

# Staff Report

**TO:** Central Files

**FROM:** Tonia M. Tabucchi Herrera, PE, Senior Engineer

**DATE:** June 30, 2021

**SUBJECT:** Hemphill Diversion Project (#7032) DEIR Public Comment Period –  
Written Comments Received

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## **ENGINEERING**

Please find the attached written comments as noted below received during the Hemphill Diversion Project DEIR Public Comment Period. This is in addition to the previous memo issued June 2, 2021 for comments received.

- California Department of Fish and Wildlife (May 17, 2021)



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599  
916-358-2900  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



May 17, 2021

Kris Stepanian  
Nevada Irrigation District  
1036 Main Street  
Grass Valley, CA 95945  
[stepaniank@nidwater.com](mailto:stepaniank@nidwater.com)

Subject: HEMPHILL DIVERSION STRUCTURE PROJECT - DRAFT  
ENVIRONMENTAL IMPACT REPORT  
SCH# 2020090032

Dear Ms. Stepanian:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Draft Environmental Impact Report (DEIR) from Nevada Irrigation District (NID) for the Hemphill Diversion Structure Project (Project) in Placer County pursuant the California Environmental Quality Act (CEQA) statute and guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the DEIR on October 1, 2020.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

## CDFW 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 & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. 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 & G. Code, § 2050 et seq.), the NID may seek related take authorization as provided by the Fish and Game Code.

### PROJECT DESCRIPTION SUMMARY

The Project site is located in Placer County, just east of the City of Lincoln, within Auburn Ravine. The Project site is located at latitude 38.896731 and longitude -121.251885 (WGS84 datum, decimal degrees).

NID is considering three Project alternatives to remove the Hemphill Diversion Structure, which impedes the passage of anadromous fish species in Auburn Ravine, while still maintaining water deliveries to customers served by the Hemphill Canal. The three Project alternatives include:

- *Alternative 1 – Riverbank Infiltration Gallery Alternative:* Includes the removal of the diversion structure, site stabilization, and construction of a subterranean riverbank infiltration structure and pipeline connection to Hemphill Canal.
- *Alternative 2 – Fish Passage Alternative:* Includes the removal of the diversion structure, site stabilization, construction of a nature-like roughen rock ramp instream fish passage, installation of a fish screen and improvements to a portion of the Hemphill Canal.
- *Alternative 3 – Pipeline Alternative:* Includes the removal of the diversion structure, site stabilization, and installation of a new 4.5 mile 24-inch pipeline within existing roadway right-of-way (ROW). The pipeline would divert water from the Auburn Ravine 1 Canal located at the NID Placer Yard facility to the Hemphill Canal near the existing diversion structure.

Each alternative is designed to allow anadromous fish to migrate past the Hemphill Diversion Structure site and would require removal of the existing diversion structure. NID has not yet identified a preferred alternative.

### COMMENTS AND RECOMMENDATIONS

During 2017 NID was awarded a Proposition 1 Watershed Restoration Grant for Phase 2 of the Hemphill Diversion Assessment. CDFW staff participated in a technical advisory committee (TAC) alternative development process associated with this grant and submitted comments to NID for consideration. Some of the comments below reflect those interactions with NID staff during the TAC meetings. CDFW offers the comments

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and recommendations presented below to assist NID in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on fish and wildlife resources. Editorial comments or other suggestions may also be included to improve the document.

### **Placer County Conservation Program**

The Project is located within the Foothills portion of Plan Area A of the Placer County Conservation Program (PCCP). The PCCP comprises three planning documents published by Placer County: the Western Placer County Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP), the Western Placer County Aquatic Resources Program, and the Western Placer County In-Lieu Fee Program.

The PCCP has been approved and adopted by the Permittees (Placer County, City of Lincoln, South Placer Regional Transportation Authority, Placer County Water Agency, and the Placer Conservation Authority) and as of April 22, 2021, has received all corresponding HCP/NCCP permits and incidental take coverage for the Covered Species from the Wildlife Agencies (CDFW, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, National Oceanic and Atmospheric Administration). In addition, the Central Valley Regional Water Quality Control Board, U.S. Army Corps of Engineers, and U.S. Environmental Protection Agency are the permitting or overseeing agencies for elements of the PCCP subject to the state Porter-Cologne Water Quality Act and the federal Clean Water Act.

