the case of annual plants, efforts will be made to maintain the affected population. If federal or state listed plants cannot be avoided, the appropriate regulatory agencies will be consulted regarding preservation methods.</p>			
<p>Mitigation Measure Bio-3: Avoid and minimize impacts to California tiger salamander</p> <ul style="list-style-type: none"> ▶ Work is to take place during daylight hours during the dry season and not during rain events. ▶ Any burrows or large cracks in the ground that may be temporarily traversed by heavy equipment traffic will be covered with plywood to prevent collapse of the burrows. ▶ Impacts to areas determined to be habitat for CTS will be fully mitigated, in consultation with USFWS and CDFW, through a mitigation bank. 	DWR	Prior to the start of and during construction as appropriate.	
<p>Mitigation Measure Bio-4: Avoid and minimize impacts to California red-legged frog</p> <ul style="list-style-type: none"> ▶ DWR will submit to the Service (at least 15 days prior to onset of activities) the names and credentials of the biologists who will conduct the activities specified in the following measures. No activities will begin until DWR has received written approval from the Service that the biologist(s) is qualified to conduct the work. Only Service-approved biologists shall participate in activities associated with capture, handling, and monitoring of California red-legged frogs. 	DWR	Prior to the start of, during, and after construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<ul style="list-style-type: none"> ▶ A Service-approved biologist(s) will survey the disturbance areas each morning immediately prior to maintenance activities and will remove California red-legged frogs, both before and during the seepage monitoring weir replacement, palm tree removal, or drainage ditch vegetation removal. Removed vegetation and sediment will be carefully placed in the dump truck bed and examined for frogs prior to being disposed of at the spoils site. ▶ All California red-legged frogs will be placed in a cool, clean container with fresh, clean, cool water. Adult and sub-adult frogs will be kept in separate containers. ▶ To the extent practicable, any bullfrogs found at the project site will be dispatched and removed from the site. ▶ The Lindsay Wildlife Museum in Walnut Creek, California, will be notified and sent any injured California red-legged frogs for rehabilitation. ▶ After maintenance activities have ceased, any California red-legged frogs held in captivity will be released back into the work site within wetland habitat that is unaffected by the maintenance activities. If there is insufficient wetland habitat at the drainage of origin, frogs will be released at the nearest available area with suitable habitat. Care will be taken to minimize the frog’s exposure to hydrogen sulfide. A minimum of one hour will pass after all maintenance activities within the pond or drainage have ceased before replacing the frogs. ▶ A report containing details of the construction activities and any observations of federally and state-listed species will be submitted to the Service and CDFW 			

