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Governor's Office of Planning & Research

April 13, 2021

**Apr 13 2021**

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**STATE CLEARINGHOUSE**

**Subject: Notice of Preparation of a Program Environmental Impact Report for the Operation NEXT and Hyperion 2035 Program, SCH #2021030340, Los Angeles Department of Water and Power, Los Angeles County**

Dear Mr. Lopez:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Program Environmental Impact Report (PEIR) from the Los Angeles Department of Water and Power (LADWP; Lead Agency) for the Operation NEXT and Hyperion 2035 Program (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

#### **CDFW's Role**

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", 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.

*Conserving California's Wildlife Since 1870*

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 2 of 16

## Project Description and Summary

**Description:** The Project proposes to develop a holistic recycled water program that maximizes production of advanced treated recycle water (ATRW) from the Hyperion Water Reclamation Plant (HWRP). The HWRP currently treats an average of 261 million gallons per day. The Project would convert the HWRP into an Advanced Water Purification Facility (AWPR) in order to produce ATRW. The Project would augment local water supplies by up to approximately 217 million gallons per day or 243,050 acre-feet per year, a volumetric flow rate equivalent to a third of the City of Los Angeles' water supply. The new water supply would be stored in the Central, West Coast, and San Fernando Groundwater Basins because aboveground storage would be infeasible. The Project would require construction of new treatment, conveyance, storage, and infrastructure (pipelines, wells, pump stations) to produce, distribute, and store ATRW throughout the Los Angeles region.

The Project would minimize regional dependency on imported water by increasing the development of local water supplies, optimizing storage of recycled water, and optimizing local production of potable water. The Project's key components are:

- 1) *Convert HWRP to include an AWPf:* The new AWPf would be located within the existing HWRP footprint and would require substantial redesigning of the facility. The upgraded HWRP would be designed to accommodate peak flows during wet weather, maximize production of ATRW, and maintain the ability to discharge to the existing ocean outfall system, as necessary.
- 2) *Convey ATRW to West Coast Seawater Barrier and Harbor Potable Distribution System:* A portion of the ATRW from HWRP would supply the seawater intrusion barrier operated by the Los Angeles County Department of Public Works and help replenish the West Coast Groundwater Basin. A conveyance system would be constructed to convey new water supplies from Water Replenishment District of Southern California's proposed extraction and treatment facility to the Harbor area potable distribution system.
- 3) *Convey Advanced Treated Recycled Water to Central Basin:* Approximately 15 miles of pipeline would be constructed from HWRP to proposed wellfields located in the Central Basin in south Los Angeles. Associated pump stations would be installed along the pipeline route to deliver water. The recycled water would be delivered to injection well locations throughout the Central Basin for groundwater augmentation.
- 4) *Central Basin Injection and Extraction Wellfields:* Once the recycled water is conveyed from HWRP to the Central Basin, additional wellfields and centralized treatment facilities would be required to first inject the ATRW into the underlying groundwater aquifer, and then extract and treat the groundwater prior to distribution into the existing water system. This includes the construction of new injection wells, extraction wells, well collector lines, and groundwater treatment facilities.
- 5) *Convey Groundwater from Central Basin to Potable Distribution System:* Once groundwater in the Central Basin is extracted and treated, a new pump station and potable water pipeline would be required to convey treated water to the existing LADWP distribution system.
- 6) *Convey Advanced Treated Recycled Water to San Fernando Valley Spreading Grounds:* An 84-inch-diameter, 20-mile-long pipeline would be installed to convey ATRW north to LADWP's service area in the San Fernando Valley. Construction of the pipeline may require tunneling through the Santa Monica Mountains. In addition, new pump stations would be required. Once in the San Fernando Valley, LADWP would use existing

Christopher Lopez  
 Los Angeles Department of Water and Power  
 April 13, 2021  
 Page 3 of 16

spreading grounds for additional storage in the San Fernando Valley Groundwater Basin through infiltration at existing spreading grounds such as Pacoima Spreading Grounds, Hansen Spreading Grounds, and Tujunga Spreading Grounds. Injection wells will also be considered to supplement spreading ground capacity.

