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Governor's Office of Planning & Research

February 8, 2021

STATE CLEARINGHOUSE

February 5, 2021

Mr. Christopher Lopez
Los Angeles Department of Water and Power
111 North Hope Street Rm 1044
Los Angeles, CA 90012
Christopher.Lopez@ladwp.com

Subject: Stormwater Capture Parks Program, Mitigated Negative Declaration, SCH #2021010053, Los Angeles Department of Water and Power, Los Angeles County

Dear Mr. Lopez:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the Los Angeles Department of Water and Power (LADWP; Lead Agency) for the Stormwater Capture Parks Program (Project). Review of the MND included *Appendix B Biological Resources Technical Report*.

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", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to 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.

Project Description and Summary

Objective: The Project proposes to capture and infiltrate local stormwater runoff to meet enhanced stormwater capture goals described in LADWP's existing Stormwater Capture Master Plan; 2015 Urban Water Management Plan; City of Los Angeles' Green New Deal; and Enhanced Watershed Management Plan. Currently, stormwater runoff that exceeds the existing stormwater infrastructure's conveyance capacity is bypassed and flows to the Pacific Ocean via the City of Los Angeles' rivers and storm drains. The Project would divert runoff from the Central Branch Tujunga Wash to recharge the San Fernando Groundwater Basin. The Project would have the capacity to divert 3,010 acre-feet per year (AFY). This volume would be diverted over the course of a year during both dry weather and during storm events.

The Project proposes to construct underground infiltration galleries in open space portions of nine parks within the upper Tujunga Wash Watershed. Installation of the infiltration galleries would require excavation to a depth of 17 to 30 feet below ground surface depending on the park. Each infiltration gallery would be approximately 12 feet high with up to 11 feet of storage. Details associated with each infiltration gallery are described in Table 1.

Table 1 – Infiltration gallery specifications for each park.

Park	Total tributary area (acres)	Number of infiltration galleries	Infiltration gallery storage capacity (cubic feet)	Acre Feet per Year (AFY) Diversion
David M. Gonzales Recreation Center	760	one or two	1,250,000	448.2
Fernangeles Park	320	one	703,000	201.8
Stathern Park North	450	one	968,000	225.4
Whitsett Fields Park North	305	one	436,000	185.1
Valley Plaza Park North	920	two	958,320	397.5
Valley Plaza Park South	213	one	479,000	157.9
Alexandria Park	172	up to three	479,000	71.7
North Hollywood Park	2,050	up to eight	5,140,100	1,150.2
Valley Village Park	455	one	310,200	172.1
Total				3,010

Total tributary (i.e., drainage) area is the area of the surrounding neighborhood where flows would be diverted into the infiltration gallery.

Other infrastructure would be installed in addition to the infiltration gallery. Rubber dams 2 to 4 feet tall and matching the width of the channel may be added to impede flows and divert stormwater into the drop inlet. When deflated, the rubber dam would be flush with the channel bottom so as not to reduce the hydraulic capacity of the channel. A hydrodynamic separator (HDS) unit would be installed to help separate and trap trash, debris, sediment, oils, and grease

from stormwater runoff. Flow-measuring devices at gallery inlets would be installed to determine stormwater capture benefits. Storm drain diversion structures, conveyance pipes, catch basin inlets, desilting basins, pump stations, gated drop inlets, equalization pipes, and maintenance holes would be installed to connect to and manage flow from existing storm drains or channel. Above the infiltration galleries, each park would be graded and revegetated with grass, native planting, tree replacement planting, or other landscaping. Other park improvements would be made to maintain recreational use.

Location: The Project covers a tributary area of approximately 5,690 acres with an estimated yield of 3,010 AFY. The Project would be located at nine parks within the upper Tujunga Wash Watershed, which lies above the San Fernando Valley Groundwater Basin. All nine parks are located along State Route (SR) 170 between the Pacoima and Valley Village neighborhoods within the City of Los Angeles:

