

MEMORANDUM

Date: December 21, 2017
To: Walter Ward, Stanislaus County Department of Environmental Resources
Prepared by: Juliet Hutchins, Staff Geologist and Project Manager
Reviewed by: Mike Tietze, PG, CEG, CHG
Subject: Response to Comments Received Regarding the Draft Initial Study/Mitigated Negative Declaration for Well Permit Application 2017-117 for Larry Gillum Agricultural Well, Stanislaus County, California

This memorandum documents the comments received regarding the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for Well Permit Application 2017-117 for the Larry Gillum Agricultural Well, Stanislaus County, California. Also included are responses to these comments.

PUBLIC NOTICING AND REVIEW PERIOD

A Notice of Intent (NOI) to adopt a Mitigated Negative Declaration for Well Permit Application 2017-117 submitted by Larry Gillum (the Applicant) to construct an agricultural well on Assessor's Parcel No. 001-011-031 (the Project) was transmitted to the California Office of Planning and Research State Clearinghouse (SCH) and the Stanislaus County Clerk on October 27, 2017. The notice described the proposed action and advertised the availability of the IS/MND for review and public comment between October 31, 2017 and November 30, 2017. The following notifications and filings were made:

- State Clearinghouse: A Notice of Completion & Environmental Transmittal Form, the NOI, a Summary Form for Electronic Document Submittal (Form F), one hard copy of the IS/MND, and 15 electronic copies of the IS/MND;
- County Clerk: Two copies of the NOI;
- Property Owners within 0.25 miles of the parcel on which the proposed well is located: A hard copy of the NOI was mailed;
- Potentially Interested Agencies: A hard copy of the NOI was mailed;

- The Calaveras Band of Mi-Wuk Indians, North Valley Yokuts Tribe, Southern Sierra Miwuk Nation, Tule River Indian Tribe, Tuolumne Band of Me-Wuk Indians, and the California Valley Miwok Tribe: A hard copy of the NOI was mailed;
- County Agencies and Departments: A copy of the NOI and a California Environmental Quality Act (CEQA) 30-Day Referral form summarizing the project and proposed action were distributed via email;
- Newspaper of Local Circulation: The description of the project, the County's intent to adopt the IS/MND, the public comment period, and the availability of documents for review were advertised in the Modesto Bee on October 27, 2017;
- Electronic copies of the IS/MND and NOI were posted on the County's groundwater website; and
- A hard copy of the IS/MND was available for review at the County Department of Environmental Resources at 3800 Cornucopia Way, Modesto, CA.

RESPONSE TO COMMENTS

A total of four comment letters were received during the public comment period. These letters do not raise any new issues or provide substantial evidence that the potential impacts of the proposed agricultural well have not been adequately evaluated. The letters are attached and a brief summary of the letters and responses to comments is presented below.

2017-11-30 Brayton

Mr. Robert Brayton commented on behalf of Stella LLC, which is a farming operation that has irrigation wells placed adjacent to the Applicants property. Mr. Brayton raised concerns about the quantity and quality of water coming from his well for his approximately 105 acres of walnut orchards. He points out that he is heavily invested in his orchards, and a loss of water could adversely affect his operation. He wondered if the County was taking into consideration the water issues in the area, and while he doesn't object to a new well, he doesn't want his ability to farm negatively impacted in any way. Mr. Brayton also wanted clarification that the new well would be located on APN No. 001-011-031, and not the location originally requested by the Applicant in the Kleinfelder report (APN No. 001-011-039).

The County appreciates Mr. Brayton's comments, and his concerns are noted. A conservative drawdown analysis concluded that after 20 years of pumping, induced drawdown would impact Mr. Brayton's well by less than 20 feet. (Mr. Brayton's well is located approximately 2,700 feet from the proposed well location and is predicted to experience up to approximately 5 feet of drawdown as a result of pumping the proposed well.). This amount of drawdown is not expected to significantly diminish the yield of nearby wells, or to affect their reliability. The location of the proposed well is confirmed to be located on APN 001-011-031.

