



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
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 San Diego, CA 92107  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 17, 2020

Governor's Office of Planning & Research

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**Jul 17 2020**

## STATE CLEARINGHOUSE

**Subject:** County of San Diego Sanitation District: Los Cocheros Sanitary Sewer Improvements from Maintenance Hole LSMH0555 to LSMH0599 (PROJECT) **MITIGATED NEGATIVE DECLARATION (MND)**  
**SCH# 2020060316, San Diego County**

Dear Ms. Curtis:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from The County of San Diego (COUNTY) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines (see References).

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 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 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. As proposed, for example, the Project may be subject to CDFW's 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" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), the project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The County participates in the NCCP program by implementing its approved County Multiple Species Conservation Program (MSCP).

### PROJECT DESCRIPTION SUMMARY

**Proponent:** County of San Diego Sanitation District

**Objective:** The County of San Diego Sanitation District proposes to improve and stabilize a section of an existing sanitary sewer pipeline in a residential area of the unincorporated

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community of Lakeside. The Project will rehabilitate approximately 7,300 feet of an existing sewer collection system pipeline located below a section of Los Coches Creek. The proposed work includes two main elements: (1) installation of a composite lining within the majority of the existing pipe; and, (2) pipe replacement and concrete encasement in three small sections of the pipeline.

The lining installation is trenchless and only requires insertion at existing maintenance holes with very little ground disturbance and vegetation trimming necessary for access. The pipe replacement includes trenching along three small sections where the pipe would be replaced and encased with articulated concrete block (ACB). This ACB is an interlocking, prefabricated section of concrete with large voids to allow for water percolation and vegetative growth. To perform pipe replacement and concrete encasement in these areas, a mini-backhoe and a small skid loader would be used to excavate between three to five inches in diameter of native soil around the existing sewer main. Dewatering may be needed during excavation and the installation of concrete encasement. A dewatering plan will be prepared which will provide recommendations to avoid and/or minimize impacts to water quality and jurisdictional resources. Additionally, proper Best Management Practices such as sand/gravel bags, fiber rolls, and/or silt fencing will be used around the perimeter of the excavation areas in order to avoid and/or minimize erosion or runoff impacts to the creek bed of Los Coches Creek. The trenched areas will then be backfilled with native soil.

**Location:** The Project is in the unincorporated community of Lakeside in central San Diego County, California (Figure 1; all figures are within Attachment 1). The Project site lies within the El Cajon Landgrant on the U.S. Geological Survey (USGS) 7.5-minute topographic map series, Alpine and El Cajon quadrangles (USGS 1996 and 1997, respectively; Figure 2). It is within the County's MSCP Metro Lakeside Jamul Section but is outside of the Biological Resources Core Area (BRCA) and the Pre-Approved Mitigation Area (PAMA). The Project follows the alignment of a sewer line, which is situated just south of Old Highway 80 between its intersections with Gaucho Lane to the west and Flinn Crest Street to the east (Figure 3). This sewer line generally follows Los Coches Creek, crossing through the creek bed in multiple locations.

**Biological Setting:** Eleven vegetation communities, including six sensitive vegetation communities: southern willow scrub (Tier I), mule fat scrub (Tier I), herbaceous wetland (Tier I), southern riparian forest (Tier I), southern coast live oak riparian forest (Tier I), and non-native riparian (Tier I), were mapped with the survey area. Although no sensitive wildlife species were observed, seven species: Coronado skink (*Plestiodon skiltonianus interparietalis*), coastal whiptail (*Aspidoscelis tigris stejnegeri*), San Diegan legless lizard (*Anniella stebbinsi*; formerly *Anniella pulchra*), Cooper's hawk (*Accipiter cooperii*), yellow warbler (*Setophaga petechial*), western red bat (*Lasiurus blossevillii*), and southern mule deer (*Odocoileus hemionus*) have moderate to high potential to occur.