- 7) *Convey Advanced Treated Recycled Water to Los Angeles Aqueduct Filtration Plant (LAAFP)*: The LAAFP would serve as the primary terminus for ATRW entering the San Fernando Valley. In order to convey the water to the LAAFP it is estimated that a 6.5 mile-long, 78-inch-diameter pipeline and a new pump station would need to be constructed.
- 8) *Convey Advanced Treated Recycled Water to Metropolitan Water District of Southern California's (MWD's) Jensen Water Filtration Plant (JWFP)*: Once the new water source is conveyed to the LAAFP, water may be exchanged at MWD's Jensen Water Filtration Plant located northwest of and adjacent to LAAFP. A new pipeline and pump station may be constructed to convey water from the LAAFP to JWFP.
- 9) *Convey Advanced Treated Recycled Water to MWD's Regional Recycled Water Program (RRWP) Backbone System*: The proposed Program would construct additional pipeline from the Central Basin wellfield facilities to MWD's future RRWP Backbone System. The pipeline would convey ATRW to the Upper San Gabriel Groundwater Basin.

Implementation of the Project would occur in phases, with each component providing an increment of the total Project capacity. The initial phase would provide replenishment water to the West Coast Basin for beneficial use in the southern service area, including the Harbor area. Subsequent phases would include replenishment of the Central Basin, conveyance to the San Fernando Valley to recharge the underlying groundwater basin in route to LAAFP, and, finally, deliveries to MWD's JWFP and RRWP Backbone System.

**Location:** The new AWP would be constructed at the existing 144-acre HWRP, located at 12000 Vista del Mar, in Playa Del Rey within the City of Los Angeles. The HWRP is approximately 500 feet from the ocean on a low bluff. The proposed Project would require installation of new infrastructure throughout the LADWP service area in areas overlying the Central, West Coast, and San Fernando Groundwater Basins. The location of the remaining Project components will be refined as the system is fully designed. New pipelines would be installed to transport the recycled water to groundwater recharge facilities and existing treatment and distribution facilities. The infrastructure would encompass the local cities from the coast to as far north as Sylmar, as far south as Torrance, and as far east as Whittier.

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist 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. CDFW looks forward to commenting on the PEIR when it is released. CDFW may have additional comments to the PEIR not addressed in this letter.

