



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

South Coast Region
3883 Ruffin Road
San Diego, CA 92123
858-467-4201
wildlife.ca.gov

BY U.S. MAIL AND EMAIL

July 7, 2026

Daniel Bott
Orange County Water District
18700 Ward Street
Fountain Valley, CA 92708
dbott@ocwd.com

Dear Daniel Bott:

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

On May 28, 2026, the California Department of Fish and Wildlife (CDFW), represented by Lieutenant Nicholas Molsberry and Warden Ethan Rugg, made a site visit to the Santa Ana River where a contractor of the Orange County Water District (OCWD) was operating. The contractor was conducting work under OCWD's Streambed Alteration Agreement No. 1600-2012-0013-R5 (Agreement) at the time of the site visit. Specifically, the work occurred in an area in the Santa Ana River north of Interstate 57 and south of the Amtrak ROW bridge identified as Santa Ana River Reach 4 in Table 1 of the Agreement. (See Attachment A, Photo 1.) During the visit, Warden Rugg confirmed that a nest of a black-necked stilt (*Himantopus mexicanus*) had been impacted in an area where bulldozer tracks and push-piles were present. (See Attachment A, Photos 4 and 5.) Nesting survey data collected from OCWD further corroborated the nest destruction. The bulldozer operator confirmed they were a contractor of OCWD.

On May 29, 2026, Senior Environmental Scientist Supervisor Jennifer Turner and Warden Rugg visited the same work site. After observing the site and having an off-site discussion with OCWD's Daniel Bott, CDFW has determined that the following conditions of the Agreement were not followed to complete the work described above:

- 1.5. Notification Prior to Work. CDFW did not receive notification five days prior to activities occurring in the Santa Ana River, as this condition requires. (See Attachment A, Photos 1-3.)

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- 2.8. Nesting Bird Avoidance and Protection. OCWD nesting survey data substantiate that nesting surveys occurred. However, there was no physical delineation of nesting bird buffers observed within the work area, as this condition requires. In addition, maintenance activities occurred within 300 feet of known active nests, which this condition prohibits.

Based on the above, CDFW has determined that the work described above violated Fish and Game Code section 1602 by failing to comply with the conditions in the Agreement. Fish and Game Code section 1602(a)(4)(B) requires an entity to conduct any activity a lake or streambed alteration agreement covers "in accordance with the agreement." A violation of Fish and Game Code section 1602 may result in civil or criminal prosecution (Fish & G. Code, §§ 1615, 12000). CDFW has also determined that the work described above violated Fish and Game Code section 3503 by destroying the nest. Section 3503 makes it unlawful "to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by [the Fish and Game Code] or any regulation made pursuant thereto." A violation of Fish and Game Code section 3503 may result in criminal prosecution. (Fish & G. Code, § 12002, subd. (c).)

To address these violations and avoid similar violations in the future, OCWD needs to ensure that all OCWD employees and contractors who conduct work under the Agreement fully understand and fully comply with all conditions therein, especially condition 1.5, to avoid harm to birds and other fish and wildlife resources the Santa Ana River supports. In addition, OCWD will need to mitigate for the nest destruction. Please contact Jennifer Turner at (858) 539-9109 or by email at jennifer.turner@wildlife.ca.gov as soon as possible to arrange a meeting between OCWD and CDFW to resolve this matter.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Regional Manager
South Coast Region

cc: California Department of Fish and Wildlife
Nicholas Molsberry, Lieutenant
Ethan Rugg, Warden
Glen M. Lubcke, Environmental Program Manager
Jennifer Turner, Senior Environmental Scientist (Supervisory)

Attachment A: Photographs