Impacts to habitat as a result of the second element of the Project were calculated at 70 percent permanent and 30 percent temporary by acreage because the interlocking ACB is constructed with voids of 30 percent. Since the ABC can support vegetation and these areas would be backfilled with native soil and revegetated using hydroseed, permanent impact calculations noted for the Project were reduced by 30 percent. A total of 0.03 acre of permanent impacts would occur to sensitive vegetation communities, including herbaceous wetland (0.02 acre) and southern riparian forest (0.01 acre), and 0.21 acre of temporary impacts would occur to mule fat scrub, herbaceous wetland, southern riparian forest, and southern coast live oak riparian forest. Proposed earthwork and placement of ACB, as well as vegetation trimming and access, would result in permanent and temporary impacts to a total of 0.051 acre of wetland waters of the U.S./State and an additional 0.231 acre of wetland waters of the State. These proposed activities would also result in temporary and permanent impacts to 0.119 acre of non-wetland waters of the U.S. and State. Compensatory mitigation may occur via on-site restoration/habitat creation or off-site through preservation or purchase of mitigation credits at an approved mitigation bank.

**Timeframe:** Construction is scheduled to begin March 2021 and is expected to continue for approximately 180 days.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

### I. Project Description and Related Impact Shortcoming

#### **Section # 3.2 of the Biological Resources Letter Report for the County of San Diego Sanitation District: Los Coches Sanitary Sewer Improvements from LSMH0555 to LSMH0599 Project (RECON Number 9009-12), Page # 15**

#### **Mitigation Location and Ratios**

#### **COMMENT #: 1**

**Issue:** The Project does not specifically identify the location of the mitigation for permanent impacts to sensitive habitats, therefore CDFW cannot ascertain as to whether the correct mitigation ratio was used to adequately reduce impacts of the Project on biological resources to less than significant.

**Specific impact:** The Biological Resources Report on page 15,

*MIT-BIO-1: In-kind mitigation for 0.01 acre of permanent impacts to southern riparian forest and 0.02 acre of permanent impacts to herbaceous wetland shall occur at a 1:1 ratio (County of San Diego 2010b). This compensatory mitigation may occur via onsite restoration/habitat creation or off-site through preservation or purchase of mitigation credits at an approved mitigation bank. Mitigation for impacts to temporarily impacted sensitive vegetation communities shall occur via the restoration of these temporary impact areas to their pre-impact conditions.*

**Why impact would occur:** Mitigation for permanent impacts to sensitive communities on lands within the County's MSCP subarea are required to conform to Attachment M of the County's Biological Mitigation Ordinance, which determines the mitigation for impacts to sensitive habitats by Tier and location of impact relative to the location of mitigation. Since the location of the mitigation is not specifically defined in the MND or supporting documents, it is unclear how a 1:1 ratio was determined. The mitigation for the Project should be 1:1 only if mitigation occurs within BRCA; if mitigation occurs on-site, then the mitigation ratio should be 2:1.

#### **Evidence impact would be significant:**

Page 4-17 of the County's Subarea Plan states,

*Mitigation measures shall conform to the requirements of the California Environmental Quality Act (CEQA), the MSCP, the Biological Mitigation Ordinance and the Subarea Plan.... The mitigation ratios in the County's Biological Mitigation Ordinance are based upon a variety of factors, including the type of habitats impacted and the locations of the project and mitigation sites.*

The County of San Diego Guidelines for Determining Significant Biological Resources, in section 4.5 letter E, states that impacts to Biological Resources would be significant if,

*The project does not conform to the goals and requirements as outlined in any applicable Habitat Conservation Plan (HCP), Habitat Management Plan (HMP),*

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*Special Area Management Plan (SAMP), Watershed Plan, or similar regional planning effort.*

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

Since the Project does not specify the location of the mitigation, the MND should reflect that a 1:1 or 2:1 mitigation ratio will be used to calculate acreage depending on the chosen location of mitigation. If mitigation for permanent impacts occurs onsite the mitigation ratio should be 2:1. If a mitigation bank is chosen, the mitigation can remain 1:1, but possible locations should be identified.

