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June 18, 2020

Governor's Office of Planning & Research

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Jun 18 2020

STATE CLEARINGHOUSE

Subject: Comments on the Notice of Preparation of a Draft focused Environmental Impact Report for Carson to Paramount Hydrogen Gas Pipeline, SCH #2020059038, Los Angeles County

Dear Mr. Castillo:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Preparation (NOP) of a Draft focused Environmental Impact Report (DEIR) for Carson to Paramount Hydrogen Gas Pipeline (Project).

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's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state 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, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" (see Fish & G. Code, § 2050) of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description/Objectives: The Project proponent proposes to utilize an existing 11.5-mile-long series of pipelines plus construct a new 0.5-mile pipeline segment to connect from the Air Products' existing hydrogen facility in the City of Carson to the World Energy Bio-fuels Facility in the City of Paramount, California. Two new pipe connections would be required to connect segments of existing pipelines together along the 11.5-mile length. Air Products would also remove or replace existing manual valves and add an automatic shut-off valve (ASV) at one location along the pipeline route.

Project Location: The Project route would initiate in the City of Carson at an existing Air Products and Chemicals, Inc. hydrogen facility, located at 23300 S. Alameda St., to construct 0.5 miles of new pipeline to connect to existing pipeline on Sepulveda Boulevard. Connection of two existing pipelines would take place on Paramount Blvd. The route would terminate in the City of Paramount, at the World Energy Bio-Fuels Facility, 14700 Downey Ave. The proposed pipeline would traverse the City of Los Angeles, County of Los Angeles, City of Long Beach, City of Lakewood, and City of Bellflower.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Carson (City) in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

- 1) Lake and Streambed Alteration Agreement (LSA): The Notice of Preparation states, "The proposed pipeline would utilize existing pipe bridges to cross the three bodies of water intersected by the route: the Dominguez Channel, Compton Creek, and the Los Angeles River."
 - a) As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow; or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream; or use material from a streambed. This would include any construction activity that would involve temporary work in the bed, bank, or channel of a stream. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether an LSA Agreement (Agreement) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of an Agreement for a Project that is subject to CEQA will require related environmental compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document prepared by the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the DEIR should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA (available at www.wildlife.ca.gov/habcon/1600).
 - b) The Project area is located in areas that may support aquatic, riparian, and/or wetland habitats; therefore, CDFW recommends an investigation of the site for

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possible surface drainages in the surrounding areas that may feed into these creeks or channels. A preliminary jurisdictional delineation of the streams and their associated riparian habitats should be included in the DEIR. The delineation should be conducted pursuant to the U. S. Fish and Wildlife Service (USFWS) wetland definition adopted by the CDFW (Cowardin et al. 1970). Some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' section 404 permit and Regional Water Quality Control Board section 401 Certification.

- c) In areas of the Project site which may support ephemeral streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of ephemeral channels and help maintain natural sedimentation processes; therefore, CDFW recommends effective setbacks be established to maintain appropriately-sized vegetated buffer areas adjoining ephemeral drainages.
 - d) Project-related changes in upstream and downstream drainage patterns, runoff, and sedimentation should be included and evaluated in the DEIR.
 - e) As part of the LSA Notification process, CDFW requests the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. CDFW recommends the DEIR evaluate the results and address avoidance, minimization, and/or mitigation measures that may be necessary to reduce potential significant impacts.
- 2) Nesting Birds. As stated in the Initial Study, the Project site goes through several cities with industrial, commercial, and residential land uses. Aerial photography indicates there are areas of ornamental vegetation and trees along the pipeline route. This vegetation may provide potential nesting habitat where Project activities may impact nesting birds. Project activities occurring during the breeding season of nesting birds could result in the incidental loss of fertile eggs, or nestlings, or otherwise lead to nest abandonment in trees directly adjacent to the Project boundary. The Project could also lead to the loss of foraging habitat for sensitive bird species.
- a) CDFW recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).
 - b) Proposed Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs.
 - c) If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300-feet of the disturbance area (within 500-feet for raptors and 0.5 a mile for special