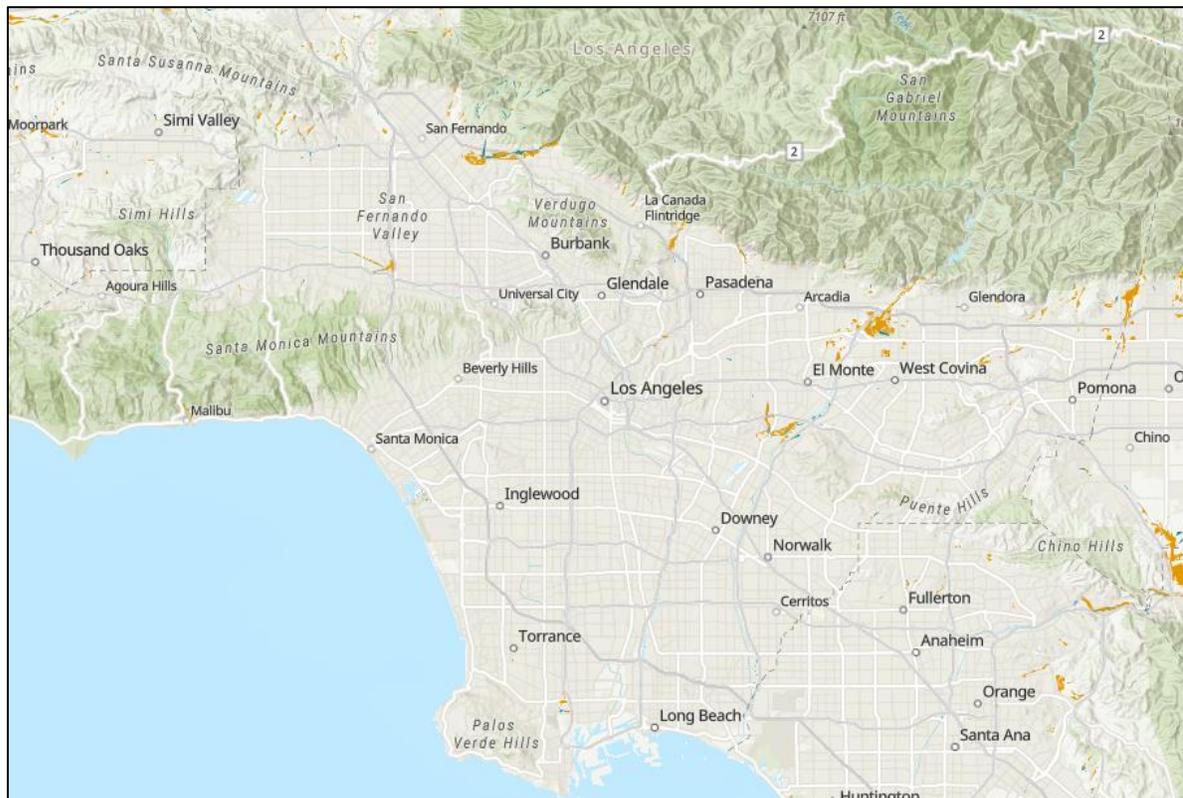
## Specific Comments

- 1) Impacts on Groundwater Dependent Ecosystems. Many sensitive ecosystems and public trust resources are dependent on groundwater. As such, CDFW has a vested interest in the

Christopher Lopez  
 Los Angeles Department of Water and Power  
 April 13, 2021  
 Page 4 of 16

sustainable management of groundwater. Groundwater dependent ecosystems (GDEs) are natural communities that rely on groundwater to sustain all or a portion of their water needs. The unsustainable use of groundwater can impact shallow aquifers and interconnected surface waters (ISW) on which GDEs depend. This may lead to adverse impacts on biological resources. There are GDEs within the West Coast, Central, and San Fernando Groundwater Basins (Figure 1, Klausmeyer et al. 2018). Additionally, within the San Fernando Groundwater Basin, shallow groundwater supports riparian vegetation in several soft-bottom reaches of the Los Angeles River where there is groundwater-surface water interchange (USACE 2015).

**Figure 1: Potential groundwater dependent ecosystems within the proposed Project area (vegetation=orange, wetlands=blue).**



- a. Phreatophytic vegetation is a critical contributor to nesting and foraging habitat for a wide range of species and can be affected by depth to groundwater (Naumburg et al. 2005; Froend and Sommer 2010). This sensitivity to groundwater level thresholds means that localized pumping and recharge actions altering groundwater levels, such as those proposed in the Project, can impact the health and extent of phreatophyte vegetation. CDFW recommends the PEIR identify potential GDEs and provide an analysis of potential impacts on GDEs and ISW as a result of groundwater injection and extraction. These ISW are surface waters that are hydraulically connected at any point by a continuous saturated zone to the underlying aquifer and the overlying surface water is not completely depleted. These ISW can receive water from the aquifer, or lose water to the aquifer, depending on

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 5 of 16

hydraulic gradients.