1) David M. Gonzales Recreation Center, 10943 Herrick Avenue, Pacoima;
2) Fernangeles Park, 8851 Laurel Canyon Boulevard, Sun Valley;
3) Strathern Park North, 8045 Whitsett Avenue, North Hollywood;
4) Whitsett Fields Park North, 7100 Whitsett Avenue, North Hollywood;
5) Valley Plaza Park North, 12240 Archwood Street, North Hollywood;
6) Valley Plaza Park South, 12240 Archwood Street, North Hollywood;
7) Alexandria Park, north of SR 170/west of North Laurel Canyon Boulevard;
8) North Hollywood Park (8.1 acres), 11430 Chandler Boulevard, North Hollywood; and,
9) Valley Village Park (0.9 acres), 5000 Westpark Drive, North Hollywood.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the LADWP in adequately identifying, avoiding, 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 are also be included to improve the environmental 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 (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Biological Impact Analysis Concerns

Issue: CDFW disagrees with the Project's impact analysis, which finds that the Project's diversion of water would not impact biological resources.

Specific impacts: The Project would divert dry season flow and stormwater totaling 3,010 AFY. This water would otherwise proceed downstream via concrete channels to the Los Angeles River. The MND concluded that "no beneficial uses would be impacted." However, flow reduction could have a significant impact on downstream biological resources, especially during the dry season proceeding after a below-average water year.

Why impacts would occur: The MND does not provide sufficient analysis of the Project's potential biological impacts to allow CDFW to determine the Project's significance or need for

mitigation.

Data Source: The MND uses data from the 2015 *Los Angeles River Ecosystem Restoration Integrated Feasibility Report* (USACE 2015). The U.S. Army Corp of Engineers (USACE) report analyzes the feasibility of restoring an 11-mile stretch of the Los Angeles River from Pollywog Park to Downtown Los Angeles, referred to in the report as the ARBOR reach (Area with Restoration Benefits and Opportunities for Revitalization) (USACE 2015). Citing the USACE report, page 77 of the MND states, "USACE estimated that existing water sources provide 211,348 AFY of flow within the Los Angeles River watershed on an annual basis. The proposed diversion would be approximately 1.4 percent of the existing water source […]. The volume of water diverted during dry weather flow by the proposed Program would be a small percentage of the current downstream flows (1.4 percent), and no beneficial uses would be impacted."

The MND may have underestimate the percentage of water diverted from the Los Angeles River in using 211,348 AFY as the basis for deriving 1.4 percent. After factoring in water demand (e.g., infiltration, evaporation, evapotranspiration), the USACE estimated that flow would be reduced from 211,348 AFY to 143,793 AFY annually and 29,166 AFY in the summer (April through September) (USACE 2015). Based on reduced volumes, the Project's proposed diversion would be approximately 2.2 percent annually, an increase from 1.4 percent. During the summer, diversion would be approximately 10.3 percent. Based on the above, the MND's impact analysis may not have accurately estimated the proportion of water the Project would divert from the Los Angeles River.

Seasonality: The MND does not thoroughly analyze the potential significance of water diversion depending on the season. During the dry season, typically April through September in southern California, the Los Angeles River is largely maintained by urban runoff and discharge from wastewater reclamation plants. Diverting water could be significant during the dry season and could either significantly reduce water flow or result in complete loss of water flow from the Central Branch Tujunga Wash to the Los Angeles River.

Drought: The MND does not analyze the potential significance of water diversion during a below-normal water year. Since 2000, the longest duration of drought in California lasted between 2011 and 2019 (USGS 2021) and in southern California, between 2012 through 2016 (Los Angeles Almanac 2021). The 2017-2018 rainfall season was below normal and the driest for Los Angeles since 2006-2007 (Los Angeles Almanac 2021). Diverting water during a below-normal rainfall year may significantly reduce water flow or result in complete loss of water flow.