The HCP/NCCP Conservation Strategy identifies the need to form private partnerships to remove high-priority fish passage barriers identified within the HCP/NCCP Plan Area, including Hemphill Dam (HCP/NCCP Section 5.3.2.3.3, CM2 RAR-2, *Removal and/or Modification of Barriers to Fish Passage*). CDFW encourages NID to pursue a partnership with the Placer Conservation Authority (PCA) to cover the Project under the PCCP as a Participating Special Entity (HCP/NCCP Section 2.4.6, *Participating Special Entities*). A successful partnership to complete the Project and remove a high-priority fish passage barrier will further the goals and objectives of the PCCP. Additionally, it will provide NID take coverage for applicable Covered Species as well as streamlined/programmatic permitting for impacts to state and federally protected aquatic resources.

The PCCP planning documents, application materials, and other related documents can be found here: <https://www.placer.ca.gov/3362/Placer-County-Conservation-Program>.

### **PROJECT ALTERNATIVES AND RELATED IMPACTS**

As stated in CDFW's previously submitted comments in response to the Notice of Preparation of the DEIR on October 1, 2020, CEQA Guidelines section 15125(d) states that EIRs shall discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). To comply with the CEQA guidelines, CDFW recommends that the DEIR include a discussion of each Project alternative's consistency with the Western Placer County HCP/NCCP and

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how NID will ensure that implementation of the Project alternatives do not impede the HCP/NCCPs ability to meet its biological goals and objectives. The primary goal identified in the HCP/NCCP Conservation Strategy for fall-/late fall-run Chinook salmon (*Oncorhynchus tshawytscha*) and steelhead (*Oncorhynchus mykiss*), both Covered Species under the HCP/NCCP, is “increased spawning, rearing, and migratory success of covered salmonids in the Auburn Ravine, Raccoon Creek, and Dry Creek watersheds” (HCP/NCCP Section 5.2.7.9, *Fish*).

### **Alternative 1 – Riverbank Infiltration Gallery Alternative**

The CDFW's fish screen criteria are included in Appendix S of Volume One of the California Salmonid Stream Habitat Restoration Manual, which can be found at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=22610&inline>.

The CDFW fish screen numeric criteria address conventional screen technology but does not cover infiltration galleries or experimental technology. For this reason, CDFW relies upon the current National Oceanic and Atmospheric Administration Fisheries' (NOAA Fisheries) Salmonid Passage Facility Design document (NOAA Fisheries' document). This document can be found online at:

<https://www.fisheries.noaa.gov/resource/document/anadromous-salmonid-passage-facility-design>.

Section 12.1 of NOAA Fisheries' document explains that infiltration galleries are considered “experimental technology” and should be designed to meet the same level of protection as conventional fish screens, but that the risk of improperly siting these facilities is that “failure may occur that results in severe adverse habitat impacts and loss of habitat access in addition to the loss of the diversion.” The NOAA Fisheries' document specifically addresses fish protection criteria in the design of infiltration galleries in Section 12.5.

The bed and banks of Auburn Ravine are highly dynamic, and CDFW anticipates that both erosion and/or deposition could be problematic at the proposed riverbank infiltration gallery site. The DEIR states on page 3.3-48 that “under Alternative 1 and 3, the upstream channel incision may be up to 5 to 8 feet in the 500 to 1,000 feet reach upstream of the dam, and less than three feet further upstream...In the 1,000 feet upstream of the dam, the channel incision may induce bank instability and erosion over a multi-year period as the channel adjusts”. Erosional processes could adversely affect this current design because scour around the facility would likely reduce the diversion and fish protection effectiveness. Alternately, depositional processes have a high potential to clog the gravel, non-woven protective fabric, and diversion pipes of the proposed infiltration gallery.

Permeable infiltration galleries are prone to become ineffective due to plugging by sediments (NOAA Fisheries Document, Section 12.3). Because the site is in a stream with highly mobile bed and banks, and the post-dam-removal topography is unknown at this stage, the amount of erosion around the facility, sedimentation volume, and cleaning system effectiveness are all very difficult to forecast at this time. NOAA

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Fisheries' infiltration gallery criteria (NOAA Fisheries Document, Section 12.5.1.7) states that an infiltration gallery should be backwashed using air or water when head loss measurements indicated that the average vertical interstitial velocity through the gravel is equal to or greater than 0.10 feet/second. The DEIR should require that a robust operation and maintenance plan is prepared if Alternative 1 is selected. This plan should include provisions to conduct regular hydraulic conductivity testing or use multiple on-site piezometers to determine head loss across the substrate to calculate the effective porosity of the gravel substrate.