- b. CDFW recommends the PEIR include measures where future projects tiering from the PEIR provide project-level identification and analysis of potential impacts on GDEs and ISW. Additionally, the PEIR should include measures where future projects tiering from the PEIR provide a monitoring and adaptive management plan to: 1) document the timing, quantity, and location of ISW depletions and impacts on GDEs attributable to groundwater extraction resulting from a project; 2) determine whether these depletions and impacts will impact biological resources; and 3) establish a response and action plan to avoid those impacts. CDFW also recommends the PEIR include measures where future projects tiering from the Project/PEIR provide mitigation for permanent and temporal loss of GDEs resulting from groundwater extraction.
- 2) Groundwater Impact Analysis. The Project proposes to inject, store, and extract water from three groundwater basins in the Los Angeles region. Repeatedly injecting and extracting water could lead to basin subsidence and/or saltwater intrusion. CDFW recommends that the PEIR include a detailed discussion of the Project's potential impact on the structural integrity, groundwater levels, and water quality of the Central, West Coast, and San Fernando Groundwater Basins. Also, CDFW recommends the PEIR include measures where future projects tiering from the PEIR provide a project-level analysis of potential impacts on the groundwater basin in order to assess impacts at a smaller spatial scale.
- 3) Impacts on Biological Resources Dependent on Surface Flow. The wastewater treated at HWRP includes stormwater flow and urban runoff (or urban drool) during the wet and dry seasons, respectively (LASAN 2021). Under the proposed Project, the HWRP would be converted into a facility that processes a higher volume of wastewater. It is unclear if the Project may include infrastructure that would divert stormwater flow and urban runoff to the HWRP/AWPR. Diverting stormwater and urban runoff for the purposes of meeting Project goals may reduce the availability and extent of surface flow down the Los Angeles River and tributaries into the Los Angeles River. Altering the hydrologic regime could affect abiotic and biotic variables that support plants, fish, wildlife, and macroinvertebrates along the Los Angeles River. Significant impacts to these biological resources could occur, especially during the dry season proceeding after a below-average water year.
  - a. CDFW recommends the PEIR disclose whether the Project would divert stormwater flow and urban runoff. If the Project would divert water, the PEIR should provide a detailed analysis of potential impacts on biological resources. In addition, CDFW recommends the PEIR include measures where future projects tiering from the PEIR disclose potential stormwater and urban runoff diversion activities and analyze potential impacts. Adequate disclosure should include, at a minimum, the volume diverted during the wet and dry seasons and during a below and above-average water year and the location of necessary diversion structures (e.g., dams, pumps, diversion pipes/tunnels/channels, overflow weirs, and storm drain interceptors). An impact analysis should include, at a minimum, a hydrologic and hydraulic study within an appropriate study reach assessing pre- and post-project conditions during both the dry and wet seasons in an above and below-average water year. Within that study reach, the analysis should include a list of biological resources that could be impacted due to changes in hydrology (reduced flow); hydraulics (water depth,

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 6 of 16

wetted perimeter, velocity); and construction, operations, and maintenance of water diversion devices.

- b. CDFW also recommends the PEIR include measures where future projects tiering from the PEIR provide an analysis of the cumulative impacts on biological resources due to water diversion and groundwater recharge projects in the Los Angeles area. This includes, but is not limited to, projects that would divert water into retention basins and underground infiltration galleries. Collectively, projects that would divert water into retention basins and infiltration galleries could impact beneficial uses dependent on stormwater and dry-season flows.
- 4) Impacts on Coastal Waters. The Project may discharge ATRW to the existing ocean outfall system. CDFW recommends the PEIR provide an analysis of potential impacts from ATRW discharge to aquatic flora and fauna species in coastal, nearshore, and marine environments. The analysis should include models of the discharge effluent and the zone of initial dilution. CDFW also recommends the PEIR provide a discussion of what modifications, if any, to the existing ocean outfall will be needed to accommodate the Project, and what impacts those changes may have on marine resources.
  - 5) Lake and Streambed Alteration (LSA) Agreement. The Project would require construction of infrastructure throughout the Los Angeles area. This may include miles of pipelines for conveying water, wells for injecting and extracting groundwater, pump stations, other treatment, and appurtenant facilities. Construction of said infrastructure could impact streams within the Los Angeles area, including the Los Angeles River and tributaries into the Los Angeles River (Rio Hondo, Compton Creek, Arroyo Seco, and Tujunga Wash, for example).
    - a. CDFW recommends the PEIR include measures where future projects tiering from the PEIR provide a thorough and detailed project-level identification and delineation of any rivers, streams, and lakes and their associated natural plant communities and habitats. This includes any culverts, ditches, storm channels that may transport water, sediment, pollutants, and discharge into rivers, streams, and lakes. Be advised that 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.
    - b. If a project would impact a stream, CDFW recommends the PEIR include a measure conditioning the project applicant (or "entity") to provide written notification to CDFW pursuant to Fish and Game Code section 1600 *et seq.* 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. 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 environmental document of the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the environment document should fully identify the potential impacts to the