Beneficial Uses: The concrete lined portions of the Los Angeles River support wildlife. These portions of the Los Angeles River are regionally significant, especially in a dense urban environment with substantial loss or alteration of the natural hydrologic regime and river ecosystems. A reduction of flow, especially dry season flow, could directly or indirectly impact biological resources through habitat modifications. Where the Los Angeles River overtops the concrete-lined channel, the resulting sheet flows allow phytoplankton (algae and cyanobacteria), microorganisms, and herbaceous vegetation to establish. The algae provide habitat and a food source for benthic invertebrates, a vital food source for wading birds. The Los Angeles River provides habitat for hundreds of bird species, making these areas birding hotspots. The least Bell's vireo (*Vireo bellii pusillus*), an Endangered Species Act and CESA-listed endangered species, has been documented within the Glendale Narrows area. Least Bell's vireo depends on willow (*Salix* genus) riparian habitat. The ARBOR reach examined in the USACE report contains

soft-bottom channels that support herbaceous and woody vegetation. Dominant species include black willow (*Salix gooddingii*), Fremont cottonwood (*Populus fremontii*), and arroyo willow (*Salix laevigata*) (USACE 2015). The middle reach of the Los Angeles River, specifically Glendale Narrows, supports anadromous fish that includes the Pacific lamprey (*Entosphenus tridentatus*), a California Species of Special Concern.

The MND concludes that "no beneficial uses would be impacted." The MND does not offer a quantitative analysis as to how it determined no impacts would occur. Moreover, the MND does not define what it considered to be "beneficial uses." Diverting water during the dry season could reduce the availability and extent of shallow water sheet flow downstream. This could potentially impact algae, benthic invertebrates, and birds. Willow riparian habitat may be impacted if reduction in flow leads to receding shoreline or lower water depth. Preliminary work of the Los Angeles River Flows Project show that black willow (*Salix gooddingii*) seedling mortality increases as water depth decreases (SWRCB 2019). Loss of suitable habitat may impact sensitive species such as least Bell's vireo. Anadromous fish have specific habitat requirements including water depth, velocity, and vegetation.

Cumulative Flow Reductions: The MND does not analyze whether the Project would result in significant impacts when considered with other existing or proposed water diversion projects in the Los Angeles River watershed. The cities of Burbank, Glendale, and Los Angeles plan to recycle more wastewater and reduce their discharges to the Los Angeles River for this purpose (SWRCB 2019).

Evidence impacts would be significant: Diverting water from the Los Angeles River may impact biological resources downstream, especially during the dry season proceeding after a below-average water year. Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW or U.S. Fish and Wildlife Service.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW recommends LADWP provide additional analysis and evaluation of potential impacts on biological resources as part of the final environmental document. At a minimum, an additional analysis and report should provide the following:

Study Reach

1) CDFW recommends LADWP define the study area as a 15-mile reach of the Los Angeles River, bounded by the Los Angeles River's confluence with the Tujunga Wash tributary and proceeding downstream to the river's confluence with the Arroyo Seco tributary. LADWP should identify all sources of flow input within the study area to estimate the total annual and dry season flow. LADWP should assess potential Project-related impacts on biological resources within this study reach.

Changes to Hydrology and Hydraulics

1) Under pre-Project (i.e., baseline) conditions, the volume of water flow from the Central

Branch Tujunga Wash into the 15-mile study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). LADWP should clearly define what it would consider to be above-average or below-average rainfall year.

2) Under proposed Project conditions, the percent reduction in flow from 1) the Central Branch Tujunga Wash tributary and 2) 15-mile study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.
3) An analysis of potential Project-related changes to river hydraulics in both concrete and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change). CDFW requests a map modeling potential changes to channel hydraulics overlain on a map of plant communities and habitat for sensitive wildlife species and birds.
4) A quantitative analysis comparing the flow from the Tujunga Wash, Burbank Wastewater Reclamation Plant (WRP), Tillman WRP, Verdugo Wash, and Glendale WRP, and their relative contribution to the hydrograph of the 15-mile study reach.

Biological Resources Impact Assessment

1) A map of plant communities and important bird foraging and nesting habitat occurring in the 15-mile study reach. Plant communities should be mapped at the alliance/association level using the Manual of California Vegetation, second edition (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018).
2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the 15-mile study reach. CDFW recommends a nine-quad search of the California Natural Diversity Database (CNDDB) for sensitive and special status biological resources that could occur downstream. For each biological resource, provide:
    a. A summary of species-specific habitat requirements;
    b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and,
    c. A quantitative analysis and/or adequate discussion to evaluate whether the Project would result in those significant impacts.
3) A discussion of whether diversion devices such as rubber dams would have direct and/or indirect impact on biological resources.
4) An adequate discussion to address how the Project may potentially affect on-going habitat recovery and restoration efforts.
5) An adequate discussion of Project-related impacts on biological resources in relation to cumulative flow reductions.

