City of Morro Bay
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PRESS RELEASE

FOR IMMEDIATE RELEASE
Contact: Scott Collins, City Manager
Email: scollins@morrobayca.gov **October 29, 2019**

EXTENDED SECTION 7 REVIEW DELAYS THE START OF CONSTRUCTION FOR THE CITY'S WATER RECLAMATION FACILITY PROJECT

Morro Bay, Calif. – The City of Morro Bay has been working with the Environmental Protection Agency (EPA) for the past several years to secure low-interest funding through the Water Infrastructure Finance and Innovation Act (WIFIA) for the Water Reclamation Facility project. In 2017, the Water Reclamation Facility project was selected as one of twelve projects in the nation to receive WIFIA funding during the inaugural year of the funding program.

Since the project will be receiving Federal funds, it must comply with the requirements of the National Environmental Policy Act (NEPA). One of these requirements is review by the United States Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act. With technical support being provided by the City, this review began in June 2019.

On October 10, 2019, the EPA received a letter from USFWS indicating that, based on the information that had been provided, that agency did not agree with EPA's determination that the project "may affect, but is not likely to adversely impact" the California Red-Legged Frog and its critical habitat. The EPA responded to USFWS on October 22, 2019 with additional information on proposed mitigation efforts and requested USFWS to update its determination.

Potential issues with the California Red-Legged Frog are not isolated to the South Bay Boulevard site. The City considered seventeen potential sites for the new Water Reclamation Facility before finally selecting the South Bay Boulevard site in 2017. The attached figure indicates that any of the sites east of Highway 1 previously considered for the project would be located in California Red-Legged Frog critical habitat. In addition, there has not been a Red-Legged Frog occurrence within a square mile of the South Bay Site since 1996.

"The City considered the Red-Legged Frog in the Environmental Impact Report and began the review process with EPA and Fish and Wildlife in June. While the timing is unfortunate as we are prepared to start construction, we will work expeditiously with the EPA and Fish and Wildlife to resolve these important considerations," said City Manager Scott Collins.

Construction on the South Bay Boulevard site cannot start until the EPA finalizes its environmental review. Failure to comply with this process would nullify Federal funding for the WRF project, including WIFIA and the Clean Water State Revolving Fund. Within the next

several weeks the City should know the approximate magnitude of the potential delays resulting from review by USFWS.

At this time, the additional review by USFWS will not jeopardize the City's ability to comply with the Regional Water Quality Control Board's time schedule order mandating upgrade of the wastewater treatment plant by February 28, 2023. The City plans to work with EPA to complete the process and secure the low-interest WIFIA funding, which will help reduce the financial impacts to its ratepayers.

About the Water Reclamation Facility

The City of Morro Bay Water Reclamation Facility Program involves replacing the City's existing wastewater treatment plant with an advanced water purification facility that will meet state regulations, protect the environment, and contribute a safe and reliable water source for Morro Bay's homes and businesses. The project will create a drought buffer and is capable of providing up to 80 percent of the City's water needs in the future.

The project includes construction of a new one million gallon per day advanced treatment facility on South Bay Boulevard north of Highway 1, two new lift stations, approximately 3.5 miles of pipelines and wells to inject the purified water into the groundwater aquifer, which can be extracted for reuse through the City's existing infrastructure. The current schedule includes construction beginning in 2019 and project completion by 2022.

ATTACHMENTS
Letter to EPA from USFWD (October 10, 2019)
Letter from EPA to USFWD (October 22, 2019)
Map of California Red-Legged Frog Occurrences

United States Department of the Interior
U.S. FISH AND WILDLIFE SERVICE
Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
08EVEN00-2020-TA-0014

October 10, 2019

Alaina McCurdy
U.S. Environmental Protection Agency
William Jefferson Clinton West Building
1301 Constitution Avenue, Northwest
Room # 6210G
Washington, D.C. 20004

Subject: Status of Consultation for the City of Morro Bay Water Reclamation Facility Project