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 7 of 16

stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

- c. CDFW recommends the PEIR include measures where future projects tiering from the PEIR provide effective setbacks to maintain appropriately sized vegetated buffer areas adjoining ephemeral drainages. Herbaceous vegetation, woody vegetation, and woodlands serve to protect the integrity of these streams and help maintain natural sedimentation processes.
- 6) Potential Loss of Bird and Raptor Nesting Habitat. The Project may remove trees or impact the Critical Root Zone of trees to construct Project-related infrastructure. 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 such as red-tailed hawks (*Buteo jamaicensis*) and Cooper's hawks (*Accipiter cooperii*), have adapted to and exploited urban areas for breeding and nesting (Cooper et al. 2020).
- a) CDFW recommends the PEIR include measures where future projects tiering from the PEIR avoid removal of any native trees, large and dense-canopied native and non-native trees, and trees occurring in high density (Wood and Esaian 2020). CDFW also recommends avoiding impacts to understory vegetation (e.g., ground cover, subshrubs, and shrubs).
  - b) If impacts to trees cannot be avoided, CDFW recommends the PEIR include measures where future projects tiering from the PEIR replaces trees to compensate for the temporal or permanent habitat loss. Depending on the status of the bird or raptor species impacted, the number of replacement trees, understory species, and potentially habitat should increase with the occurrence of a California Species of Special Concern. Compensatory mitigation should further increase with the occurrence of a CESA-listed threatened or endangered species. 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).
- 7) Nesting Birds. Construction of Project-related infrastructure could generate increased noise, dust, ground vibrations, human presence, and ambient nighttime lighting. As such, Project activities occurring during the bird and raptor breeding and nesting season could impact nesting birds by causing the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. 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). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
- a) CDFW recommends the PEIR include measures where future projects tiering from the PEIR fully avoid impacts to nesting birds and raptors. Ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal 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, raptors, or

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 8 of 16

their eggs.

- b) If impacts on nesting birds and raptors cannot be avoided, CDFW recommends the PEIR include measures where future projects tiering from the PEIR mitigate for impacts. CDFW recommends surveys by a qualified biologist with experience conducting breeding bird and raptor surveys. Surveys are needed to detect protected native birds and raptors occurring in suitable nesting habitat that may be disturbed and any other such habitat within 300 feet of the project disturbance area, to the extent allowable and accessible. For raptors, this radius should be expanded to 500 feet and no less than 0.5 mile for special status species. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- 8) Bats. Project construction and activities, including (but not limited to) ground disturbance, vegetation removal, and any activities leading to increased noise levels, human presence, and ambient nighttime lighting may have direct and/or indirect impacts on bats and roosts. Numerous bat species are known to roost in trees and structures throughout Los Angeles County (Remington and Cooper 2014). In urbanized areas, bats use trees and man-made structures for daytime and nighttime roosts. 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).

CDFW recommends the PEIR include measures where future projects tiering from the PEIR avoid potential impacts to bats. Also, CDFW recommends the PEIR include measures whereby a project-level Biological Resources Assessment includes a thorough and detailed discussion and adequate disclosure of potential impacts on bats and roosts from project construction and activities including (but not limited to) ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal. If necessary, to reduce impacts to less than significant, a project-level environmental document should provide bat-specific avoidance and/or mitigation measures [CEQA Guidelines, § 15126.4(a)(1)].

### **General Comments**

- 1) Disclosure. The PEIR should provide an adequate, complete, and detailed disclosure about the effect the Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, and to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).
- 2) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, the PEIR shall describe feasible measures which could mitigate for impacts below a significant level under CEQA.
- a) Level of Detail. Mitigation measures must be feasible, effective, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 9 of 16

other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, §§ 15126.4, 15041). A public agency shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures (Pub. Resources Code, § 21081.6). CDFW recommends that LADWP prepare 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). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.