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>within 30 days of project completion. The report will document the number of California red-legged frogs at each life stage that were known to be taken and the form of take (e.g., harassment by moving, mortality).</p> <p>► Impacts to areas determined to be habitat for California red-legged frogs will be fully mitigated, in consultation with USFWS and CDFW, pursuant to permit requirements.</p>			
<p>Mitigation Measure Bio-5: Swainson’s Hawk, raptor, and other migratory bird protection measures</p> <p>► A qualified biologist will conduct preconstruction surveys and identify active migratory bird nests within 250 feet, White-tailed Kite nests within 500 feet, and Swainson’s Hawk nests within 0.25 miles of the project footprint. Preconstruction surveys shall be conducted during the nesting season (March 15 to August 15) no less than 14 days and no more than 30 days before any construction activity begins. If no nests are found, no further mitigation is required. Any construction activity that occurs between August 16 and March 14, outside the nesting season, shall not require preconstruction surveys.</p> <p>► If nests are located, impacts shall be minimized by establishing an appropriate non-disturbance buffer zone around active nests in coordination with CDFW guidelines. Buffer zones shall be determined in consultation with CDFW and will depend on the species involved, site conditions, and type of work proposed. No new project activity shall occur within the buffer zone until the young have fledged, until the nest is no longer active, or until a qualified biologist has determined in consultation with CDFW that reducing the buffer would not</p>	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>result in nest abandonment. Monitoring of the nest by a qualified biologist during construction shall be required to ensure that nests are not jeopardized.</p> <ul style="list-style-type: none"> ▶ Preconstruction surveys will be conducted for Burrowing Owls within 500 feet of the project area 30 days prior to construction. If an active burrow is found during the breeding season (February 1 through August 31), clear, visible markers will be placed on the roadways to clearly demarcate the burrow location so vehicles traveling either direction on the road and workers at the project site will avoid disturbing the area. Where feasible, buffer zones will be implemented to minimize disturbance impacts while construction activities are occurring, following recommendations in the CDFW Staff Report on Burrowing Owl mitigation. ▶ If Burrowing Owls are present within 500 feet of the project area, active burrows will be monitored by a qualified biologist throughout the construction phase to determine the effectiveness of buffers, visual screens, or other measures, and to determine if the vehicle traffic is jeopardizing an active nest. DWR shall consult with CDFW for assistance in developing site-specific solutions, as needed, and to determine if the owls are sensitized to human disturbance and the survey effort can be reduced. 			
<p>Mitigation Measure Bio-6: Avoid and minimize impacts to San Joaquin kit fox</p> <ul style="list-style-type: none"> ▶ A qualified biologist shall conduct a pre-construction survey no more than two weeks prior to work commencing to determine if there are any potential San Joaquin kit fox dens are located within 200 feet of the disturbance areas. 	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<ul style="list-style-type: none"> ▶ Potential kit fox dens within 100 feet of a disturbance area will be tracked for three consecutive nights to determine if they are currently used by kit fox. ▶ Any potential kit fox dens located within 50 feet of a disturbance area will be temporarily blocked with burlap bags filled with soil (after three consecutive nights of tracking have been completed without evidence of San Joaquin kit fox use) to prevent them from using these dens during Project activities. ▶ A 100 foot exclusion zone will be marked around any known San Joaquin kit fox den within the survey area using lathe and flagging. 			
<p>Mitigation Measure Bio-7: Minimize impacts to jurisdictional waters of the United States and waters of the State</p> <ul style="list-style-type: none"> ▶ A temporary sediment barrier (silt fence) will be installed prior to work in wetted areas to prevent sediment from entering water bodies. ▶ All staging areas, parking areas, equipment, and storage areas for fuel, lubricants, and solvents will be located in areas away from waters of the United States and waters of the state. 	DWR	Prior to the start of and during construction as appropriate.	
3.5 CULTURAL RESOURCES			
<p>Mitigation Measure Cul-1: Halt Ground-Disturbing Construction Activities if Cultural Materials Are Discovered</p> <ul style="list-style-type: none"> ▶ If a discovery of cultural materials (e.g., unusual amounts of shell, animal bone, flaked stone, bottle glass, ceramics, structure/building remains, etc.) is encountered during project construction, ground disturbances in the immediate 	DWR	During construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>vicinity of the find shall be halted immediately and a qualified professional archaeologist shall be notified regarding the discovery. The archaeologist shall determine whether the resource is potentially significant as per the CRHR and identify appropriate management steps needed to protect and secure identified resources.</p>			
<p>Mitigation Measure Cul-2: Halt Construction Activities if Any Human Remains Are Discovered</p> <ul style="list-style-type: none"> ▶ In accordance with the California Health and Safety Code, if human remains are uncovered during ground disturbing activities, such activities that may affect the remains shall be halted and DWR or its designated representative shall be notified. DWR shall immediately notify the county coroner and a qualified professional archaeologist. If the coroner determines that the remains are those of a Native American, the coroner must contact the NAHC by phone within 24 hours of making that determination (Health and Safety Code, Section 7050[c]). ▶ DWR’s responsibilities for acting upon notification of a discovery of Native American human remains are identified in detail in Section 5097.9 of the California Public Resources Code. DWR or its appointed representative and the professional archaeologist shall consult with a Most Likely Descendant (MLD) determined by the NAHC regarding the removal or preservation and avoidance of the remains and shall determine whether additional burials could be present in the vicinity. 	DWR	During construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
3.6 GEOLOGY AND SOILS			
None.			
3.7 GREENHOUSE GASES			
<p>Greenhouse Gas Emissions Best Management Practices</p> <ul style="list-style-type: none"> ▶ BMP 1. Evaluate project characteristics, including location, project work flow, site conditions, and equipment performance requirements, to determine whether specifications of the use of equipment with repowered engines, electric drive trains, or other high efficiency technologies are appropriate and feasible for the project or specific elements of the project. ▶ BMP 2. Evaluate the feasibility and efficacy of performing on-site material hauling with trucks equipped with on-road engines. ▶ BMP 5. Evaluate the performance requirements for concrete used on the project and specify that batch plants be set up on-site or as close to the site as possible. ▶ BMP 6. Limit deliveries of materials and equipment to the site to off peak traffic congestion hours. ▶ BMP 7. Minimize idling time by requiring that equipment be shut down after five minutes when not in use (as required by the State airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site and provide a plan for the enforcement of this requirement. ▶ BMP 8. Maintain all construction equipment in proper working condition and perform all preventative maintenance. Required maintenance includes compliance with all manufacturer’s recommendations, proper upkeep and replacement of filters and mufflers, and maintenance of all engine and emissions systems in proper operating condition. Maintenance schedules shall be detailed in 	DWR	Prior to the start of and during construction as appropriate.	

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
<p>the Air Quality Control Plan prior to commencement of construction.</p> <ul style="list-style-type: none"> ▶ BMP 9. Implement tire inflation program on jobsite to ensure that equipment tires are correctly inflated. Check tire inflation when equipment arrives on-site and every two weeks for equipment that remains on-site. Check vehicles used for hauling materials off-site weekly for correct tire inflation. Procedures for the tire inflation program shall be documented in an Air Quality Management Plan prior to commencement of construction. ▶ BMP 10. Develop a project specific ride share program to encourage carpools, shuttle vans, transit passes and/or secure bicycle parking for construction worker commutes. ▶ BMP 14. Develop a project specific construction debris recycling and diversion program to achieve a documented 50% diversion of construction waste. ▶ BMP 15. Evaluate the feasibility of restricting all material hauling on public roadways to off-peak traffic congestion hours. During construction scheduling and execution minimize, to the extent possible, uses of public roadways that would increase traffic congestion. 			
3.8 HAZARDS AND HAZARDOUS MATERIALS			
None.			
3.9 HYDROLOGY AND WATER QUALITY			
None.			
3.10 LAND USE AND PLANNING			
None.			
3.11 MINERALS			
None.			
3.12 NOISE			
None.			

Mitigation Measure, Environmental Protection Measure, or BMP	Party responsible for monitoring	time frame for implementation	monitoring compliance
3.13 POPULATION AND HOUSING			
None.			
3.14 PUBLIC SERVICES			
None.			
3.15 RECREATION			
None.			
3.16 TRANSPORTATION/TRAFFIC			
None.			
3.17 UTILITIES AND SERVICE SYSTEMS			
None.			