



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 22, 2020

Governor's Office of Planning & Research

Ms. Jennifer Harriger
Environmental Planning Section
The Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, California 90054-0153
EP@mwdh2o.com

Jul 22 2020

STATE CLEARINGHOUSE

Subject: Comments on the Notice of Preparation of a Draft Programmatic Environmental Impact Report for the Metropolitan Water District of Southern California Climate Action Plan; SCH# 2020060450; Contra Costa, Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Joaquin, and Ventura Counties

Dear Ms. Harriger:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Preparation (NOP) for the Metropolitan Water District (MWD) of Southern California Climate Action Plan Draft Programmatic Environmental Impact Report (DPEIR) prepared pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.)

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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public 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 (Public 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 (LSA) regulatory authority (Fish & Game Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" (see Fish & Game Code, § 2050) of any species protected under the California Endangered Species Act (CESA; Fish &

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Game Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.), CDFW recommends the project proponent obtain appropriate authorization under the Fish and Game Code.

Project Location: The Project will cover a nine-county region including the counties of Contra Costa, Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Joaquin, and Ventura.

Project Description/Objective: Climate Action Plan (CAP) that will outline a strategy for reducing greenhouse gas (GHG) emissions associated with future construction, operation, and maintenance activities. The CAP will analyze historical GHG emissions, prepare a forecasts future GHG emissions, set a GHG reduction target for reducing emissions consistent with state policies; and identifies a suite of reduction actions that Metropolitan can choose from to achieve the adopted target consistent with Section 15183.5 of the State CEQA Guidelines. The CAP is a customized roadmap for making informed decisions and understanding where and how to achieve emissions reductions that conform to Metropolitan's mission/goals in a meaningful and cost-effective manner.

Emissions Inventory Metropolitan's operations inherently result in GHG emissions. Understanding the processes that generate these emissions is essential to identifying strategies to reduce GHG emissions and achieve the identified GHG reduction target. Metropolitan's activities can be categorized into the following GHG generating sectors:

- **Water Conveyance and Treatment.** A majority of Metropolitan's emissions are a direct result of the energy consumed to pump, treat and deliver water throughout Metropolitan's extensive service area.
- **Buildings/Infrastructure.** Infrastructure including offices, facilities, control buildings, lighting, computers, air conditioners, and other equipment that is required to support the treatment and delivery of water.
- **Transportation.** This includes the transportation of employees and equipment to and from offices and worksites. Emissions stem from both Metropolitan's fleet vehicles and employee commute emissions.
- **Waste Disposal.** Waste falls into three categories: mixed solids waste, mixed recyclables, and organics. Metropolitan generates waste from various sources, ranging from employee lunches to office waste, which results in indirect GHG emissions as it decomposes in landfills.
- **Water Use.** Water sector GHG emissions by Metropolitan result from water use in facilities and irrigation.
- **Construction.** As Metropolitan's infrastructure ages, there is a continued need for construction of new facilities and infrastructure or rehabilitation of existing facilities and infrastructure. Construction activities result in direct GHG emissions from fuel combustion associated with construction equipment use and transportation of workers and materials.

The CAP will include an inventory of Metropolitan's emissions, including an estimate of emissions associated with Metropolitan's operations from 1990 through 2017. The inventory will describe methodologies used to calculate Scope 1, Scope 2, and Scope 3 emissions. Scope 1 emissions include those from direct fuel combustion, including natural gas, propane, welding gasses, and gasoline and diesel used to power Metropolitan's vehicle fleet. Scope 2 emissions include indirect GHG emissions associated with the purchase and consumption of electricity. Scope 3 emissions are indirect emissions resulting from employee commute, waste generation, water consumption in Metropolitan-owned buildings, and construction projects. The emissions

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inventory will also provide a forecast of future emissions based on current operations and construction of capital improvement projects.

GHG Reduction Target The CAP will establish a GHG reduction target aligned with applicable state GHG reduction policies including Senate Bill 32, which establishes a statewide GHG reduction target of 40 percent below 1990 levels by the year 2030, and Executive Order B-55-18, which sets a statewide goal of carbon neutrality by 2045. Metropolitan will measure and track its emissions inventory using:

- **Per Capita Emissions Calculation.** Per capita emissions uses Metropolitan’s calculated mass emissions and divides by the service population.
- **Carbon Budget Tracking.** Sets a carbon budget that is incrementally reduced over time to reach the adopted target. In addition to establishing a reduction target, the CAP will provide a detailed analysis of the emissions reductions necessary for Metropolitan to achieve its target based on the emissions inventory and forecast described above.

