




DEPARTMENT OF FISH AND GAME

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March 21, 2011

Ms. Susanne Klueh
Greater Los Angeles County Vector Control District
12545 Florence Avenue
Santa Fe Springs, CA 90670
Fax #: (562) 944-7976

Subject: Draft Mitigated Negative Declaration for Greater Los Angeles County Vector Control District Integrated Vector Control Program, State Clearing House #2011021049, Los Angeles County

Dear Ms. Klueh:

The Department of Fish and Game (Department) has received the draft Mitigated Negative Declaration (DMND) for the proposed Greater Los Angeles County Vector Control District Integrated Vector Control Program (Project). The Project proposes to conduct the following types of activities within the entire district service area of Los Angeles County to control mosquitoes, black flies and non-biting midges in order to reduce the risk of vector-borne disease:

- 1) Surveillance for vector populations, habitats, disease pathogens and public distress associated with vectors; this includes trapping and laboratory analysis of vectors to evaluate populations and disease threats, direct visual inspection of known or suspected vector habitats, the use of all-terrain vehicles, maintenance of paths, and public surveys;
- 2) Public Education;
- 3) Minor Vegetation Management to provide access to vector breeding sites and improve surveillance;
- 4) Provisions to the public of mosquito fish, *Gambusia affinis* within closed systems (ornamental pools, livestock troughs, etc.); application of the bacterium *Bacillus thuringiensis israelensis* or *B. sphaericus*, (Biological Control); and
- 5) Application of non-persistent selective insecticides to reduce populations of larval or adult mosquitoes and other invertebrate threats to public health (Chemical Control).

Vector control activities also include vegetation management activities in riparian zones consisting of pruning brush and trees to facilitate access for mosquito and mosquito habitat surveillance and control.

The District's project service area includes incorporated cities, certain unincorporated cities and one contract city throughout greater Los Angeles County.

The California Wildlife Action Plan, a recent Department guidance document, identified the following stressors affecting wildlife and habitats within the project area: 1) growth and development; 2) water management conflicts and degradation of aquatic ecosystems; 3) invasive species; 4) altered fire regimes; and 5) recreational pressures. The Department looks forward to working with the Lead Agency to minimize impacts to fish and wildlife resources

with a focus on these stressors. Please let Department staff know if you would like a copy of the plan to review.

The following comments were prepared under the Department authority as California's trustee agency for fish and wildlife resources, holding these resources in trust for the People of the State pursuant to various provisions of the California Fish and Game Code. (Fish & G. Code, §§ 711.7, subd. (a), 1802.) The Department submits these comments in that capacity under the California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, §§ 21070; 21080.4.) Given its related permitting authority under the California Endangered Species Act (CESA) and Fish and Game Code section 1600 et seq., the Department also submits these comments likely as a responsible agency for the Project under CEQA. (*Id.*, § 21069.):

Impacts to Biological Resources

1. Impacts to Special Status Wildlife and Botanical Species - The DMND states that, according to the California Department of Fish and Game's Natural Diversity Database (NDDDB) there are six known special status species within the Greater Los Angeles County Vector Control District (District). Of the six species and subspecies listed as "Endangered" or "Threatened" under the state and/or federal Endangered Species Acts (ESA), four occur in habitats where the district has routine operations. This includes the Coastal California gnatcatcher (*Poliioptila californica*), the Santa Ana sucker (*Catostomus santaanae*), the arroyo toad (*Bufo californicus*) and the least Bell's vireo (*Vireo bellii pusillus*). The DMND states that the District takes extreme care to avoid disturbance to listed endangered species by avoiding the use of bulky equipment and relying upon careful inspection and treatment, using small volumes of highly selective pesticides to minimize potential environmental impacts.
 - a. The Department concurs that extreme care should be employed to avoid adverse impact to special status endangered and threatened species and their habitats.
 - b. CEQA provides protection not only for state and federally listed species, but for any species including but not limited to state and federal candidate species proposed for listing, state fully protected species, California Species of Special Concern and plant species which can be shown to meet the criteria for State listing including Lists 1A, 1B and 2 of the California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California. Listed 1A, 1B and 2 plant species and California Species of Special Concern consist of plants and wildlife species that in many cases would qualify for listing and are considered special status species (CEQA Guidelines Section 15380 (d)). Significant adverse impacts to special status species and plant communities would require the preparation of an EIR unless appropriate avoidance and/or mitigation measures are implemented (CEQA Guidelines Sections 15065 (a)).
 - c. The habitat types in which project activities are proposed include some of the last remaining wetland ecosystems in Los Angeles County and warrant a more comprehensive species assessment effort than described in the DMND. The NDDDB should not be the primary source of information from which to assess project impacts, avoidance and mitigation measures for special status species. The NDDDB is not a comprehensive inventory of special status species in the project area and its exclusive use for project planning may result in adverse impacts to special status species not documented in the NDDDB for the project service area.
 - d. The Department recommends that habitats within the project service area and adjacent areas be evaluated for additional special status wildlife and botanical species and that focused surveys be conducted for these species within suitable habitat prior to initiation of proposed vector control activities by qualified individuals. Please include a

discussion on impacts to other special status species, avoidance and mitigation measures in the final MND. Focused wildlife and botanical surveys should conform to standard accepted Department protocols. Botanical surveys should adhere to the *Department's Guidelines for Assessing Impacts to Rare Plants and Rare Natural Communities* (Attachment 1). *See*