**Mitigation Measure #1:**

**To reduce impacts to less than significant:**

*In-kind mitigation for 0.014 acre of permanent impacts to southern riparian forest and 0.028 acre of permanent impacts to herbaceous wetland shall occur at a 1:1 or 2:1 ratio **depending on location** (County of San Diego 2010b). This compensatory mitigation may occur via on-site restoration/habitat creation (2:1) or off-site through preservation or purchase of mitigation credits at a CDFW- approved mitigation bank (1:1). If a mitigation bank is not used to offset impacts, the Habitat, Mitigation, and Monitoring Plan associated with the mitigation will be reviewed and approved by the CDFW prior to the start of construction. Mitigation for impacts to temporarily impacted sensitive vegetation communities shall occur via the restoration of these temporary impact areas to their pre-impact conditions.*

See comment below for an explanation for changes to acreages.

**COMMENT #: 2**

**Sections: 3.0 of the Biological Resources Letter Report for the County of San Diego Sanitation District: Los Coches Sanitary Sewer Improvements from LSMH0555 to LSMH0599 Project (RECON Number 9009-12), Pages # 13**

**Impact Calculations**

**Issue:** The Biological Resources Report states,

*... because the interlocking ACB is constructed with voids of 30 percent, they can support vegetation and these areas would be backfilled with native soil and revegetated using hydroseed, permanent impact calculations here are reduced by 30 percent. The impacts in these areas are calculated at 70 percent permanent and 30 percent temporary by acreage.*

**Specific impact:** It is unclear from the Biological Resources Report where the percentage of permanent/temporary impacts for the ACB was sourced or referenced. Although the ACB will be revegetated to perform similarly to the impacted habitat, it is unclear from the MND and associated documents that there will be associated success criteria to ensure that the impacted sensitive habitats are mitigated in-kind at a 2:1 ratio on-site (see above comment) to ensure compliance with the MSCP.

**Why impact would occur:** Impacts from the permanent installation of ACB would not be sufficiently mitigated per MSCP requirements.

**Evidence impact would be significant:** As noted above, the County of San Diego Guidelines for Determining Significant Biological Resources, in section 4.5 letter E, states that impacts to Biological Resources would be significant if,

*The project does not conform to the goals and requirements as outlined in any applicable Habitat Conservation Plan (HCP), Habitat Management Plan (HMP),*

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*Special Area Management Plan (SAMP), Watershed Plan, or similar regional planning effort.*

Revegetation using hydroseed on top of ACB in “permanently” impacted areas does not ensure that impacts to these Tier 1 habitats will be sufficiently mitigated for in-kind and in perpetuity per MSCP requirements.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

Please provide a reference for the determination for the 70/30% permanent/temporary impact split for the installation of ACB. To ensure compliance with the MSCP, permanent impacts to Tier 1 habitat should require 2:1 mitigation on-site for the entirety of the area to be permanently impacted by ACB, or alternatively off-site mitigation shall be acquired for impacted habitats at 1:1 ratio within BRCA at a CDFW approved bank in the vicinity of the Project.

**Mitigation Measure #1:**

**To reduce impacts to less than significant:**

*In-kind mitigation for 0.014 acre of permanent impacts to southern riparian forest and 0.028 acre of permanent impacts to herbaceous wetland shall occur at a 1:1 or 2:1 ratio **depending on location** (County of San Diego 2010b). This compensatory mitigation may occur via on-site restoration/habitat creation (2:1) or off-site through preservation or purchase of mitigation credits at a CDFW- approved mitigation bank (1:1). If a mitigation bank is not used to offset impacts, the Habitat, Mitigation, and Monitoring Plan associated with the mitigation will be reviewed and approved by the CDFW prior to the start of construction. Mitigation for impacts to temporarily impacted sensitive vegetation communities shall occur via the restoration of these temporary impact areas to their pre-impact conditions.*