2017-11-21 California Regional Water Quality Control Board, Central Valley Region (RWQCB)

The RWQCB sent a letter indicating they are responsible for administering and enforcing a variety of regulatory programs to protect the quality of surface and groundwater in its jurisdiction. These programs include the Basin Water Quality Control Plan, which incorporates several State and Federal regulatory programs, the Anti-Degradation Policy, and several permitting programs, including the Construction Storm Water General Permit, Phase I and Phase II Municipal Separate Storm Sewer Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permits, Clean Water Act Section 401 Water Quality Certifications, Waste Discharge Requirements, Dewatering Permits, Irrigated Lands Regulatory Program (ILRP), Low or Limited Threat General NPDES Permit, and a NPDES Permit.

The Initial Study/Mitigated Negative Declaration found that the Project would not result in a significant degradation of water quality or interfere with an active water quality cleanup project. The IS/MND also indicated that the Applicant will need to comply with the ILRP for the orchard that is proposed to be irrigated by the proposed well. The Project is not required to obtain construction or industrial stormwater or waste discharge permits; therefore, the other listed regulatory programs are not applicable to this Project.

2017-11-27 California Department of Fish and Wildlife (CDFW)

The CDFW sent a letter indicating they are the Trustee Agency for fish and wildlife, and hold those resources in trust by statute for all the people of the State. In this capacity, they have jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. In addition, they are also a Responsible Agency under CEQA for projects subject to the lake and streambed alteration authority of Section 1600 *et seq.* of the Fish & Game Code or the regulation of “take” of a protected species under the California Endangered Species Act. The CDFW advises that the Project may require an Incidental Take Permit and/or Lake and Streambed Alteration Agreement in order to comply with Fish and Game Code if the project results in incidental take of a listed species or affects a stream or lake. They further recommend consulting with United States Fish and Wildlife Service on potential impacts to federally-listed species

CDFW requests that “prior to any ground-disturbing activities, the potential Project-related impacts to the California tiger salamander in and surrounding the Project footprint be evaluated by a qualified biologist using Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander”.

CDFW also recommends the Project proponent and Lead Agency provide clarification on the construction of the proposed well and whether groundwater extraction from the well may involve the diversion of sub-surface flow, which they state could require a Lake or Streambed Alteration Notification.

In addition, they remind the readers that CEQA requires information developed in environmental impact reports and negative declarations be incorporated into a database that may be used to make subsequent or supplemental environmental determinations. Specifically, any special status species or natural communities observed during surveys associated with the project must be reported to the California Natural Diversity Database (CNDDDB).

Comments from CDFW are appreciated. As stated in the IS/MND, a qualified biologist surveyed the Project site, Area of Potential Effects (APE), and surrounding area on July 25, 2017, and did not find any evidence of special status species or natural communities. No burrows were observed on the project site, or in the surrounding area and therefore, the biologist concluded that the area did not include any suitable upland refugia habitat for the California tiger salamander even though there aquatic habitat was present near to the Project site. The California tiger salamander requires burrows, but is itself not a burrowing animal. Therefore, it requires preexisting burrows excavated by other species as upland refugia. The absence of burrows on the Project site or in the surrounding area indicates the area is not suitable upland refugia habitat for the California tiger salamander to live, therefore, it was concluded that California tiger salamanders are not reasonably expected to occupy the site no incidental “take” will occur. Based on this comment from the CDFW, language has been added to the Final IS/MND to assist with this clarification and better communicate the biologist’s findings regarding the potential for the presence of the California tiger salamander.

A seasonal stock pond and Littlejohns Creek are located on portions of the property that will not be affected by construction or operation of the proposed well or the orchard it will be used to irrigate. The IS/MND states that the well will draw water from the regional aquifer, which is hydraulically separated from the perched aquifer that is in communication with Littlejohns Creek. While the depth of the surface seal to be used for the proposed well was not specified in the Draft IS/MND, the language regarding the construction specifications of the proposed well has been updated in the Final IS/MND to specify a requirement of a 100-foot seal to prevent any drawdown of water from the shallow perched zone (i.e., sub-surface flow to the creek). Groundwater elevation in the area has already been evaluated and determined to be too deep to be connected to nearby Littlejohn’s Creek.

2017-11-06 Stanislaus Co unty Environmental Review Committee (ERC)

The Stanislaus County Environmental Review Committee (ERC) includes a list of various County department representatives, officials and subject matter experts that are designated to review and comment on environmental analyses under CEQA in the County. The ERC indicated it did not have any comments on the IS/MND. Several editorial comments and suggestions on the document were provided by the County Geologist, Dr. Horacio Ferriz.