- e. A California Endangered Species Act (CESA) Incidental Take Permit (ITP) may be required if the project, project construction, or any project-related activity will result in "take" as defined by the Fish and Game Code of any species protected by CESA. (Fish & G. Code, §§86, 2080, 2081, subd. (b), (c).) CESA Permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. Early consultation with the Department regarding potential permitting obligations under CESA with respect to the Project is encouraged. (Cal. Code Regs., tit. 14, § 783.2, subd. (b).) It is imperative with these potential permitting obligations that the draft environmental document prepared by the Lead Agency includes a thorough and robust analysis of the potentially significant impacts to endangered, rare, and threatened species, and their habitat, that may occur as a result of the proposed project. For any such potentially significant impacts the Lead Agency should also analyze and describe specific, potentially feasible mitigation measures to avoid or substantially lessen any such impacts as required by CEQA and, if an ITP is necessary, as required by the relevant permitting criteria prescribed by Fish and Game Code section 2081, subdivisions (b) and (c). The failure to include this analysis in the project environmental document could preclude the Department from relying on the Lead Agency's analysis to issue an ITP without the Department first conducting its own, separate Lead Agency subsequent or supplemental analysis for the Project. (See, e.g., Cal. Code Regs., tit. 14, § 15096, subd. (f); Pub. Resources Code, § 21166.)

For these reasons, the following information is requested:

2. Protection of Native Birds – The Project has the potential for introducing human intrusion and removing and or disturbing vegetation and ground substrates and therefore may impact protected bird species. If human intrusion and/or removal of trees and other vegetation and or ground disturbances cannot be feasibly avoided, please be advised that Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918(50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory non-game birds (as listed under the Federal MBTA). Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1- August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).

If project activities cannot feasibly avoid the breeding bird season, the Department recommends that beginning thirty days prior to the disturbance of suitable nesting habitat the project proponent should arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys should be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys should continue on a weekly basis with the last survey being conducted no more than 3

days prior to the initiation of clearance/construction work. If a protected native bird is found, the project proponent should delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat (within 500 feet for suitable raptor nesting habitat) until August 31. Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, must be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. Limits of proposed project activities to avoid a nest should be established in the field with flagging and stakes or construction fencing marking the protected area 300 feet (or 500 feet) from the nest. Project personnel should be instructed on the sensitivity of the area. The project proponent should record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Vector control personnel must seek Department approval before conducting proposed project activities on state ecological reserves as described below.

Impacts to Riparian Resources

The project may result in impacts to Departmental jurisdictional streams. The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) or a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of a LSA is a project subject to CEQA. To facilitate issuance of a LSA, if necessary, the environmental impact report should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. Again, the failure to include this analysis in the Project environmental impact report could preclude the Department from relying on the County's analysis to issue a LSA without the Department first conducting its own, separate lead agency subsequent or supplemental analysis for the Project. Further information on the Department's Lake and Streambed Alteration Program and initiating a Department streambed jurisdiction determination may be found at: www.dfg.ca.gov/1600/index.html.

Project Activities Conducted Within Ecological Reserves

1. State Ecological Reserves (ER) are established to provide protection for rare, threatened or endangered native plants, wildlife, aquatic organism and specialized terrestrial or aquatic habitat types. Please contact the Department for authorization prior to performing any vector control activities within an ER. Public entry may be restricted on any area within an ER at the discretion of the Department to protect the wildlife, aquatic life, or habitat. No person, except state and local law enforcement officers, fire suppression agencies and employees of the Department in the performance of their official duties or persons possessing written permission from the department, may enter any ER, or portion thereof, which is closed to public entry. (Title 14, California Code of Regulations (CCR), Section 630 (a)(10)). CCR, Section 630(b)(9) includes conditions specifically for the Ballona Wetland ER in Los Angeles County (attached), which include but are not limited to: the restriction of

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pedestrians to existing trails from designated reserve access points and restrictions on the placement of signage, flagging or markers.

Thank you for this opportunity to provide comments. Please contact Mr. Scott Harris, Environmental Scientist at (626) 797-3170 if you should have any questions and for further coordination on the proposed project.

Sincerely,

for
Edmund Pert
Regional Manager
South Coast Region

Attachment

cc: Ms. Helen Birss, CDFG, Los Alamitos
Ms. Terri Dickerson, CDFG, Laguna Niguel
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