In the DEIR, NID does not identify a preferred Project alternative; if this alternative is selected, CDFW recommends that the DEIR includes:

- A. The amount of long-term sedimentation or scour that could be expected to affect the infiltration gallery site, including:
  - Whether the amount of sedimentation could be effectively and consistently cleared using the design components included from the infiltration gallery and placed engineered fill; and
  - Whether materials used to construct the infiltration gallery have a likelihood of scour during high flow events and could cause additional erosion or downcutting of the stream at this location.
- B. Whether fish screening criteria could be met for this design, including but not limited to:
  - Infiltration galleries should not be installed at sites where natural sedimentation occurs that would plug a gallery (Section 12.4).
  - The infiltration gallery must be designed to withdraw water primarily from the portion of the stream located directly above the infiltration gallery (Section 12.5.1.1).
  - Infiltration galleries should not be operated when the water depth above the riverbed over any part of the infiltration gallery is less than 0.5 feet (Section 12.5.1.2).
  - The maximum vertical interstitial velocity through the substrate ( $V_s$ ), must not exceed 0.05 feet/second when the substrate is new and/or after backwashing (Section 12.5.1.6).
  - What specific evaluation and monitoring would be used to document that the infiltration gallery does not result in increased impacts to fish and wildlife resources.

If Alternative 1 is selected, CDFW recommends that NID work closely with CDFW and NOAA Fisheries staff throughout the design process to ensure that all applicable screen

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criteria are met for the respective agencies' requirements and to obtain applicable Project approvals and permits.

### **Alternative 2 - Fish Passage Alternative**

The DEIR states that the erosion on the downstream side of Hemphill Dam described in DEIR Appendix 3.8E (*Hemphill Diversion Structure and Fish Passage Assessment – Final Report*) has the potential to undercut and cause the dam to fail. Sudden failure of the dam would cause severe riverbank downcutting, downstream movement of impounded sediments, and failure of the diversion structure. Project Alternative 2 involves removal of the Hemphill Dam structure and reconstruction of a grade-controlled nature-like fishway. The redesign and rebuild of the existing dam proposed in this alternative in the DEIR would help maintain the hydraulic head needed to maintain diversions at this location while upgrading the failing facility.

The preliminary concepts provided in the DEIR Appendix 3.8E present a project that could allow for safe and timely passage of fall-/late fall-run Chinook salmon, steelhead, and Pacific lamprey (*Lampetra tridentata*) in addition to other game and non-game fish species.

Fish passage criteria for nature-like fishways are defined in NOAA Fisheries' document (Section 4.10.2.2, *Roughened Channels*) and specify that, in general, roughened channels should only be used when:

- Channel slope using stream simulation is less than 6%; and
- Total length of passage is less than 150 feet.

The DEIR should include sufficient information to demonstrate in the design analysis that any scouring of fines from the constructed channel will be refilled by subsequent bedload transport and aggradations.

CDFW requests that NID staff and consultants work with CDFW staff through the design process to prepare finalized passage plans that meet fish passage and screening criteria and will be constructed using materials that will be stable through the expected range of flows that are observed at this site location.

### **Alternative 3 – Pipeline Alternative**

The DEIR states on page 3.3-68 that:

“...the Pipeline installation alternative would cause a substantial reduction in flows during drought conditions. This would cause an associated reduction in rearing juvenile Chinook salmon, steelhead, and Pacific lamprey habitat quantity and quality relative to existing conditions. Because no feasible mitigation is available, this is a significant unavoidable impact on rearing juvenile Chinook salmon, steelhead, and Pacific lamprey habitat within this reach.”

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Additionally, the DEIR states on page 3.3-86 that:

“...the substantial reduction in flows and associated reduction in habitat quantity and quality that would occur, implementation of Alternative 3 Pipeline improvements would have a significant and unavoidable impact on aquatic wildlife movement and/or migration, particularly rearing juvenile steelhead in this reach. There is no feasible mitigation available to reduce this impact to less than significant.”

CDFW staff agree with the DEIR conclusions that reductions in flows in Auburn Ravine downstream of Gold Hill Dam associated with the Project Alternative 3 would result in significant and unavoidable impacts on rearing Chinook salmon, steelhead, and Pacific lamprey habitat within the affected reach of Auburn Ravine, in addition to significant unavoidable impacts on migration and instream movement of fish.

As discussed on DEIR page 4-16, implementation of Project Alternative 3 and the associated flow reductions in Auburn Ravine could result in a range of effects including “increased potential for low-flow barriers (e.g., shallow riffles or dry reaches), reduced food availability, dewatering of fish redds and associated egg desiccation, conversion to habitats that favor non-native fish, and increased susceptibility to predation”.