Reduction Measures The CAP will identify a suite of GHG emissions reduction measures that can be implemented to achieve the adopted emissions reduction target. At this time, GHG emission reduction measures are anticipated to span the following categories:

- Energy Use
- Reduce Downstream Emissions
- Off-road Construction
- Carbon Sequestration
- Advanced Water Treatment Facilities
- General Engineering.
- Waste, Transportation
- Colorado River Aqueduct Pumping
- Water Conservation
- Conventional Treatment Plants
- New Pump Specifications

Comments

MWD considers the Plan to be mostly administrative, however the NOP identifies construction, facility upgrades, and restoration could be part of the final Plan. CDFW agrees with MWD there is potential for impacts to biological resources and CDFW jurisdictional areas. CDFW looks forward to commenting on the DPEIR when it is released. CDFW will likely have additional comments to the DPEIR not addressed in this letter.

General Comments

- 1) **Project Description and Alternatives:** To enable CDFW to adequately review and comment on the proposed Plan from the standpoint of the protection of plants, fish, and wildlife, we recommend, at a minimum, the following information be included in the construction, facility upgrades, and restoration portions of the Plan in the DPEIR:
 - a) A complete discussion of the purpose and need for, and description of, the proposed components, including all staging areas and access routes to the construction and staging areas; and,
 - b) A range of feasible alternatives to the Plans component locations and design features to ensure that alternatives to the proposed activities are fully considered and evaluated. The alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.

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- 2) Lake and Streambed Alteration (LSA): 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. In the event such activities are included, 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 a 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). To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the DPEIR 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. A notification package for a LSA may be obtained by accessing the CDFW's web site at <https://wildlife.ca.gov/Conservation/LSA>.
- a) In areas supporting aquatic, riparian, and wetland habitats a preliminary jurisdictional delineation of the streams and their associated riparian habitats should be included in the DPEIR. The delineation should be conducted pursuant to the U. S. Fish and Wildlife Service (USFWS) wetland definition adopted by the CDFW. 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.

In impact areas which may support ephemeral streams, herbaceous vegetation, woody vegetation, and woodlands the DPEIR should consider these vegetation types 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.

- b) Project-related changes in drainage patterns, runoff, and sedimentation should be included and evaluated in the DPEIR.
- 3) California Endangered Species Act (CESA): 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 Plan is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if aspects of the Plan, construction, or any Plan-related activity during the life of the Plan will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Plan proponent seek appropriate take authorization under CESA prior to implementing Plan related activities. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish and G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Plan 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 CEQA document addresses all Plan 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

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reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 4) **Biological Baseline Assessment:** To provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, regionally and locally unique species, and sensitive habitats, the DPEIR should include the following information:
 - a) Information on the regional settings that are critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the individual regions [CEQA Guidelines, § 15125(c)];
 - 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://wildlife.ca.gov/Conservation/Plants>);
 - c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the construction, upgrade, and restoration sites and within the neighboring vicinities. *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 California Natural Diversity Data Base (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 <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>;
 - e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on sites and within areas of potential effect, including California SSC and California Fully Protected Species (Fish and Game 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 (see 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, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS; and,
 - f) Recent, wildlife and rare plant surveys. 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 plan may warrant periodic updated surveys for certain sensitive taxa, particularly when build out could occur over a protracted time frame, or in phases.

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- 5) Biological Direct, Indirect, and Cumulative Impacts: To provide 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 DPEIR:
- a) A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address Plan-related changes on drainage patterns and downstream of the project site; the volume, velocity, and frequency of existing and post-construction surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and, post-construction 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 impacts should be included;
 - b) A discussion regarding indirect 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 and 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 DPEIR;
 - c) 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.
- 6) Avoidance, Minimization, and Mitigation for Sensitive Plants: The DPEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Plan-related direct and indirect impacts. CDFW considers these communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation*.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP for the CAP. If you have any questions or comments regarding this letter, please contact Megan Evans, Senior Environmental Scientist (Specialist), at (805) 320-4417 or by email at Megan.Evans@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Wilson

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Erinn Wilson

Environmental Program Manager I

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cc: CDFW
Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Felicia Silva – Los Alamitos
Ruby Kwan-Davis – Los Alamitos
Karen Drewe – Los Alamitos
Susan Howell – San Diego
CEQA Program Coordinator – Sacramento

State Clearinghouse

References

Sawyer, J. O., Keeler-Wolf, T., and Evens J.M. 2008. A manual of California Vegetation, 2nd ed. ISBN 978-0-943460-49-9.