



July 24, 2026

Jennifer Turner
Senior Environmental Scientist
California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123

SUBJECT: Notice of Violation of Fish and Game Code Sections 1602 and 3503

Dear Ms. Turner,

The Orange County Water District (OCWD) acknowledges receipt of the Notice of Violation and appreciates the opportunity to meet and discuss the matter further. We value our longstanding working relationship with the California Department of Fish and Wildlife (CDFW) and are committed to working collaboratively to review the facts surrounding this matter, identify opportunities for continued improvement, and ensure the continued protection of the important biological resources of the Santa Ana River.

Immediately following notification of the alleged incident, OCWD conducted an internal review of our field implementation practices and promptly implemented additional measures to strengthen environmental protection and permit compliance. These actions were taken independent of the outcome of the investigation because we believe continuous improvement is an important part of responsible resource stewardship. The measures include:

- Enhanced written communication between biological monitors and heavy equipment operators documenting environmental constraints before work begins.
- Standardized maps clearly identifying authorized work areas and environmentally sensitive areas for field personnel.
- Expanded use of physical field delineation and enhanced field documentation to clearly identify environmentally sensitive areas.
- Strengthened coordination and communication between Natural Resources staff, Operations personnel, contractors, and biological monitors throughout project implementation.
- Additional review and refinement of notification procedures, permit implementation practices, biological survey documentation, and compliance protocols.

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In addition, OCWD recently issued a work order to Environmental Science Associates (ESA) to provide expanded environmental permitting and compliance support, including biological and vegetation monitoring support, Natural Resources permit training, comprehensive permit implementation and compliance recommendations, and wetlands regulatory assessment and strategic planning. As you are aware, OCWD has been working in the river for fourteen years under our current agreement without an incident.

These actions reflect OCWD's commitment to continually strengthening an environmental compliance program that has successfully supported both groundwater recharge operations and sensitive species conservation within the Santa Ana River for decades.

Throughout that time, OCWD has worked closely with CDFW, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other resource agencies to responsibly balance groundwater recharge, flood management, habitat restoration, and species protection. Together with our agency partners, OCWD has contributed to the recovery and long-term stewardship of species, including the Least Bell's Vireo, Southwestern Willow Flycatcher, California Least Tern, Santa Ana sucker, and other riparian species, while ensuring a sustainable groundwater supply for more than 2.5 million Orange County residents. We remain committed to continuing that partnership.

As we prepare for our upcoming meeting, there are several items contained in the Notice of Violation that we respectfully request the opportunity to review together.

First, the Notice is addressed to Daniel Bott, who is no longer employed by OCWD. In addition, the Notice states that an off-site meeting occurred with Mr. Bott on May 29, 2026. Based on our understanding, that meeting was attended by David McMichael and Ben Smith, and we would appreciate the opportunity to clarify the record.

Second, the Notice states that "nesting survey data collected from OCWD further corroborated the nest destruction." Our understanding is that OCWD's biological monitoring data did not independently corroborate that conclusion, and we would appreciate the opportunity to better understand the basis for that statement and how OCWD's biological survey information was interpreted.

Third, the Notice references a communication-related permit violation regarding notification of maintenance activities. Our understanding of the permit language has been that notification is provided at the beginning of the maintenance season for the anticipated period of continuous and routine maintenance activities in the river. If our organizations have interpreted that requirement differently, we welcome the opportunity to discuss the permit language and establish a common understanding moving forward.

Most importantly, we respectfully request the opportunity to review the evidence supporting the conclusion that an active nest was taken.

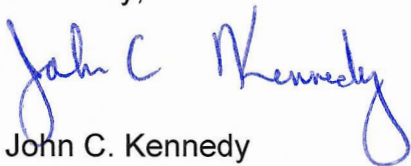
Based on the information currently available to OCWD, we have not seen evidence establishing a fourth active and occupied nest existed within the work area at the time maintenance activities occurred. In addition, the photographic documentation included with the Notice is difficult to interpret, and it is not clear from the photographs themselves what is being depicted.

We also note that approximately fourteen days elapsed between the initial photograph and the subsequent photograph dated May 28. Assuming for purposes of discussion that a nest was ultimately destroyed, we believe it is important to evaluate what may have occurred during that fourteen-day period before concluding that an active, occupied nest was present when the alleged incident occurred. Based on the information currently available to OCWD, we do not believe the factual record presently supports a conclusion that an unlawful take has occurred, and we respectfully request the opportunity to review the information and evidence supporting that determination.

Our intent is not to minimize the importance of protecting nesting birds or our obligations under applicable permits. Rather, we hope to ensure that any enforcement conclusions are based upon a complete and accurate understanding of the available evidence. We also believe this discussion presents an opportunity to confirm a common understanding of permit implementation expectations moving forward.

We appreciate your willingness to meet with us and look forward to a constructive discussion focused on reviewing the facts, clarifying areas where interpretations may differ, and continuing the collaborative relationship that OCWD and CDFW have developed over many years.

Sincerely,



John C. Kennedy
General Manager