Dear Ms. McCurdy:

We are responding to your request, received in our office on July 29, 2019, for our concurrence with your determination that the proposed City of Morro Bay Water Reclamation Facility project (Project) may affect, but is not likely to adversely affect the federally threatened California red-legged frog (*Rana draytonii*), federally endangered tidewater goby (*Eucyclogobius newberryi*), and federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*). The Project occurs within critical habitat for California red-legged frog, and you have determined that the project may affect, but is not likely to adversely affect critical habitat for the California red-legged frog. We received sufficient information to initiate consultation on September 10, 2019. This request includes information from our email correspondence between September 10 and September 18, 2019. Your request and our response are made pursuant to section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.).

We do not concur with your determination that the Project may affect, but is not likely to adversely affect the California red-legged frog and its critical habitat. Our determination is based on the proximity of suitable aquatic habitat to the project site, the possibility of California red-legged frogs using Drainage 3 as a dispersal corridor, and the permanent loss of 7.1 acres of upland and dispersal habitat within California red-legged frog critical habitat unit SLO-3. Because we do not concur with your determination, the Environmental Protection Agency must initiate formal consultation with us on the Project's potential effects to the California red-legged frog and its critical habitat, or work with the applicant to avoid adverse effects. Your formal consultation request should include all information required to initiate formal consultation, as described by 50 CFR 402.14(c). The regulations that implement section 7 allow the U.S. Fish and Wildlife Service (Service) up to 90 days to conclude formal consultation with your agency

and an additional 45 days to prepare our biological opinion (unless we mutually agree to an extension).

We request the following information to aid in our analysis of effects of the Project to the California red-legged frog:

- An estimate of how much riparian vegetation will be permanently removed and how much will be temporarily disturbed along Morro Creek in order to install the pipeline bridge.
- A description of the fence surrounding the Water Reclamation Facility building located north of the northern terminus of South Bay Boulevard, and whether it may be permeable to California red-legged frogs.
- A description of the detention ponds associated with the Water Reclamation Facility, and any measures planned to prevent California red-legged frogs from entering the ponds.
- A description of the nighttime lighting installed around the Water Reclamation Facility, and any measures to reduce its visibility.

As a reminder, the Act requires that, after the initiation of formal consultation, the lead Federal agency may make no irreversible or irretrievable commitment of resources that could preclude the formulation or implementation of reasonable and prudent alternatives to avoid jeopardizing the continued existence of endangered or threatened species or destroying or modifying critical habitat [section 7(d)].

We concur with your determination that the Project may affect, but is not likely to adversely affect the Morro shoulderband snail if the following recommended measures are incorporated into the project description. We recommend that the Project proponent not use silt fencing to exclude Morro shoulderband snail from work areas. Snails can become entangled or trapped in silt fencing that is not properly installed and maintained, and this presents the possibility of harm to the snails. Work areas should still be clearly delineated with flagging and stakes to limit the boundaries of work areas. If silt fencing must be used for other reasons during Project construction, additional avoidance measures may be necessary to avoid harm to the snail. Please contact our office for further guidance regarding additional measures if silt fencing is necessary. We also recommend implementing the following measures to avoid impacts to the snail:

- A Service-approved biologist will survey for Morro Bay shoulderband snails no more than 48 hours before initial ground-disturbing, vegetation-clearing, or construction-staging activities that occur on dune land or Baywood fine sand substrates.
- The Service-approved biologist will monitor all construction activities occurring on dune land or Baywood fine sand substrates.
- If Morro Bay shoulderband snails are located during pre-activity surveys or monitoring of subsequent Project activities, the Service will be contacted and activities will halt until it is determined what actions may be necessary to avoid adverse effects to snails.

