



**SANTA CRUZ
COUNTY GROUP**
Of The Ventana Chapter
P.O. Box 604, Santa Cruz, CA 95061
<https://www.sierraclub.org/ventana/santa-cruz>
email: sierraclubsantacruz@gmail.com

Soquel Creek Water District
5180 Soquel Drive
Soquel, CA 95073
bod@soquelcreekwater.org

Re: Laurel St. Bridge/Pure Water Soquel Conveyance Project Habitat Impact

URGENT ACTION REQUIRED

May 8, 2024

Dear Soquel Creek Water District Board Members,

The Sierra Club is contacting you to make you aware of an issue that needs immediate attention. Conditions are such at the Laurel Street Bridge portion of your Conveyance Project that compliance with your own Environmental Impact Report (EIR) requires you stop work on the Laurel Street Bridge portion and then also take further actions. The certified Environmental Impact Report for the above-referenced project includes a mitigation measure that requires that once “nesting birds are identified” that a “biologist shall define a suitable protective buffer around the nest and no activities shall occur within this buffered area.”¹

Recent observations confirm that cliff swallows are now nesting under the Laurel Street Bridge in the area which appears to be the next area of construction, as part of the ongoing installation of the pipe covers. These nests appear to be within 10 feet of the next phase of installation of the covers, as seen below:



¹ Pure Water Soquel: Groundwater Replenishment And Seawater Intrusion Prevention Project Environmental Impact Report; Mitigation Measure 4.4-1a

The installed covers are seen at the upper right of the first photo, and if the cover installation proceeds it will be within feet of cliff swallow nests. Photos of the nests are seen here:



Nesting activity under the Laurel Street Bridge in the areas identified in the first photo.



More nesting activity under the Laurel Street Bridge in the areas identified in the first photo.



More nesting activity under the Laurel Street Bridge

The mitigation measure of note for this circumstance is seen in its entirety here:

Mitigation Measures

Mitigation Measure 4.4-1a: Perform preconstruction nesting bird surveys in areas that provide suitable habitat.

Mitigation Measure 4.4-1 applies to all Project components.

Project construction activities should avoid the nesting season of February 15 through August 31, if feasible. If seasonal avoidance is not possible, then no sooner than 30 days prior to the start of any Project activity, a biologist experienced in conducting nesting bird surveys shall survey the Project area and all accessible areas within 500 feet for nesting birds. If nesting birds are identified, the biologist shall define a suitable protective buffer around the nest and no activities shall occur within this buffered area. The buffer area limits would ensure that construction activities would not cause an adult to abandon an active nest or young or change an adult's behavior so it could not care for an active nest or young. Typical buffers are 150 feet for songbirds and 300 feet for raptors, but may be decreased in coordination with CDFW according to site-specific, Project-specific, activity-specific considerations such as visual barriers between the nest and the type of activity, decibel levels associated with the activity relative to baseline noise levels, and the species of nesting bird and its tolerance of the activity. Construction activities that are conducted within any reduced buffers may be conducted in the presence of a qualified biological monitor, until the biological monitor determines that the reduced buffer is effective.

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The mitigation measure clearly states that if nesting birds are identified, that a suitable protective buffer shall be defined, and that no activities shall occur within this buffered area. The required bird survey either took place too early to capture this nesting activity, or did not take place at all. Regardless, cliff swallows are nesting at the site, and one purpose of this letter is to make clear that you are on notice of this fact.

Observers have also reported to the Sierra Club that when the earlier work was proceeding on the bridge that swallows avoided the work area. This certainly implies that these nesting cliff swallows will be disturbed and impacted by any resumption of work, should the cover installation proceed. This further implies that any determined buffer area will be larger than the distance between these nests and the work.

The Sierra Club notes that all swallows are included within the federal Migratory Bird Treaty Act of 1918 (MBTA) and are protected by state and federal regulations. The California Department of Fish and Wildlife is the state's enforcement agency and considers February 15 to September 1 to be the swallow nesting season. Nests active during this time period cannot be touched, **disturbed**, or destroyed without a permit for the U.S. Fish and Wildlife Service. Both of the afore-mentioned agencies shall be copied on this correspondence.

The Sierra Club asserts that the EIR for this project requires that no further work be done near the above-identified area of the Laurel Street Bridge, and further that a biologist is now needed to determine the buffer area. The Sierra Club believes, in light of observations of swallow behavior around construction activities to date, that this buffer will preclude further work in the identified area until after the end of the nesting season.

We expect that you and your project team will respond to these concerns immediately.

A handwritten signature in black ink that reads "Michael Guth". The signature is written in a cursive style with a prominent loop at the end of the word "Guth".

Michael Guth,
Executive Committee Chair
Sierra Club, Santa Cruz County Group