- b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by a project as proposed, the PEIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the PEIR should provide an adequate, complete, and detailed disclosure about a project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 3) Biological Resources Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to a project site and where a project may result in ground disturbance. The assessment and analysis should emphasize identification of endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. An assessment 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 impacts on any Sensitive Natural Communities found on or adjacent to a project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The PEIR, and subsequent project-level assessments, should include the following information:
  - a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The PEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2021a);
  - 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 Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where project construction and activities could lead to direct or indirect impacts off site;
  - c) Floristic, alliance- and/or association-based mapping and vegetation impact

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 10 of 16

assessments conducted at a project site and within the neighboring vicinity. The [Manual of California Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2009). Adjoining habitat areas should be included in this assessment where project activities could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;

- d) A complete and 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 Database](#) (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFW 2021b). An assessment should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at a project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];
  - e) A complete assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern, and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFW 2021c). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the U.S. Fish and Wildlife Service; and,
  - f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of a 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.
- 4) Data. CEQA requires that information developed for preparation of an environmental document be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the PEIR include measures where lead agencies of individual projects tiering from the PEIR report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDDB by completing the [Online Field Survey Form](#) (CDFW 2021d). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 11 of 16

- 5) Biological Direct, Indirect, and Cumulative Impacts. The PEIR, and subsequent project-level assessments, should 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:
- a) A discussion regarding project-related 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 & 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;
  - b) A discussion of both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
  - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
  - d) A discussion on project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the Project sites. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included;
  - e) An analysis of impacts from potential changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included; and,
  - f) 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 and wildlife species, habitat, and vegetation communities. If LADWP determines that the Project would not have a cumulative impact, the PEIR should indicate why the cumulative impact is not significant. LADWP's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].
- 6) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the PEIR and subsequent project-level assessments:
- a) A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas;

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 12 of 16

- b) CEQA Guidelines section 15126.6(a) states that an environmental document shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project. CEQA Guidelines section 15126.6(f)(2) states if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion and should include reasons in the environmental document; and,
- c) A range of feasible alternatives to Project location and design features to avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas. CDFW recommends LADWP consider configuring Project construction and activities, as well as the development footprint, in such a way as to fully avoid impacts to sensitive and special status plants and wildlife species, habitat, and sensitive vegetation communities. CDFW also recommends LADWP consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes for the duration of the Project and from any future project-related development. As a general rule, CDFW recommends reducing or clustering infrastructure or a project's footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).

- d) Where the Project may impact aquatic and riparian resources, CDFW recommends LADWP consider alternatives that would fully avoid impacts to such resources. CDFW also recommends alternatives that would allow not impede, alter, or otherwise modify existing surface flow; watercourse and meander; and water-dependent ecosystems and vegetation communities. Project-related designs should consider elevated crossings to avoid channelizing or narrowing of streams. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level and cause the stream to alter its course of flow.
- 7) 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 CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the project and any project-related activity during the life of a project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the project's CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 13 of 16

reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 8) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies. The Wetlands Resources policy the Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California (CFGF 2021). Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."
- a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project must include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions for the benefit to on-site and off-site wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in an environmental document and these measures should compensate for the loss of function and value.
- b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).
- 9) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from a project site and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant or animal species. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat

Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 14 of 16

capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and animals and their habitats.

- 10) Compensatory Mitigation. An environmental document should include mitigation measures for direct or indirect impacts on sensitive and special status plants and wildlife, and associated habitat. Mitigation measures should emphasize avoidance and reduction of project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site 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 nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.
- 11) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an environmental document should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

## Conclusion

We appreciate the opportunity to comment on the NOP for the Operation NEXT and Hyperion 2035 Program to assist the Los Angeles Department of Water and Power in identifying and mitigating Project impacts on biological resources. 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](mailto:Ruby.Kwan-Davis@wildlife.ca.gov).

Sincerely,

DocuSigned by:

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Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 15 of 16

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Christopher Lopez  
Los Angeles Department of Water and Power  
April 13, 2021  
Page 16 of 16

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