We request more information to better assess your determination that the Project may affect, but is not likely to adversely affect the tidewater goby. Please provide:

- Information and a map of the location of the ocean outfall from which brine produced by the treatment center would be discharged. Is the reduction in water volume proposed to be sent to the ocean outfall anticipated to change the surface hydrology in the vicinity of Morro Creek, its tributaries, or other areas where freshwater meets ocean water?
- Information on whether the injection wells are expected to change the hydrology of surface water in the vicinity of the proposed injection well fields. Is there any potential for injection of reclaimed water to change the volume, speed or direction of surface water, including in Morro Creek, its tributaries, or other areas where freshwater meets ocean water?
- Information on whether there is any potential for hydrologic and other local habitat changes associated with the Project to alter the frequency with which the lagoon at the ocean terminus of Morro Creek is breached by the ocean.

Thank you for your coordination with the Service on this Project. If you have any questions or concerns about this consultation or the consultation process in general, please contact Danielle Fagre at (805) 677-3339, or by electronic mail at danielle_fagre@fws.gov.

Sincerely,

Leilani Takano
Assistant Field Supervisor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

October 22, 2019

Leilani Takano
Field Assistant Supervisor
Ventura Field Office
Fish and Wildlife Service, Southeast Region
2493 Portola Road, Suite B
Ventura, California 93003-7726

RE: 0SEVEN00-2020-TA-0014; Consultation for the City of Morro Bay Water Reuse Facility Project; U.S. EPA Water Infrastructure Finance and Innovation Act Program

Dear Field Assistant Supervisor Takano:

The Environmental Protection Agency's (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) program is providing additional information regarding the City of Morro (City) Water Reclamation Facility (WRF) Project. The proposed activity includes a new wastewater treatment facility, raw wastewater conveyance pipelines and pump stations, recycled water injection wells and monitoring wells described below.

On July 26, 2019, EPA made a may affect, but not likely to adversely affect finding for the California red-legged frog, tidewater goby, and Morro shoulderband snail. In response to your October 10, 2019 Status of Consultation letter (sent to Ms. Alaina McCurdy), the following information is provided to assist the U.S. Fish and Wildlife Service (Service) with review of the project's measures to avoid and minimize impacts to federal listed species and critical habitat and concur with those findings proposed by EPA.

We appreciate the Service's assistance with the City's WRF project. Construction of the new WRF is a critical step for the City of Morro Bay to move forward with long-term water management goals and objectives.

Additional Project Background

As the City has shared, the process of finding an appropriate location for the new facility took many years, and required balancing many technical and environmental considerations, notably the need to address the California Coastal Commission's requirement to move the existing facility to a more inland location in order to protect coastal resources. One important condition of that agency's Coastal Development Permit was to develop and implement a Riparian Enhancement Plan, which is intended to preserve and enhance habitat surrounding the new facility. This will include non-native species management, planting appropriate native species, and extensive monitoring and reporting to enhance and protect wildlife habitat for species such as the California red-legged frog. To fulfill this condition,

the project is being designed to avoid impacts to natural drainage features including habitat for aquatic species including the California red-legged frog, steelhead trout and tidewater goby. For example, the pipeline route has been sited in developed areas such as roads, and the new treatment facility would be located in disturbed annual grassland habitat that contains extensive patches of black mustard, an invasive non-native species of rangelands. More specific aspects of the project design intended to protect key species of concern, and the red-legged frog in particular, are described below. Our belief is that with this additional information you may not have previously had, you would be able to update your recent letter and determination with respect to the need for formal consultation under Section 7 of the Endangered Species Act. Please consider this additional information in response to your previous correspondence:

Morro Shoulderband Snail (MSS)

The City is in agreement with the recommended measures provided in the October 10, 2019 letter to the EPA. Please note that the eastern pipeline route will not be used, and the western route was formally selected by the City Council and has been further refined to keep the pipeline in existing paved roads. Further, recent field surveys of the final pipeline route confirmed that nearly all Baywood fine sands and dune land mapped within the western pipeline installation route is developed and does not support suitable habitat for MSS. To ensure no impacts to MSS occur from project activities occurring near undeveloped lots or road shoulders, the City would implement the following measures:

- Silt fence would not be used to exclude Morro shoulderband snail from work areas where suitable sandy soils and habitat may be present;
- Work areas in sandy soils near potential MSS habitat will be clearly delineated with flagging and/or stakes to limit the boundaries of work areas and confine them to developed and paved areas;
- If silt fencing must be used for other reasons in areas near potential MSS habitat, additional measured developed by a Service-approved biologist will be implemented to avoid harm to the MSS;
- A Service-approved biologist will monitor construction activities occurring on dune land or Baywood fine sand substrates where potentially suitable habitat is adjacent to work activities; and
- If an MSS is located in work areas during pre-activity surveys or monitoring of project activities, the Service will be contacted, and activities will halt in that particular area until it is determined what actions may be necessary to avoid adverse effects to Morro shoulderband snail.

Tidewater Goby

The following information is intended to clarify questions raised about tidewater goby in the October 10, 2019 and support the may affect, but not likely to adversely affect determination made by the EPA.

- The ocean outfall pipe discharges treated wastewater approximately 4,000 feet offshore;
- The reduction in water volume to the ocean outfall will not change the surface hydrology in the vicinity of Morro Creek, its tributaries or other areas where freshwater meets the ocean;
- Injection wells will be sited in disturbed upland areas away from drainage features such as Morro Creek to direct purified wastewater down into the ground into the upper aquifer to improve the overall groundwater quality and reduce salt water intrusion that can currently be experienced in the City. While injection well areas identified in the EIR show very large areas for east and west sites, only disturbed areas away from the Morro Creek corridor would ultimately be utilized;
- The proposed injection wells will be deep enough and designed using current industry appropriate technologies to ensure the injection of reclaimed water will not change the volume, speed or

direction of surface water including Morro Creek, its tributaries or other areas where freshwater meets ocean water;
- Given the location of the ocean outfall pipe and proposed injection wells, the project will not alter the frequency with which the lagoon at the ocean terminus of Morro Creek is breached on a seasonal basis; and
- The Riparian Enhancement Plan to be implemented at the WRF will provide additional buffer of the drainage feature to ensure the project does not contribute to sedimentation and pollutant loading within the Morro Bay Estuary.

California Red-Legged Frog

In response to your questions raised in the October 10th letter, the following information is provided to allow for the Service to re-evaluate the EPA's findings that the project may affect, but is not likely to adversely affect the California red-legged frog:

Impacts to riparian habitat. No riparian habitat will be removed to construct the new treatment facility since the facility, entrance roads and associated infrastructure are setback from the top of bank of Drainage 3 by over 100 feet. In addition, Mitigation Measure BIO-2 in the EIR requires avoidance and protection of riparian habitat, drainages and wetlands. These areas will be flagged and signed to restrict project access into these areas.

For the installation of the pipe bridge over Morro Creek, a small amount (estimated at 20 feet wide by 20 feet long) of arroyo willow riparian scrub may be trimmed to install the pipe bridge and its footings. No riparian habitat will be removed by its roots as the footings will be installed beyond the top of banks on both the north and south sides of the creek. The north side construction will occur in a turf area of Lila Keiser Park, and the south side will occur in an ornamental area composed of Monterey cypress and eucalyptus adjacent to an existing pump facility. All work for the pipe bridge over Morro Creek will during the dry season and will not require access to the creek channel or any dewatering activities.

As requirement of the Coastal Development Permit, a Riparian Enhancement Plan (REP) will be prepared and submitted to the Coastal Commission prior to the operation of the WRF. The REP will be implemented along Drainage 3 adjacent to the WRF to create higher quality native habitat, enhance the drainage setback/buffer area, and reduce the potential for downstream sedimentation and pollutant loading.

Fencing around the Water Reclamation Facility. To ensure CRLF and other small wildlife do not enter the treatment facility site during construction, wildlife exclusion fencing similar to or equivalent to the ERTEC Environmental Systems Wildlife Exclusion Fencing will be installed along the outer project limits as an additional avoidance measure in addition to the project's existing mitigation measures in the EIR. Best Management Practices (BMPs) such as silt fencing and straw wattles would be installed within the exclusion fencing as needed based on the engineering and construction documents. Biological monitoring of the facility during construction will also occur on a daily basis to ensure proper function of the exclusion fence and compliance with the project's Mitigation Monitoring and Reporting Plan. Notably, the fencing is not only intended to protect riparian habitat, but associated wildlife including but not limited to the red-legged frog that may be moving through upland areas and prevent them from accessing the WRF development area. Once construction of the WRF is complete and the permanent perimeter fencing is in place, the wildlife exclusion fencing would be re-positioned along the permanent fence to prevent CRLF from accessing the WRF and detention basins should they be moving in the area during the winter months.

Detention Basins at the WRF. Detention basins at the WRF will be designed to current water quality standards to capture surface runoff and detain seasonal rain water (please refer to attached project documentation). The basins will have approximately one foot of freeboard and will be managed to prevent prolonged standing surface water that may attract CRLF. The use of exclusion fencing around the perimeter of the WRF will be used to ensure the site is not permeable to wildlife including CRLF and that potential dispersal habitat consisting of the Drainage 3 corridor and adjacent grasslands are maintained and unaffected by site development.

Nighttime Lighting at the WRF. Nighttime lighting at the WRF will be needed, but it will minimal with low intensity and will follow current City of Morro Bay and County of San Luis Obispo policies to prevent spillover into open space areas (please refer to attached project documentation). The project EIR identifies that nighttime lighting may be required during construction and operation of the WRF, but mitigation measures are required to ensure the lighting is shielded and pointed away from sensitive receptors such as the surrounding open space areas.

Impacts to Critical Habitat Unit SLO-3. The WRF site is located in the southern limits of critical habitat unit SLO-3 (please refer to the attached Figure 6A). This critical habitat unit is very large and includes extensive upland areas bisected by natural drainages, many of which are small ephemeral features not occupied by CRLF. The WRF site itself is located on the margins of this critical habitat area, which encompasses most of the upland area east of Morro Bay extending to the ridgeline of the Santa Lucia Mountain Range inland toward Atascadero. While the hills and mountainous area around Morro Bay are identified as critical habitat, the WRF will be developed in an upland area composed of a mix of non-native grasses and forbs. The loss of approximately seven (7) acres of disturbed grassland composed of dense patches of black mustard would not adversely affect this critical habitat unit given the expansive wetland, riparian and upland habitats in the region, especially those with larger watersheds that provide prolonged aquatic habitat compared to the subject Drainage 3 watershed and have a more diverse array of native habitats. When combined with the requirements of the Riparian Enhancement Plan, and other related measures the City has committed to in its design, including exclusion fencing around the WRF and fencing off select areas of Drainages 3A and 3B on land owned by the City to limit the extent of cattle grazing in the channels, the overall habitat conditions on the project site for the red-legged will be in an as good or better condition.

Additional Site Characteristics. As detailed in the project environmental documents, grassland and ruderal/developed habitats are present at the facility site and a mix of urban (ruderal and ornamental), coastal scrub, and riparian habitats are present along the pipeline right of way. Within one mile of the entire project site (i.e., pipeline route and WRF site), drainage features are present that support wetland and riparian habitat. Drainage 3 identified in project documents is partially on the study area (i.e. segments Drainage 3A and Drainage 3B). At the time field surveys occurred, the channels were completely dry in the summer months with no suitable aquatic habitat to support CRLF. Drainages 3A and 3B contained shallow flowing water (approximately 2-6 inches deep) during the winter of 2017, but no deep pools were observed. Barbed wire fencing along the adjoining private property precluded the direct inspection of the Drainage 3 channel in the vicinity of the facility entrance road immediately east of South Bay Boulevard.