Based on these potential effects, CDFW recommends that the DEIR be updated to evaluate the potential impacts to HCP/NCCP Covered Species and natural communities associated with Project Alternative 3, and further evaluate whether or not Project Alternative 3 is likely to impede the HCP/NCCPs ability to fulfill the biological goals and objectives (CEQA Guidelines § 15125, subd.(d).).

## **ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES**

### **Foothill Yellow-Legged Frog**

DEIR page 3.3-19 states that “...foothill yellow-legged frog [was] determined to be absent from the Project Study Area due to the lack of suitable habitat or because the Project Study Area is outside of the current known range of the species”. Please note that recently the Initial Study/Mitigated Negative Declaration prepared by NID for the Valley View Access Road Construction Project (SCH# 2020100266), located approximately 4.28 miles due north from the Project site, stated that a reconnaissance-level wildlife survey conducted in the spring of 2018 observed an individual foothill yellow-legged frog (*Rana boylii*; FYLF) and egg masses within the irrigation ditch located on the Project site. The FYLF and egg mass observation at the Valley View Access Road Construction Project site occurred at a similar elevation as the Project Study Area within the Doty Ravine/Raccoon Creek watershed. Additionally, the reach of Auburn Ravine immediately upstream of the Project Study Area as well as tributaries to Auburn Ravine in the Project vicinity have been modeled as year-round FYLF habitat (HCP/NCCP, Appendix D, *Species Accounts*).

Given the limited historic survey data available in the immediate Project vicinity, and the lack of information regarding the distribution and extent of the current FYLF population

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in Placer County within the HCP/NCCP Plan Area, CDFW recommends that NID conduct FYLF surveys and habitat assessments throughout the Project Study Area and include the results in the DEIR. CDFW recommends that surveys be conducted in accordance with CDFW's Considerations for Conserving the Foothill Yellow-Legged Frog (2018), available here:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>. Surveys should include at least one Visual Encounter Survey (VES) during the breeding and/or oviposition period (generally April – June), a tadpole survey four to eight weeks after the breeding survey(s), a subadult survey in late summer/early fall (generally late August to early October), and a final VES within 3 to 5 days prior to starting work.

The Northeast/Northern Sierra clade of FYLF is listed as threatened under CESA. Based on the information in the DEIR, construction of the Project alternatives, including the reduction of instream flows in Auburn Ravine below the Gold Hill Dam associated with Alternative 3, may cause take of FYLF adults, larvae, and/or egg masses, if present at the time of Project activities (Fish & G. Code section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”). FYLF is a Covered Species under the Western Placer County HCP/NCCP. If the Project requests and receives approval from the PCA and Wildlife Agency concurrence to cover the Project under the HCP/NCCP as a Special Participating Entity (see HCP/NCCP Section 8.9.4.1 - *Application Process for Participating Special Entities*), the Project would acquire take authorization for FYLF under the HCP/NCCP. If the Project does not participate in the HCP/NCCP, the Project must comply with CESA by implementing measures to avoid take of FYLF. If the Project cannot avoid take, CDFW recommends that NID obtain a CESA Incidental Take Permit. To ensure that any impacts to FYLF can be mitigated to a less-than-significant level, the DEIR should include additional avoidance, minimizations, and or mitigation measures in the event this species is detected during Project surveys.

### **Tricolored Blackbird**

DEIR Mitigation Measure BIO-10 states in part:

“If active nests are located during the preconstruction surveys, the biologist shall notify CDFW. If necessary, modifications to the Project design to avoid removal of occupied habitat while still achieving Project objectives shall be evaluated and implemented to the extent feasible. If avoidance is not feasible or conflicts with Project objectives, construction shall be prohibited within a minimum of 100-feet of the nest to avoid disturbance until the nest colony is no longer active. These recommended buffer areas may be reduced or expanded through consultation with CDFW. Monitoring of all occupied nests shall be conducted by a qualified biologist during construction activities to adjust the 100-foot buffer if agitated behavior by the nesting bird is observed.”

CDFW is concerned that a 100-foot buffer may not be sufficient to avoid significant impacts during Project activities or to ensure that take of tricolored blackbird (*Agelaius tricolor*) does not occur due to nest abandonment/failure resulting from disturbances

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associated with Project activities. CDFW recommends that Project specific avoidance buffers should be developed when nests are identified during surveys and should take into consideration the nature of construction impacts, nest location in relation to Project activities, presence of visual barriers such as vegetation or structures, etc. Additionally, Mitigation Measure BIO-10 does not specify the designated survey area for conducting nesting tricolored blackbird preconstruction surveys, only referring to surveys occurring before vegetation removal activities within potential nesting habitat. CDFW recommends that preconstruction surveys for nesting tricolored blackbirds include all suitable nesting habitat located within 1,300 feet of Project work areas, equipment access routes, and staging areas (with landowner permission or including those areas visible from the Project footprint and/or public roads) to ensure that all active nesting colonies adjacent to the Project footprint are identified and avoided during Project implementation.