Mitigation Measure #2: CDFW recommends LADWP develop a discharge operation plan that would always allow sufficient water to pass downstream. CDFW also recommends LADWP develop an Adaptive Management Plan that would direct LADWP to reduce or suspend water

diversion if at any point the Project may impact biological resources downstream exceeding a defined threshold/trigger.

Mitigation Measure #3: CDFW recommends LADWP provide compensatory mitigation at no less than 3:1 for permanent impacts to the concrete-lined Central Branch Tujunga Wash due to the installation of diversion structures including (but not limited to) rubber dams and channel drop inlets. CDFW also recommends LADWP provide compensatory mitigation commensurate with the permanent diversion of discharge from Los Angeles River.

Recommendation #1: CDFW recommends the following data and information sources:

- Stream gage data available from Los Angeles County Public Works (LADPW 2021);
- Los Angeles River Master Plan (Geosyntec et al. 2020); and,
- Los Angeles River Flows Project (SWRCB 2019).

Recommendation #2: Based on the inadequacy of the MND as elaborated in our preceding comments, CDFW recommends that LADWP revise and recirculate the MND so CDFW may provide more appropriate comments on avoidance, minimization, and mitigation measures (CEQA Guidelines, § 15073.5).

Comment #2: Lake and Streambed Alteration (LSA)

Issue: The Project would potentially alter streams.

Specific impacts: The Project would divert dry season flow and stormwater. In addition, the Project proposes to install devices within and adjacent to a stream to facilitate water diversion.

Why impacts would occur: The Project would divert water from the Central Branch Tujunga Wash and Los Angeles River. The Project proposes to install water diversion structures within or adjacent to the Central Branch Tujunga Wash. This includes inflatable rubber dams. Accordingly, the Project may obstruct water flow and change the bed and channel of a stream (confinement).

Evidence impacts would be significant: Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. As such, the Project applicant (or "entity") must provide notification to CDFW pursuant to Fish and Game Code, section 1600 *et seq*. Based on this notification and other information, CDFW determines whether an LSA Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's Lake and Streambed Alteration Program webpage

to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021a).

Mitigation Measure #2: CDFW recommends the LSA Notification include a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions.

Recommendation: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from LADWP for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq*. and/or under CEQA, the CEQA document 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 Agreement. As such, CDFW recommends LADWP consider CDFW's comments and revise the MND.

To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

Comment #3: Impacts to Bats

Issue: CDFW is concerned that the Project may result in significant impacts to bats, including hoary bat (*Lasiurus cinereus*) and silver haired bat (*Lasionycteris Octavian's*).

Specific impacts: The Project may result in direct and indirect impacts to bats. Direct impacts include removal of trees and that may provide roosting habitat. Indirect impacts to bats and roosts could result from increased human activity, noise disturbances, dust, vegetation clearing, ground-disturbing activities (e.g., staging, mobilizing, excavating, and grading), and vibrations caused by heavy equipment.

Why impacts would occur: Native and non-native ornamental trees at each park could provide potential roosting habitat for bats. Bats can fit into very small seams, as small as a ¼ inch. Therefore, crevices in buildings and other man-made structures within and adjacent to each park could provide roosting habitat for bats. Despite the availability of potential roosting habitat, the Project concludes that there would not be significant impacts to bats.

Page 60 of Appendix B concludes that while bats "may use western sycamore trees to roost, special-status bat species including hoary bat and silver-haired bat have low potential to occur within all of the project locations, since they are situated in an urban environment with constant ambient nighttime lighting (e.g., street lights, baseball field lights)." The presence of constant ambient lighting may be insufficient to conclude that bats do not occur. Bat response to artificial lighting could vary between species and not all bat species are repelled by light (Longcore and Rich 2004; Opéra et al. 2009). Faster-flying species of bats are attracted to insects that congregate around light sources (Longcore and Rich 2004). Foraging is still possible in the presence of ambient lighting, although forging may be reduced. Also, based on Project site photos in Appendix B, it appears that not all areas within certain parks are illuminated, for

instance Valley Plaza North and Valley Plaza South. Based on the above, the probability of bats occurring within each park could be higher than previously concluded.