ATTACHMENT 1
COMMENT LETTERS



LETTER OF TRANSMITTAL

TO:

Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358

Date: 11/30/2017
Attention: Mr. Walter Ward
Re: Notice of Intent to Adopt A Mitigated Negative Declaration
Well Permit Application 2017-117
For Gillum Agricultural Well

WE ARE SENDING YOU Attached Under Separate Cover VIA _____ the following items:

Shop drawings Submittals Plans Samples Specifications

Letter Change order Other:

Copies	Date	No.	Description
1	11/30/17		Letter

THESE ARE TRANSMITTED as checked below:

- | | | |
|--|---|---|
| <input type="checkbox"/> For approval | <input type="checkbox"/> Approved as submitted | <input type="checkbox"/> Re-submit ___ copies for approval |
| <input type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted | <input type="checkbox"/> Submit ___ copies for distribution |
| <input type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return ___ corrected prints |
| <input checked="" type="checkbox"/> For review and comment | <input type="checkbox"/> Other: | |

REMARKS:

COPY TO:

Received
By: _____

Signed: _____



November 30, 2017

Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA. 95358

Attn: Mr. Walter Ward: Water Resources Manager

Re: NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
WELL PERMIT APPLICATION 2017-117 FOR GILLUM AGRICULTURAL WELL

Mr. Ward:

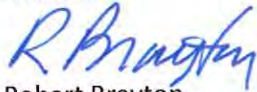
I do not represent an agency. I am a landowner who farms 105 acres of walnuts, adjacent to or near the proposed well drilling site. The APN is 001-011-038. The farming operation runs under Stella, LLC. I have read the full report many times and have consulted with businessmen and farmers who have offered their insight in helping me express my concerns. They are Bill Berryhill, Bill Powers, Scott Massellis and Jim Clare. Today, I also spoke with Kristin Olsen, County Supervisor for District 1. They all agree that it is essential I document my concern over this permit application. My trees have just completed their fourth year of growth, and I am concerned about the quantity and quality of water coming from my well. I have reviewed the documentation provided on your website and have the following concerns:

- First, there seems to be a contradiction as to the location of the well and on which parcel it is to be drilled. The Jacobson/James reports states it will be drilled North of Sonora Road on APN 001-011-031 (reference Site Map Figure 2-1); yet Kleinfelder's report and subsequent Site Map labeled 1.0.B clearly shows it on Parcel 001-011-039. This site is within 500 feet of my well and would have a negative impact on my water availability. Please confirm that the well will be on the Northeast corner of parcel 001-011-031.
- After reading Kleinfelder's report, they did not address the fact that I have a well drilled to irrigate approximately 105 acres of walnuts close by. My well was drilled to a depth of 600 feet, utilizing a 14" steel casing, and originally served by a 125 hp turbine pump. There are also 400 acres of almonds with an irrigation system adjacent to the proposed well site North of Sonora Road. I do not speak on their behalf, but the property is owned by the Hogan Family and farmed by Roche Bros.
- Again, as I read your 181 page report, it sounds like we have no water issues to address, however, that is an inaccurate statement. After four years of use, I am in the process of upgrading my pump size from 125 to 150 hp. Recent tests have indicated casing build up caused by growing bacteria. Thus, my ability to draw the volumes of water initially available have decreased, necessitating the installation of bigger drives and pumps to irrigate the trees.

In closing, I need to clarify that I have no objection to a new orchard or a new well adjacent to my property, as long as it won't impact my ability to farm my land in any way. If it will, I do object. I have roughly \$2.7 million invested to date, and a loss of water could wipe that out. Finally, be aware that there are water issues in the area, and consideration needs to be given to those with farming operations already in production. You should be confident that the decisions you make don't negatively affect orchards already planted and in production. Please contact me at 209-838-7388 for any discussion or questions.

Again, in advance, thank you for your consideration. I look forward to your response.

Sincerely,
Stella LLC



Robert Brayton
Owner



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

21 November 2017

Walter Ward
Stanislaus County
3800 Cornucopia Way, Suite C
Modesto, CA 95358

CERTIFIED MAIL
91 7199 9991 7036 6996 5078

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, GILLUM WELL PERMIT APPLICATION NO. 2017-117 PROJECT, SCH# 2017102080, STANISLAUS COUNTY

Pursuant to the State Clearinghouse's 30 October 2017 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Gillum Well Permit Application No. 2017-117 Project, located in Stanislaus County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Caltrans Phase I MS4 Permit, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/caltrans.shtml.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance (i.e., discharge of dredge or fill material) of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements (WDRs)

Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

Land Disposal of Dredge Material

If the project will involve dredging, Water Quality Certification for the dredging activity and Waste Discharge Requirements for the land disposal may be needed.

Local Agency Oversight

Pursuant to the State Water Board’s Onsite Wastewater Treatment Systems Policy (OWTS Policy), the regulation of septic tank and leach field systems may be regulated under the local agency’s management program in lieu of WDRs. A county environmental health department may permit septic tank and leach field systems designed for less than 10,000 gpd. For more information on septic system regulations, visit the Central Valley Water Board’s website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/owts/sb_owts_policy.pdf

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other

action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.


For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

Gillum Well Permit
Application No. 2017-117 Project
Stanislaus County

- 7 -

21 November 2017

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



November 27, 2017

Walter Ward, Water Resources Manager
Stanislaus County Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, California 95358

**Subject: Gillum Well Permit Application No. 2017-117
Initial Study/Mitigated Negative Declaration
State Clearinghouse No.: 2017102080**

Dear Mr. Ward:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (MND) from Stanislaus County Department of Environmental Resources for the above-referenced Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, 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 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 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 fish and wildlife resources.

CDFW is also submitting comments 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

¹ 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.

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.*), related authorization as provided by the Fish and Game Code will be required.

Water Rights: The use of unallocated stream flows are subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code Section 1225. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State’s water resources. Certain fish and wildlife are reliant upon aquatic ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities.

PROJECT DESCRIPTION SUMMARY

Proponent: Stanislaus County Department of Environmental Resources

Objective: An agricultural well will be constructed to a depth of approximately 500 feet in an area measuring approximately 150 by 200 feet using approximately 12-inch diameter steel casing and screen, and fitted with a turbine pump with a peak pumping rate of approximately 1,000 gallons per minute. The well will be pumped intermittently (usually March through October) to meet an anticipated water demand of approximately 300 acre-feet per year. Wellhead equipment may be enclosed within a shelter and fenced compound measuring approximately 10 by 20 feet. A power service line will be extended to the well from an existing Pacific Gas and Electric Company (PG&E) power service line approximately 200 feet to the south from East Sonora Road. Wooden power poles may be installed to extend power service to the well. Access will be provided by unimproved dirt access approximately 200 feet long and 10 feet wide that extends from East Sonora Road, located adjacent to the southern parcel boundary where the well will be located.

The well will be used to provide irrigation water for an orchard to be planted on the following parcels owned by Mr. Gillum:

- The entirety of Assessor’s Parcel No. 001-011-031 (approximately 37.3 acres) will be planted as an orchard; and,
- The upland portion of Assessor’s Parcel No. 001-011-039 (approximately 30 acres in the northwest portion of the parcel) will be planted as an orchard. Littlejohns Creek and surrounding portions of the Farmington Flood Control Basin occupy the southern portion of the parcel.

Location: The proposed Project is located at 17480 26 Mile Road, Farmington, California 95230. It is just northwest of where 26 mile Road and East Sonora Road intersect in northeastern portion of unincorporated Stanislaus County, north of Woodward Reservoir.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Stanislaus County Department of Environmental Resources in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Environmental Impact Analysis, Specific Comments Regarding Biological Resources Impact Analysis and Mitigation Measures:

Required Permits and Approvals: The table below shows the required permits in section 2.7 of the MND:

Permit	Issuing Agency	Actions and Requirements
Well Construction Permit	Stanislaus County Department of Environmental Resources	A well construction permit will be issued by the DER approximately 30 days after approval and certification of the IS/MND
Application for Service – Agricultural Service	Pacific Gas and Electric Company	An application to extend electrical service to the well must be processed and the appropriate load and design information must be approved by PG&E prior to connecting service.

As a Trustee Agency for fish and wildlife resources, CDFW advises that the Project may require an Incidental Take Permit (ITP) and/or Lake and Streambed Alteration Agreement (LSAA) to comply with Fish and Game Code if the proposed well and subsequent orchards will result in take of species listed pursuant to CESA, or substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, respectively. If it is determined that an ITP or LSAA is necessary to comply with Fish and Game Code,

acquisition of the ITP or LSAA is necessary prior to ground- or vegetation-disturbing activities.