### **Roosting Bats**

CDFW recommends that Mitigation Measure BIO-13 be revised to ensure that Project activities do not result in significant adverse impacts to hibernating or maternity colonies. Due to the potential for significant adverse effects to hibernating or maternity colonies during Project vegetation removal activities, CDFW recommends the following to reduce impacts to a less than significant level:

- **Habitat Surveys**: A qualified biologist with education and experience in bat biology and identification, should conduct pre-Project surveys or monitoring, usually over the course of spring, summer, fall, and winter (and possibly for two or more years), at the Project site for potentially suitable bat roosting habitat and, if bats are present, to determine which bat species are using the site. The bat habitat assessment should identify: 1) the location of any roosting sites; 2) the number of bats present at the time of assessment (count or estimate); 3) species of bats present; 4) the type of roost: night roost (rest at night while out feeding) versus a day roost (resting during the day); and 5) species specific measures to compensate for the loss of suitable bat habitat. If the Project contains suitable bat roosting habitat, multiple survey visits are necessary because different species may use a particular roost only during certain seasons (maternity, hibernation, dispersal, migration). Further, multiple visits within a season may be necessary to ensure intermittent use is observed. Due to year-to-year variation in use, multiple years of surveys may also be necessary.
- **No Disturbance Buffer**. If an active bat roost is found, a qualified bat biologist should establish a no-disturbance buffer around the roost. The width of the buffer should be determined by the qualified bat biologist based on the bat species, specific site conditions, and level of disturbance. The buffer should be maintained until a qualified bat biologist determines that the roost is no longer active.
- **Roost Removal Timing**. If the habitat assessment reveals suitable bat habitat then tree trimming, tree removal, structure removal and/or structural work should

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only be conducted during seasonal periods of bat activity (September 1 through October 15, when young would be self-sufficiently volant and prior to hibernation; and March 1 to April 15 to avoid hibernating bats and prior to formation of maternity colonies) under supervision of a qualified biologist. Trees should be trimmed and/or removed in a two-phased removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches should be removed using chainsaws only. Limbs with cavities, crevices or deep bark fissures should be avoided, and only branches or limbs without those features should be removed. On the second day, the entire tree should be removed.

- **Bat Exclusion.** If an active bat roost is found in a tree or structure that must be removed, a qualified bat biologist should prepare a plan for the passive exclusion of the bats from the roost for CDFW review and approval. Exclusion should be scheduled either (1) between approximately March 1 (or when evening temperatures are above 45°F and rainfall less than ½ inch in 24 hours occurs) and April 15, prior to parturition of pups; or (2) between September 1 and October 15 prior to hibernation (or prior to evening temperatures dropping below 45°F and onset of rainfall greater than ½ inch in 24 hours). A qualified bat biologist should monitor the roost prior to exclusion to confirm that it does not support a maternity colony or hibernaculum. If a maternity colony or hibernaculum is or may be present, the roost should be avoided until it is no longer active, or until the qualified bat biologist can confirm that no maternity colony or hibernaculum is present. CDFW does not support eviction of bats during the maternity or hibernation periods.
- **Replacement Structures.** If the bat roost cannot be avoided, replacement roost structures (bat houses or other structures) should be designed to accommodate the bat species they are intended for. Replacement roost structures should be in place for a minimum of one full year prior to implementing the Project. The replacement structures should be monitored to document bat use. Ideally, the Project would not be implemented unless and until replacement roost structures on site are documented to be acceptable and used by the bat species of interest.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

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### FILING FEES

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

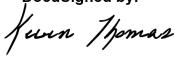
### CONCLUSION

Pursuant to Public Resources Code sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the DEIR for the Hemphill Diversion Structure Project to assist NID in identifying and mitigating Project impacts to fish and wildlife resources. CDFW personnel are available for consultation regarding biological resources, permitting processes, and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter or wish to schedule a meeting and/or site visit, please contact Patrick Moeszinger, Senior Environmental Scientist (Specialist) at (916) 767-3935 or [patrick.moeszinger@wildlife.ca.gov](mailto:patrick.moeszinger@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
A2A0A9C574C3445...  
Kevin Thomas  
Regional Manager

cc: Juan Torres, Senior Environmental Scientist (Supervisory)  
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Duane Linander, Habitat Restoration Coordinator

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*Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento