



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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Governor's Office of Planning & Research

April 8, 2021

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STATE CLEARINGHOUSE

Subject: Comments on the Notice of Preparation of the Sewer Improvements Program, City of Oceanside, SCH #2021030277

Dear Ms. Uyeda:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Preparation (NOP) for the City of Oceanside's (City's) Sewer Improvements Program Programmatic Environmental Impact Report (PEIR).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" (see Fish & G. Code, § 2050) of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Mabel Uyeda
City of Oceanside
April 8, 2021
Page 2 of 5

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside (City) participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the San Diego County Multiple Habitat Conservation Plan (MHCP). However, the SAP was not finalized and has not been adopted by the City or received permits from the Wildlife Agencies (jointly, CDFW and the U.S. Fish and Wildlife Service (USFWS)). It is CDFW's understanding that the City intends to implement the various conservation elements of the draft SAP for projects that come forward; however, at this time it is not anticipated that the City will be able to commit to monitoring and managing a reserve system.

Project Description and Summary: The Program consists of the following projects throughout the City of Oceanside:

- **Oceanside Mesa Garrison Force Main (OMG FM) Project:** The OMG FM Project involves the design and construction of approximately 15,000 linear feet (LF) of 36-inch sewer force main between the San Luis Rey Water Reclamation Facility (SLRWRF) and the proposed El Corazon Lift Station (discussed below). The majority of the pipeline would occur outside of paved roadways and within easements.
- **El Corazon Lift Station Project:** The El Corazon Lift Station Project involves the design and construction of a five-million-gallons-per-day (MGD) sewer lift station near the intersection of Mesa Drive and Garrison Street. The Project site location would be at the now-closed Garrison Elementary School (11.2 acres), which would be subdivided such that the Project site would occupy 1.5 acres. The Project would use the 1.5-acre site for the lift station and associated components, including a wet well, emergency storage, future pipelines, parking, training (open area), and equipment storage. The Project would also include rerouting gravity flows in Mesa Drive and Garrison Street to the new sewer lift station, connections to existing or future sewer mains, and extension of nearby sewer mains.
- **Land Outfall Replacement Project:** The Land Outfall Replacement Project involves upsizing of approximately 29,000 LF of existing 24-inch pipe to 36-inch pipe between the SLRWRF and the La Salina Wastewater Treatment Plant (LSWWTP) in various segments. Approximately 19,000 LF from SLRWRF to the south entry of Garrison Elementary School generally follows the same corridor as the Proposed OMG FM Project. Of the remaining 10,000 LF of pipe to be replaced, approximately 4,000 LF is located near the North County Transit District Railroad right-of-way, and the other 6,000 LF is located in Oceanside Boulevard and Garrison Street.
- **Mission Avenue Lift Station Force Main (MALS FM) Replacement Project:** The MALS FM Replacement Project involves the replacement of approximately 13,000 LF of existing 24-inch sewer force main from the SLRWRF to the Mission Avenue Lift Station with a new parallel pipeline or in-place replacement. If a new parallel pipe is constructed, the existing 24-inch MALS FM may be taken offline, cleaned, assessed, and repaired to serve as a backup force main to improve the reliability of the City's sewer system.
- **Mission Avenue Gravity Sewer Lining and Replacement Project:** The Mission Avenue Sewer Lining and Replacement Project includes cured-in-place lining of approximately 600 LF of 24-inch gravity sewer pipe starting at 3560 Mission Avenue and traveling southwest to Fireside Street. From Fireside Street in Mission Avenue southwest to the Mission Avenue Lift Station, approximately 1,600 LF of the 24-inch pipe would be upsized to a

Mabel Uyeda
City of Oceanside
April 8, 2021
Page 3 of 5

30-inch and/or 36-inch pipe. The existing upstream segment of the sewer is located in private easements through the Marketplace Del Rio commercial shopping center and undeveloped parcels owned by the Ocean KAMP development. The new replacement pipe would be relocated into Mission Avenue, where feasible.

COMMENTS AND RECOMMENDATIONS

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

Specific Comments

- 1) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project areas, with emphasis upon identifying endangered, threatened, sensitive, regionally and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures.
 - a) CNDDDB indicates the occurrence of several special status species within the various Project vicinities, these include California gnatcatcher (*Poliioptila californica*), least Bell's vireo (*Vireo bellii pusillus*), and southwestern willow flycatcher (*Empidonax trailii extimus*). The PEIR should have a complete, recent, assessment of rare, threatened, and endangered, and other sensitive species onsite and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS; and,
 - b) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.
- 2) Biological Direct, Indirect, and Cumulative Impacts. Due to the proximity of several of the Project sites to the San Luis Rey River and Wildlife Corridor Planning Zone, it is essential to understand how the open space and the biological diversity within it may be impacted by Project activities. This should aid in identifying specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends providing a thorough discussion of

Mabel Uyeda
City of Oceanside
April 8, 2021
Page 4 of 5

direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts.

3) Sensitive Bird Species. A review of California Natural Diversity Database (CNDDDB) indicates occurrences of special status bird species, including California gnatcatcher, least Bell's vireo, and southwestern willow flycatcher within the various Project vicinities. Project activities occurring during the breeding season of nesting birds could result in the incidental loss of fertile eggs, or nestlings, or otherwise lead to nest abandonment in trees directly adjacent to the Project boundary. The Project could also lead to the loss of foraging habitat for sensitive bird species.

a) CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).

b) Proposed Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300-feet of the disturbance area (within 500-feet for raptors). Project personnel, including all contractors working onsite, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

General Comments

1) Compensatory Mitigation. The PEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore would not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance, and dedicated to a qualified entity for long-term management and monitoring. Under Government Code section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or non-profit organization to effectively manage and steward land, water, or natural resources on mitigation lands that it approves.

Mabel Uyeda
City of Oceanside
April 8, 2021
Page 5 of 5

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Oceanside in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Melanie Burlaza, Environmental Scientist, by email at Melanie.Burlaza@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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References

California Department of Fish and Wildlife. 2020. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2020. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>

City of Oceanside Subarea Plan. 2010. Available from: <https://ci.oceanside.ca.us/gov/dev/planning/subarea.asp>