**II. Mitigation Measure or Alternative and Related Impact Shortcoming**

**COMMENT #3:**

**Raptor Breeding Season dates and Avoidance and Minimization Measure**

**Sections: 3.5.2 – 3.6 of the Biological Resources Letter Report for the County of San Diego Sanitation District: Los Coches Sanitary Sewer Improvements from LSMH0555 to LSMH0599 Project (RECON Number 9009-12) and MND required Mitigation Measure #3, Pages # 17-18, #2**

**Issue:** The Biological Resources Report notes that there is the potential for Cooper’s hawks yellow warblers to be impacted by Project activities, due to the presence of suitable habitat and because construction is scheduled during the breeding season. However, it does not provide an adequate avoidance measure to ensure impacts are mitigated below the level of significance

*Temporary impacts as a result of vegetation trimming and permanent impacts as a result of trenching to a combined total of 0.21 acre of suitable habitat types has potential to result in significant direct impacts to Cooper’s hawk and yellow warbler. Additionally, increased noise levels due to construction during the breeding seasons for these species (January 15 to July 15) for Cooper’s hawk and February 1 to August 31 for yellow warbler) could result in indirect impacts to any individuals determined to be nesting within the habitats adjacent to the project impact areas. In order to avoid direct impacts to potentially nesting individuals of sensitive bird species, a qualified biologist should conduct a survey prior to the start of construction activities. The pre-construction survey shall be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). If an active bird nest is found, additional measures should be*

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*implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. With implementation of these measures, the project is expected to avoid significant direct and indirect impacts to Cooper's hawk and yellow warbler, as well as species protected by the MBTA or California Fish & Game Code (CFGC)*

**Specific impact:** It is unclear from the Biological Resources Report where these dates for the raptor breeding season were sourced or referenced. Egg laying for Cooper's hawks ranges from the end of January through mid-June, so hatching and fledging shift accordingly (Ehrlich, 1988, Unitt 2003); therefore, raptors could be present in the Project area from August to mid-September. Also, without specifically identifying "additional measures", "[i]f an active bird nest is found," it is unclear how the Biological Resources Report came to the conclusion, "[w]ith implementation of these measures, the project is expected to avoid significant direct and indirect impacts to Cooper's hawk and yellow warbler, as well as species protected by the MBTA or California Fish & Game Code (CFGC)."

Mitigation measures "...must be fully enforceable through permit conditions, agreements, or other legally binding instruments" (CEQA Guidelines §15126.4(2)). As written, the mitigation measure above is not fully enforceable because it does not include specific measures to be followed if an active bird nest is found.

**Why impact would occur:** According the species account for Cooper's hawks, young Cooper's hawks molt and are still in the process of getting their primary feathers through September 15 (<https://birdsoftheworld.org/bow/species/coohaw/cur/breeding>). Any work that is done while raptors could potentially be present near a nest (i.e., until fledging) or other nesting birds including yellow warbler, should at the very least warrant a suitable buffer, and appropriate avoidance measures, which should include a provision for a biological monitor if nesting birds are present and work is not halted.

**Evidence impact would be significant:** Impacts to nesting Cooper's hawks or other nesting birds would likely be significant without appropriate avoidance and minimization and could possibly lead to violation of Fish and Game Code section 3503. Table 3-5 of the MSCP states,

*In the design of future projects within the Metro-Lakeside-Jamul segment, preserve areas shall conserve patches of oak woodland and oak riparian forest of adequate size for nesting and foraging habitat. Area-specific management directives must include 300-foot impact avoidance areas around active nests and minimization of disturbance in oak woodlands and oak riparian forests.*

Without a firm, specific, written commitment to participation, planning, and/or the execution of avoidance and minimization measures, the Department concludes that this mitigation measure does not bring impacts below a significant level.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

Given the references above, CDFW concludes that a minimum buffer of 300 ft should be maintained for nesting Cooper's Hawks. Please provide a rationale and reference for the unusually truncated Cooper's hawk nesting season. If raptors or other nesting birds are present, and the Project proposes to continue, CDFW requests to review and approve a nest avoidance plan. We also recommend that a biological monitor be present, who can halt construction if the birds appear to be agitated.