Accordingly, if bats are present, extra noise, vibration, or the reconfiguration of large objects can lead to the disturbance of roosting bats. Human disturbance can also lead to a change in humidity, temperatures, or the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost. Modifications to roost sites can have significant impacts on the bats' usability of the roost and can impact the bats' fitness and survivability (Johnston et al. 2004). Although temporary, such disturbances can lead to the abandonment of a maternity roost (Johnston et al. 2004).

Evidence impact would be significant: Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Additionally, several bat species are considered Species of Special Concern and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Where Project-related implementation, construction, and activities would occur near potential roosting habitat for bats, CDFW recommends a qualified bat specialist conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. A discussion of survey results, including negative findings should be provided to LADWP. Depending on the survey results, a qualified bat specialist should discuss potentially significant effects of the Project on bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125). Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist should be completed and submitted to the LADWP prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.

Mitigation Measure #2: If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal, trees should be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees should be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree should then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts should not be bucked or mulched immediately. A period of at least 24 hours, and preferable 48 hours, should elapse prior to such operations to allow bats to escape.

Mitigation Measure #3: If maternity roosts are found, to the extent feasible, work should be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).

Mitigation Measure #4: If maternity roosts are found and LADWP determines that impacts are unavoidable, a qualified bat specialist should conduct a preconstruction survey to identify those

trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology should be used to maximize the detection of bats. Each tree identified as potentially supporting an active maternity roost should be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts should be left in place until the end of the maternity season. Work should not occur within 100 feet of or directly under or adjacent to an active roost. Work should also not occur between 30 minutes before subset and 30 minutes after sunrise.

Additional Recommendations

Devices Impeding Fish. The Project includes installation of rubber dams in the stream channel. Per Fish and Game Code section 5901, it is unlawful to construct or maintain in any stream any device or contrivance the prevents, impedes, or tends to prevent or impeded, the passing of fish up and downstream. Accordingly, LADWP should coordinate with CDFW prior to commencing the Project to ensure that the Project would comply with Fish and Game Code section 5901.

Southern California Black Walnut Tree (*Juglans californica*). According to page 73 in the MND, one Southern California black walnut tree may be removed at North Hollywood Park. Southern California black walnut is a California Rare Plant Rank 4 species. If removal of Southern California black walnut is required, CDFW recommends LADWP replace each tree at no less than 3:1 in consideration of the species rarity, temporal loss of black walnut tree canopy and structure while the tree grows, and potential attrition associated with transplanting. Southern California black walnut trees should be replaced with trees of the same species.

Tree Replacement. In the greater Los Angeles, urban forests and street trees, both native and some non-native species, provide habitat for a high diversity of birds (Wood and Esaian 2020). Some species of raptors have adapted to and exploited urban areas for breeding and nesting (Cooper et al. 2020). For example, raptors (Accipitridae, Falconidae) such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*) can nest successfully in urban sites. Red-tailed hawks commonly nest in ornamental vegetation such as eucalyptus (Cooper et al. 2020). CDFW recommends planting native tree species preferred by birds. This includes coast live oak (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*) (Wood and Esaian 2020). CDFW recommends Audubon Society's Plants for Birds for more information (Audubon Society 2020).

Landscaping. CDFW strongly recommends avoiding non-native, invasive plants. CDFW recommends LADWP restrict use of any species, particularly 'Moderate' or 'High' listed by the California Invasive Plant Council (Cal-IPC 2020a). CDFW recommends LADWP use native species found in naturally occurring vegetation communities within or adjacent to the Project site. Information on alternatives for invasive, non-native, or landscaping plants may be found on the California Invasive Plant Council's, Don't Plant a Pest webpage for southern California (Cal-IPC 2020b). The California Native Plant Society's Gardening and Xerces Society's Pollinator-Friendly Native Plant Lists webpage has information on native plant species that invite insects and pollinators (CNPS 2020; Xerces Society 2020).

Move Out of Harm's Way. The proposed Project is anticipated to result in clearing of habitats that support wildlife species common in developed areas. CDFW recommends a qualified biological monitor be on site during initial ground disturbing activities and vegetation removal.