Grazing in the grasslands on the site and in the surrounding areas had reduced structure of habitat along the drainage corridors. Cattle have had full access to the drainage channels for many years and had removed vegetation to bare soil in many areas. As stated above, no suitable aquatic habitat to support breeding of CRLF was observed during field surveys, and no aquatic habitat or seasonal puddles were

present within the proposed disturbance footprint. Morro Creek contains suitable movement habitat for both fish and amphibians, but the location of the proposed pipe bridge crossing consists of a narrow-incised channel with no deep pools capable of supporting CRLF or fish during the dry summer and fall months. The urban development in this area has limited the extent of riparian habitat to a narrow band along the creek's southern bank. A key element of the project is that drainage features will be avoided and buffered during construction, and pipeline installation will utilize directional drilling to bore under the drainages rather than trenching through them.

CRLF have been documented moving between breeding sites when ponds and more perennial water features are scattered throughout the landscape. Review of aerial imagery showed no ponds or potential breeding sites located to the west of the WRF site that would promote movement of frogs between Drainages 2 and 3. A buffer around Drainage 3 was developed for this project, which included the WRF being sited over 100 feet from the top of bank. The drainage corridor opens up further north of the WRF, and the Drainage 3A and 3B segments are surrounded by extensive open space that would be enhanced and maintained as natural open space. An asymmetrical buffer between the WRF and Drainage 3 corridor would be protected, and only specific management requirements allowed to be detailed in the Riparian Enhancement Plan. As stated above, as a condition of the Coastal Development Permit, the City of Morro Bay must prepare and implement a Riparian Enhancement Plan that will increase habitat functions and values within the Drainage 3 corridor, and further buffer the WRF from the drainage feature and surrounding open space. Remaining critical habitat onsite will be enhanced and maintained in as good or better condition than the disturbed grassland to be developed by the project.

In the Morro Bay area, and the South Bay Facility Site, movement of CRLF should they be present, would be more likely along the creek since there are no ponds or other breeding sites to the west. As such, the facility's location would not be expected to affect long term movement patterns of potential breeding habitat in the general area. It would still be possible post construction of the WRF that CRLF could move along the Drainage 3 corridor from the confluence at Chorro Creek along South Bay Boulevard to gain access to the project area. CRLF could still utilize the drainage corridor for foraging and extensive grasslands onsite and on adjacent properties for foraging. It may be unlikely given the ephemeral nature of Drainage 3 and lack of cover from historic grazing that they would travel up and over the ridge between the Little Morro Creek corridor, but several agricultural ponds are present in the Little Morro Creek watershed that are within two miles of the site that could potentially be suitable for CRLF.

If upon review of the additional information provided the Service recommends formal consultation, EPA requests to proceed with the initiation of formal consultation. However, if advised EPA will initiate formal consultation in a separate communication. Please advise on the Service's preference for proceeding. Thank you for your coordination on this project. Please contact me for any additional information or questions, at 202-564-6996 or mccurdy.alaina@epa.gov. Correspondence can be submitted electronically for this Project. Thank you for your review and coordination with EPA on this project.

Sincerely,

Alaina McCurdy
Environmental Engineer, WIFIA

Water Infrastructure Division
Office of Wastewater Management

cc: Cedric Irving, California State Water Board
Eric Casares, Carollo
Rob Livick, City of Morro Bay

WRF Facility Site Location

One Mile Buffer

Five Mile Buffer

USGS 7.5' Quad

CNDDB California red-legged frog Occurrences (October 2019)

1996

2000

2001

2005

2006

2008

2016

2017

Critical Habitat (USFWS)

California red-legged frog

Cayucos

Morro Bay North

Atascadero

Morro Bay

Morro Bay South

Los Osos

San Luis Obispo

Source: Esri 2019, CDFW 2019a, USFWS 2019

KEVIN MERK ASSOCIATES

1 in = 6,500 ft

0 0.75 1.5 3 Miles

Morro Bay Water Reclamation Facility

City of Morro Bay

Figure 6a

CNDDB CRLF Occurrence Map
updated 10/15/2019