status species). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

- 3) Landscaping. The Initial Study states, "Land stripped of vegetation would be replanted; pavement would be replaced, etc." Despite the lack of vegetation in the construction areas, the possibility of landscaping exists post-construction. Habitat loss and invasive plants are a leading cause of native biodiversity loss. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, and create monocultures. CDFW recommends using native, locally appropriate plant species for landscaping on the Project site. CDFW recommends invasive/exotic plants, including pepper trees (*Schinus* genus) and fountain grasses (*Pennisetum* genus), be restricted from use in landscape plans for this Project. A list of invasive/exotic plants that should be avoided as well as suggestions for better landscape plants can be found at <https://www.cal-ipc.org/solutions/prevention/landscaping/>.
- 4) Wetland Resources. The Project site is in direct proximity to the Dominguez Gap Wetlands, which provides an ecosystem to local wildlife species. It is possible that Project related activities may disturb and adversely impact the function of this ecosystem. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's policies. The Wetlands Resources policy (<http://www.fgc.ca.gov/policy/>) of the Fish and Game Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California. Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, Project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."
 - a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, the Project must include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions for the benefit to on-site and off-site wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

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- b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this state that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this state; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).
- 5) California Endangered Species Act (CESA). A review of the California Natural Diversity Database (CNDDDB) indicates an occurrence of Lyon's pentachaeta (*Pentachaeta lyonii*), a CESA and federal Endangered Species Act (ESA) listed species, within a mile south of the Project vicinity. Measures, such as focused botanical surveys, should be taken to identify any CESA or ESA listed species that may be on or near the Project site and prevent impacts to such species. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or State-listed rare plant species that results from the Project is prohibited, except as authorized by state law (Fish and G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

General Comments

Despite the urban setting of the Project site, the Los Angeles River and its tributaries are known to support a variety of ecosystems that provide viable habitat to many aquatic and terrestrial species. Preventing the loss of function of these important ecosystems is imperative. The following comments should be addressed in the DEIR to reduce the significant impact the Project may have on the water bodies in and around the Project area.

- 1) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent (approximately 500 feet if possible) to the Project area, with emphasis upon identifying endangered, threatened, sensitive, regionally and locally unique species, and sensitive habitats. Impact analysis will

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aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts, as referred in General Comment 2. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. The DEIR should include the following information:

- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded adjacent to the Project vicinity. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>;
- b) A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>);
- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. *The Manual of California Vegetation*, second edition, should also be used to inform this mapping and assessment (Sawyer, 2008). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
- d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by the Project. CDFW's CNDDDB in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp;
- e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable,

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are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS; and,

- f) A recent, wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.
- 2) Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The following should be addressed in the DEIR:
- a) A discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (NCCP, Fish & G. Code, § 2800 et. seq.). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR;
 - b) A discussion of potential adverse impacts from lighting, noise, human activity, and exotic species and identification of any mitigation measures;
 - c) A discussion on any potential Project-related changes on drainage patterns and downstream of the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and, post-Project fate of runoff from the Project site. The discussion should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included;
 - d) An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,
 - e) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 3) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:

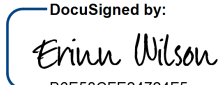
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- a) A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas; and,
 - b) A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. The alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.
- 4) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from the Project site and permanently moving it to a new location. CDFW generally does not support the use of, translocation or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant or animal species. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and animals and their habitats.
- 5) Moving out of Harm's Way. To avoid direct mortality, we recommend that a qualified biological monitor approved by CDFW be on-site prior to and during ground and habitat disturbing activities to move out of harm's way any special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the DEIR clearly identify that the designated entity should obtain all appropriate state and federal permits.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Carson in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at (562) 430-0098 or by email at Felicia.Silva@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erinn Wilson

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