The qualified biological monitor should move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity 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 detected by completing and submitting CNDDB Field Survey Forms (CDFW 2020b). LADWP should ensure the data has been properly submitted, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. LADWP should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends LADWP update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist LADWP in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). LADWP is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided LADWP with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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 Los Angeles Department of Water and Power and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist Los Angeles Department of Water and Power adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that Los Angeles Department of Water and Power has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erinn Wilson-Olgin
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Erinn Wilson-Olgin
Environmental Program Manager I

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References

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a final environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		**Timing**	**Responsible Party**
MM-BIO-1-Impacts to Biological Resources – Biological Impact Analysis	LADWP shall provide an additional analysis and evaluation of potential impacts on biological resources. The analysis and report shall provide the following: *Study Reach* 1) LADWP shall assess Project impacts in a study area that will be a 15-mile reach of Los Angeles River from the river's confluence with the tributary Tujunga Wash and downstream to the river's confluence with the Arroyo Seco tributary. *Changes to Hydrology and Hydraulics* 1) Under pre-Project (i.e., baseline) conditions, the volume of water flow from the Central Branch Tujunga Wash into the 15-mile study reach during the wet (November through March) and dry season (April through October), and above-average or below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). 2) Under proposed Project conditions, the percent reduction in flow from 1) the Central Branch Tujunga Wash tributary and 2) 15-mile study reach for a wet season/above-average water year, wet season/below-average water year, dry	Prior to finalizing/ adopting CEQA document	Los Angeles Department of Water and Power (LADWP)

	season/above-average water year, and dry season/below-average water year. 3) An analysis of potential Project-related changes to river hydraulics in both concrete and soft-bottom reaches. This shall include water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).LADWP shall provide a map modeling potential changes to channel hydraulics overlain on a map of plant communities and habitat for sensitive wildlife species and birds. 4) A quantitative analysis comparing the flow from the Tujunga Wash, Burbank Wastewater Reclamation Plant (WRP), Tillman WRP, Verdugo Wash, and Glendale WRP, and their relative contribution to the hydrograph of the 15-mile study reach. *Biological Resources Impact Assessment* 1) A map of plant communities and important bird foraging and nesting habitat occurring in the 15-mile study reach. Plant communities shall be mapped at the alliance/association level using the Manual of California Vegetation, second edition. Also, LADWP shall provide an updated and thorough floristic-based assessment of plant communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. 2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the 15-mile study reach. LADWP shall perform a nine-quad search of the California Natural Diversity Database (CNDDB) for sensitive and special status biological resources that could occur downstream. For each biological resource, LADWP shall provide: a. A summary of species-specific habitat		

	requirements; b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and, c. A quantitative analysis and/or adequate discussion to evaluate whether the Project would result in those significant impacts. 3) A discussion of whether diversion devices such as rubber dams would have direct and/or indirect impact on biological resources. 4) An adequate discussion to address how the Project may potentially affect on-going habitat recovery and restoration efforts. 5) An adequate discussion of Project-related impacts on biological resources in relation to cumulative flow reductions.		
MM-BIO-2-Impacts to Biological Resources-Adaptive Management Plan	LADWP shall develop a discharge operation plan that would always allow sufficient water to pass downstream. LADWP shall also develop an Adaptive Management Plan that would direct LADWP to reduce or suspend water diversion if at any point the Project may impact biological resources downstream exceeding a defined threshold/trigger.	Prior to finalizing/ adopting CEQA document	LADWP
MM-BIO-3-Impacts to Biological Resources-compensatory mitigation	LADWP shall provide compensatory mitigation at no less than 3:1 for permanent impacts to the concrete-lined Central Branch Tujunga Wash due to the installation of diversion structures including (but not limited to) rubber dams and channel drop inlets. LADWP shall also provide compensatory mitigation commensurate with the permanent diversion of discharge (percent/AFY) from Los Angeles River.	Prior to approval by LADWP Board of Water and Power Commissioners	LADWP