California tiger salamander (CTS; *Ambystoma californiense*): CTS, a species listed as threatened pursuant to CESA, has the potential to be present on or adjacent to the Project site. Aerial photographs show that suitable upland refugia habitat for CTS exists within the Project site. This species may be impacted if ground disturbance activities were to occur and the appropriate avoidance, minimization, and mitigation measures are not implemented.

Prior to any ground-disturbing activities, CDFW requests that potential Project-related impacts to this species in and surrounding the Project footprint be evaluated by a qualified biologist using the Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, which was issued by CDFW and the United States Fish and Wildlife Service (USFWS) in 2003. The protocol requires that surveys be conducted during at least two seasons, with sufficient precipitation, to be considered complete. If CTS are found on the Project site, consultation with the CDFW is warranted to determine if take can be avoided. If take cannot be avoided, take authorization through the issuance of an ITP pursuant to Fish and Game Code Section 2081(b) is necessary to comply with CESA. In the absence of protocol surveys, the Project applicant can assume presence of CTS within the Project area and immediately focus on obtaining an ITP. For information regarding ITPs, please see the following link:

<https://www.wildlife.ca.gov/Conservation/CESA/Incidental-Take-Permits>. Included in the ITP would be measures required to avoid and/or minimize direct take of CTS on the Project site, as well as measures to fully mitigate the impact of the take.

Federally Listed Species: The Department also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to CTS. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

Well Construction/Subsurface Flow: It is unclear from the information provided in the CEQA documents whether the well is perforated top to bottom, or draws water from a specific elevation below ground. Depending upon the construction of the well, surface flow from a nearby stream could be pumped by the well as part of the Project. Diversion of surface flow, including sub-surface flow, may be subject to appropriation by the State Water Board. The diversion of subsurface flow may also require a Lake or Streambed Alteration Notification. We recommend the Project proponent and Lead

Walter Ward, Water Resources Manager
Stanislaus County Department of Environmental Resources
November 27, 2017
Page 5

Agency provide clarification on the construction of the well, and whether this may involve the diversion of sub-surface flow.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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 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

CDFW appreciates the opportunity to comment on the MND to assist Stanislaus County Department of Environmental Resources in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jim Vang, Environmental Scientist, at (559)243-4014, extension 254, or Jim.Vang@wildlife.ca.gov.

Sincerely,



Julie A. Vance
Regional Manager

cc: See Page Six

Walter Ward, Water Resources Manager
Stanislaus County Department of Environmental Resources
November 27, 2017
Page 6

cc: United States Fish and Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, California 95825

Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2020

United States Army Corps of Engineers
San Joaquin Valley Office
1325 "J" Street, Suite #1350
Sacramento, California 95814-2928

ec: Bonna Newell, 1600 Unit
California Department of Fish and Wildlife

Walter Ward, Water Resources Manager
Stanislaus County Department of Environmental Resources
November 27, 2017
Page 7

REFERENCES

CDFG, 2003. *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander*. California Department of Fish and Game. 2003.

Juliet Hutchins

From: Walter Ward <wward@envres.org>
Sent: Monday, November 06, 2017 12:10 PM
To: Mike Tietze; Juliet Hutchins
Subject: FW: Initial Study/Mitigated Negative Declaration

FYI, comments on the Gillum IS/MND from Horacio Ferriz.

Walt

From: HORACIO FERRIZ
Sent: Monday, November 06, 2017 10:45 AM
To: Walter Ward
Subject: RE: Initial Study/Mitigated Negative Declaration

Hi Walt,

I have reviewed the Initial Study for the proposed Gillum well. A fine piece of work.

I have minimal recommendations:

1. On page 4-1, what is the recommendation of our consultant. Looks like a mitigated negative declaration is the best option, but that is just my opinion.
2. Of Figures 2.3 and 3.1, would it be possible to label the creeks?

Saludos,

Horacio

From: Walter Ward
Sent: Friday, November 03, 2017 1:42 PM
To: HORACIO FERRIZ
Subject: Initial Study/Mitigated Negative Declaration

I would appreciate your review and comment on the Larry Gillum non-exempt well permit analysis found here:

<http://www.stancounty.com/er/pdf/groundwater/DraftInitialStudy.pdf>

Walt