**Mitigation Measure #2:**

**To reduce impacts to less than significant:** *Temporary impacts as a result of vegetation trimming and permanent impacts as a result of trenching to a combined total of 0.21 acre of suitable habitat types has potential to result in significant direct impacts*



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*to Cooper's hawk and yellow warbler. Additionally, increased noise levels due to construction during the breeding seasons for these species (January 15 to **September 15** Cooper's hawk and raptors and February 1 to August 31 for yellow warbler) could result in indirect impacts to any individuals determined to be nesting within the habitats adjacent to the project impact areas. In order to avoid direct impacts to potentially nesting individuals of sensitive bird species, a qualified biologist should conduct a survey prior to the start of construction activities. The pre-construction survey shall be conducted within **3** calendar days prior to the start of construction activities (including removal of vegetation). If an active bird nest is found, additional measures should be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. **These measures shall consist of implementation of a nest avoidance plan, which should be submitted by the Project Proponent to the County that includes a no-work buffer around the nest (100-500 ft depending on the species, minimum of 300 ft for Cooper's hawks), a biological monitor to be present during construction with the ability to halt construction if needed, and possibly, the installation of a temporary noise barrier or other sound attenuation at the edge of the Project footprint to reduce noise levels below 60 dB LEQ or ambient (if ambient is greater than 60 dB LEQ), to the satisfaction of the Director of Department of Public Works (DPW) with concurrence from USFWS and CDFW. With implementation of these measures, the project is expected to avoid significant direct and indirect impacts to Cooper's hawk and yellow warbler, as well as species protected by the MBTA or California Fish & Game Code (CFGC).***

**COMMENT #4:**

**Western Red Bat Avoidance and Minimization Measure**

**Sections: 3.5.2 – 3.6 of the Biological Resources Letter Report for the County of San Diego Sanitation District: Los Coches Sanitary Sewer Improvements from LSMH0555 to LSMH0599 Project (RECON Number 9009-12) and MND required Mitigation Measure #4, Pages # 17-18, #2**

**Issue:** The Biological Resources Report notes that Western red bat (*Lasiurus blossevillii*) has a moderate potential to day-roost within riparian trees in the Project areas of southern riparian forest, southern coast live oak riparian forests, eucalyptus woodland, or non-native woodland. These roosts could be directly impacted during vegetation trimming; however, the Biological Resources Report does not provide a complete avoidance measure which would ensure impacts are mitigated to below significant.

*Direct impacts to roosting western red bats could occur during any vegetation trimming of trees with potential to support this species day-roosting. In order to avoid direct impacts to any potentially roosting western red bats, a biological monitoring shall survey any trees with potential to support this species that are proposed for trimming immediately prior to the trimming activities. If any trees are occupied by western red bat, additional avoidance/mitigation measures shall be implemented as recommended by the biological monitor. The biological monitor shall be present during all vegetation removal and tree trimming at the occupied habitat. With the implementation of these measures, the project is expected to avoid significant direct impacts to western red bat.*

**Specific impact:**The above measure states, additional avoidance/mitigation measures shall be implemented as recommended by the biological monitor, without specifically identifying the minimum required “additional measures...[i]f any trees are occupied by western red bat.” It is unclear how the Biological Resources Report concluded, “[w]ith implementation of these measures, the Project is expected to avoid significant direct impacts to western red bat.”