MM-BIO-4- Impacts to Aquatic and Riparian Resources – LSA Notification	LADWP shall notify CDFW pursuant to Fish and Game Code, section 1600 *et seq*.	Prior to approval by LADWP Board of Water and Power Commissioners	LADWP
MM-BIO-5- Impacts to Aquatic and Riparian Resources – LSA Notification	LADWP shall include a hydrological evaluation of the 200, 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions with the LSA Notification.	Prior to approval by LADWP Board of Water and Power Commissioners	LADWP
MM-BIO-6- Impacts to Bats-survey	Where Project-related implementation, construction, and activities would occur near potential roosting habitat for bats, a qualified bat specialist shall conduct bat surveys within these areas (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be used to maximize detection of bats. Surveys, reporting, and preparation of robust mitigation measures by a qualified bat specialist shall be completed and submitted to the LADWP prior to any Project-related ground-disturbing activities or vegetation removal at or near locations of roosting habitat for bats.	Prior to Project construction and activities	LADWP

MM-BIO-7-Impacts to Bats-tree removal	If bats are not detected, but a bat specialist determines that roosting bats may be present at any time of year and could roost in trees at a given location, during tree removal, trees shall be pushed down using heavy machinery rather than felling with a chainsaw. To ensure the optimum warning for any roosting bats that may still be present, trees shall be pushed lightly two or three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall then be pushed to the ground slowly and remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts shall not be bucked or mulched immediately. A period of at least 24 hours, and preferable 48 hours, shall elapse prior to such operations to allow bats to escape.	Prior to Project construction and activities	LADWP
MM-BIO-8-Impacts to Bats-maternity roosts	If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30).	Prior to Project construction and activities	LADWP
MM-BIO-9-Impacts to Bats-maternity roosts	If maternity roosts are found and impacts are unavoidable, a qualified bat specialist shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize the detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than 7 days prior to tree disturbance to determine the presence or absence of roost bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of or directly under or adjacent to an active roost. Work shall also not occur between 30 minutes before subset and 30 minutes after sunrise.	Prior to Project construction and activities	LADWP

REC-1-Data sources	CDFW recommends the following data and information sources for the Project's Biological Impact Analysis. • Stream gage data available from Los Angeles County Public Works; • Los Angeles River Master Plan; and, • Los Angeles River Flows Project	Prior to finalizing/ adopting CEQA document	LADWP
REC-2-Revise and Recirculate CEQA document	CDFW recommends that LADWP revise and recirculate the MND so CDFW may provide more appropriate comments on avoidance, minimization, and mitigation measures.	Prior to finalizing/ adopting CEQA document	LADWP
REC-3-LSA Agreement	CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq*. and/or under CEQA, the CEQA document 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 Agreement. As such, CDFW recommends LADWP consider CDFW's proposed Mitigation Measures and revise the MND.	Prior to finalizing/ adopting CEQA document	LADWP
REC-4-Devices Impeding Fish Passage	LADWP should coordinate with CDFW prior to commencing the Project to ensure that the Project would comply with Fish and Game Code section 5901.	Prior to approval by LADWP Board of Water and Power Commissioners	LADWP
REC-5-Impacts to Southern California black walnut	If removal of Southern California black walnut is required, LADWP should replace each tree at no less than 3:1. Southern California black walnut trees should be replaced with trees of the same species.	During/ Project construction and activities	LADWP

REC-6-Impacts to Bird Habitat	LADWP should plant native tree species preferred by birds. This includes coast live oak (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*).	During/ Project construction and activities	LADWP
REC-7-Landscaping	LADWP should avoid using non-native, invasive plants and restrict use of any species, particularly 'Moderate' or 'High' listed by the California Invasive Plant Council. LADWP should use native species found in naturally occurring vegetation communities within or adjacent to the Project site.	During/ Project construction and activities	LADWP
REC-8- Move Out of Harm's Way	A qualified biological monitor should be on site during initial ground disturbing activities and vegetation removal to move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality.	Prior to/During/ Project construction and activities	LADWP
REC9-Data	LADWP should ensure sensitive and special status species data has been properly submitted to the California Natural Diversity Database with all data fields applicable filled out. The LADWP should provide CDFW with confirmation of data submittal.	Prior to finalizing/ adopting CEQA document	LADWP
REC-10-Mitigation and Monitoring Reporting Plan	LADWP should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. LADWP is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. A final MMRP should reflect the Project's final on and/or off-site mitigation plans.	Prior to finalizing CEQA document	LADWP