**Why impact would occur:** The minimum qualifications for the biological monitor for bat surveys were not identified in the MND or associated documents, therefore measures recommended by the biological monitor may not be sufficient to avoid and

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minimize impacts to Western red bat. The minimum avoidance measures should be identified in the MND to ensure avoidance and mitigation below significance.

**Evidence impact would be significant:** The County's Biological Mitigation Ordinance BMO, states that the impact would be significant if:

*The project would have a substantial adverse effect, either directly or through habitat modifications, on a candidate, sensitive, or special status species listed in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. ... The project would impact an on-site population of a County List A or B plant species, or a County Group I animal species, or a species listed as a state Species of Special Concern. Impacts to these species are considered significant[.]*

Since Western red bats are a California Species of Special Concern, impacts to these species would be considered significant if not adequately avoided or minimized.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

Please identify the minimum qualifications for the Biological Monitor for bat avoidance, as well as identify the minimum measures required to reduce the impact below the level of significance. Additional measures can be implemented as recommended by the Designated Bat Biologist (see below).

**Mitigation Measure #3:**

**To reduce impacts to less than significant:** *A biologist with expertise and experience with bats shall be retained as a Designated Bat Biologist. The Designated Bat Biologist shall have at least 3 years of experience in conducting bat habitat assessments, day roosting surveys, and acoustic monitoring, and have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity).*

**Mitigation Measure #4:**

**To reduce impacts to less than significant:** *The Designated Bat Biologist shall survey any trees with potential to support this species that are proposed for trimming immediately prior to the trimming activities, and shall be present during all vegetation removal and tree trimming at the occupied habitat. During construction, the removal of trees or their branches shall be avoided to the maximum extent practicable within or adjacent to occupied bat habitat. If tree removal or trimming is necessary for Project construction, this activity shall be performed outside the bat maternity season (May through August 15) to avoid impacts to flightless young. If tree removal or trimming is necessary during the bat maternity season, the Designated Bat Biologist shall monitor the removal or trimming and examine the branches for nonvolant (nonflying) juvenile bats prior to disposal. Any injured or potentially injured bats shall be transported by the Designated Bat Biologist to a CDFW-licensed bat rehabilitator within 48 hours.*

**III. Editorial Comments and/or Suggestions**

CDFW requests to review the Habitat, Mitigation, and Monitoring Plan that will accompany the mitigation site.

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB



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field survey form can be found at the following link:  
[http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the **MND** to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Elyse Levy, Senior Environmental Scientist at [Elyse.Levy@wildlife.ca.gov](mailto:Elyse.Levy@wildlife.ca.gov)

Sincerely,

DocuSigned by:  
  
C3D449ECB7C14DE...  
Jennifer Turner, for

David A. Mayer  
Environmental Program Manager  
South Coast Region

Attachments:  
Attachment A: Recommended Mitigation Measures

cc: Office of Planning and Research, State Clearinghouse, Sacramento

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## REFERENCES

1. California Environmental Quality Act (CEQA). California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.
2. California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2)
3. County of San Diego, 2010 Biological Mitigation Ordinance, San Diego County Code, Tit. 8, Div.6, Ch. 5. Attachment M
4. Department of Planning and Land Use Department of Public Works, 2010. 4<sup>th</sup> Rev. County of San Diego Guidelines for Determining Significance, pages 18-19
5. Final Multiple Species Habitat Conservation Program MSCP Plan, 1998. Table 3-5, page 3-73
6. The Cornell Lab of Ornithology, Birds of the World, Robert N. Rosenfield, Kristin K. Madden, John Bielefeldt, and Odette E. Curtis V: 1.0 — Published March 4, 2020 Text last updated August 19,2019 Available from:  
<https://birdsoftheworld.org/bow/species/coohaw/cur/breeding>
7. Ehrlich, P.D. Dobkin, and D. Wheye. 1988. The Birder's handbook, Simon & Schuster, Inc.
8. P. Unitt, 2003 San Diego County Bird Atlas project. Unpublished data
9. Fish & Game Code §3503

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### Attachment A: Recommended Mitigation Measures

<p><b>Mitigation Measures #1:</b></p>	<p>In-kind mitigation for 0.014 acre of permanent impacts to southern riparian forest and 0.028 acre of permanent impacts to herbaceous wetland shall occur at a 1:1 <b>or 2:1 ratio depending on location</b> (County of San Diego 2010b). This compensatory mitigation may occur via on-site restoration/habitat creation <b>(2:1)</b> or off-site through preservation or purchase of mitigation credits at a CDFW- approved mitigation bank <b>(1:1)</b>. If a mitigation bank is not used to offset impacts, the Habitat, Mitigation, and Monitoring Plan associated with the mitigation will be reviewed and approved by the CDFW prior to the start of construction. Mitigation for impacts to temporarily impacted sensitive vegetation communities shall occur via the restoration of these temporary impact areas to their pre-impact conditions.</p>
<p><b>Mitigation Measure #2</b></p>	<p>Temporary impacts as a result of vegetation trimming and permanent impacts as a result of trenching to a combined total of 0.21 acre of suitable habitat types has potential to result in significant direct impacts to Cooper's hawk and yellow warbler. Additionally, increased noise I levels due to construction during the breeding seasons for these species (January 15 to <b>September 15</b> Cooper's hawk and raptors and February 1 to August 31 for yellow warbler) could result in indirect impacts to any individuals determined to be nesting within the habitats adjacent to the project impact areas. In order to avoid direct impacts to potentially nesting individuals of sensitive bird species, a qualified biologist should conduct a survey prior to the start of construction activities. The pre-construction survey shall be conducted within <b>3</b> calendar days prior to the start of construction activities (including removal of vegetation). If an active bird nest is found, additional measures should be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. <b>These measures shall consist of implementation of a nest avoidance plan, which should be submitted by the Project Proponent to the County that includes a no-work buffer around the nest (100-500 ft depending on the species, minimum of 300 ft for Cooper's hawks), a biological monitor to be present during construction with the ability to halt construction if needed, and possibly,</b></p>

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	<p><b>the installation of a temporary noise barrier or other sound attenuation at the edge of the Project footprint to reduce noise levels below 60 dB LEQ or ambient (if ambient is greater than 60 dB LEQ), to the satisfaction of the Director of Department of Public Works (DPW) with concurrence from USFWS and CDFW.</b> With implementation of these measures, the project is expected to avoid significant direct and indirect impacts to Cooper's hawk and yellow warbler, as well as species protected by the MBTA or California Fish &amp; Game Code (CFGF).</p>
<p><b>Mitigation Measure #3:</b></p>	<p>A biologist with expertise and experience with bats shall be retained as a Designated Bat Biologist. The Designated Bat Biologist shall have at least 3 years of experience in conducting bat habitat assessments, day roosting surveys, and acoustic monitoring, and have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity).</p>
<p><b>Mitigation Measure #4:</b></p>	<p>The Designated Bat Biologist shall survey any trees with potential to support this species that are proposed for trimming immediately prior to the trimming activities and shall be present during all vegetation removal and tree trimming at the occupied habitat. During construction, the removal of trees or their branches shall be avoided to the maximum extent practicable within or adjacent to occupied bat habitat. If tree removal or trimming is necessary for Project construction, this activity shall be performed outside the bat maternity season (May through August 15) to avoid impacts to flightless young. If tree removal or trimming is necessary during the bat maternity season, the Designated Bat Biologist shall monitor the removal or trimming and examine the branches for nonvolant (nonflying) juvenile bats prior to disposal. Any injured or potentially injured bats shall be transported by the Designated Bat Biologist to a CDFW-licensed bat rehabilitator within 48 hours.</p>