



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 12, 2021  
*Sent via email*

Mr. Chase Hildeburn  
Water Resource Control Engineer  
State Water Resources Control Board  
Division of Water Rights - Water Quality Certification Program  
P.O. Box 2000  
Sacramento, CA 95812-2000

Subject: Notice of Preparation of a Draft Environmental Impact Report  
Lake Elsinore Advanced Pumped Storage Project  
Federal Energy Regulatory Commission (FERC) Project 14227

Dear Mr. Chase Hildeburn:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the State Water Resources Control Board (State Water Board) for the Lake Elsinore Advanced Pumped Storage Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## **CDFW ROLE**

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

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

The Project proposes a pumped storage facility located on Lake Elsinore and San Juan Creek in the City of Lake Elsinore within Riverside County. An existing and new substation in San Diego County will connect transmission lines from Riverside to San Diego County. In addition, the Project would occupy approximately 845 acres of the Cleveland National Forest. The Project would move water between a lower reservoir at Lake Elsinore and upper reservoir (Decker Canyon) located in the headwaters of the San Juan Creek watershed to store and generate electricity. The Project will involve the construction of 32 miles of transmission lines in the Cleveland National Forest and surrounding area. The Project includes the construction and operation of: (1) a lined upper reservoir (Decker Canyon); (2) a 260-foot-high main dam associated with the Decker Canyon reservoir; (3) a water conduit system consisting of a 1,248-foot-long, 25-foot-diameter concrete-lined power shaft and a 8,247-foot-long, 15-foot-diameter power tunnel transitioning to two, 250-foot-long, 12-foot-diameter steel penstocks; (4) an underground powerhouse; (5) the existing Lake Elsinore to be used as a lower reservoir; (6) two 2,450-foot-long, 25-foot-wide, and 25-foot-high concrete-lined tailrace tunnels; (7) about 32 miles of 500-kilovolt (kV) transmission line connecting the Project to an existing Southern California Edison (SCE) transmission line located north of the proposed Project and to an existing San Diego Gas & Electric Company (SDG&E) transmission line located to the south; and (8) appurtenant facilities.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the State Water Board in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW recommends that the forthcoming DEIR address the following:

### **Assessment of Biological Resources**

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the

region. To enable CDFW staff to adequately review and comment on the project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats.

The CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by qualified biologist and 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 U.S. Fish and Wildlife Service, where necessary. Note that 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 the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

### Burrowing Owl (*Athene cunicularia*)

The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

CDFW recommends that the State Water Board follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012); available for download from CDFW’s website: <https://www.wildlife.ca.gov/conservation/survey-protocols>. The Staff Report on Burrowing Owl Mitigation, specifies three steps for project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

As stated in the Staff Report on Burrowing Owl Mitigation, the three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance, minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project.

### **Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources**

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project). To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity (e.g., recreation), defensible space, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: 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 site.

2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).

Please note that the Project area supports significant biological resources and contains habitat connections, providing for wildlife movement across the broader landscape, sustaining both transitory and permanent wildlife populations. CDFW encourages project design that avoids and preserves onsite features that contribute to habitat connectivity. The DEIR should include a discussion of both direct and indirect impacts to wildlife movement and connectivity, including maintenance of wildlife corridor/movement areas to adjacent undisturbed habitats.

3. An evaluation of impacts to adjacent open space lands from both the construction of the Project and any long-term operational and maintenance needs. The proposed Project has the potential to impact lands managed by the U.S. Forest Service and Watersedge Elsinore Associates, LLC. CDFW encourages the State Water Board to contact the US. Forest Service and Watersedge Elsinore Associates, LLC. to determine if any portion of the project will impact adjacent conserved lands, and to work collaboratively to avoid and minimize impacts.
4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

### **Alternatives Analysis**

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would “feasibly attain most of the basic objectives of the Project,” and would avoid or substantially lessen any of the Project’s significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a “no project” alternative (CEQA Guidelines § 15126.6[e]).

## Mitigation Measures for Project Impacts to Biological Resources

The DEIR should identify mitigation measures and alternatives that are appropriate and adequate to avoid or minimize potential impacts, to the extent feasible. The State Water Board assess all direct, indirect, and cumulative impacts that are expected to occur as a result of the implementation of the Project and its long-term operation and maintenance. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the lead agency include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce indirect impacts to fully protected species.
2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from project-related direct and indirect impacts.
3. *California Species of Special Concern (CSSC)*: CSSC status applies to animals generally not listed under the federal Endangered Species Act or the CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process. CSSC that have the potential or have been documented to occur within or adjacent to the project area, including, but not limited to: California spotted owls, burrowing owls, California gnatcatcher, yellow breasted chat, yellow warbler, and coastal cactus wren.
4. *Mitigation*: CDFW considers adverse project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement, and preservation should be evaluated and discussed in detail. Where habitat preservation is not available onsite, offsite land acquisition, management, and preservation should be evaluated and discussed in detail.

The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the DEIR. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

CDFW recommends that the DEIR specify mitigation that is roughly proportional to the level of impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). The mitigation should provide long-term conservation value for the suite of species and habitat being impacted by the Project. Furthermore, in order for mitigation measures to be effective, they need to be specific, enforceable, and feasible actions that will improve environmental conditions.

5. *Habitat Revegetation/Restoration Plans*: Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum:
  - (a) the location of restoration sites and assessment of appropriate reference sites;
  - (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates;
  - (c) a schematic depicting the mitigation area;
  - (d) a local seed and cuttings and planting schedule;
  - (e) a description of the irrigation methodology;
  - (f) measures to control exotic vegetation on site;
  - (g) specific success criteria;
  - (h) a detailed monitoring program;
  - (i) contingency measures should the success criteria not be met; and
  - (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.CDFW recommends that local onsite propagules from the Project area and nearby vicinity be collected and used for restoration purposes. Onsite seed collection should

be initiated in the near future in order to accumulate sufficient propagule material for subsequent use in future years. Onsite vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various project components as appropriate.

Restoration objectives should include protecting special habitat elements or re-creating them in areas affected by the Project; examples could include retention of woody material, logs, snags, rocks, and brush piles.

6. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the project site. If pre-construction surveys are proposed in the DEIR, the CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

7. *Moving out of Harm's Way*: To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend

relocation to other areas). Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting project impacts associated with habitat loss.

8. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

### **California Endangered Species Act**

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in “take” (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of State-listed CESA species, either through construction or over the life of the project; unless this Project is proposed to be a covered activity under the MSHCP. It is the policy of the State to conserve, protect, restore, and enhance endangered species or any threatened species and its habitat.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.

Based on review of CNDDDB, and/or knowledge of the project site/vicinity/general area, CDFW is aware that the following CESA-listed species have the potential to occur onsite/have previously been reported onsite: southwestern willow flycatcher (*Empidonax traillii extimus*; SWWF), least Bell’s vireo (*Vireo bellii pusillus*; LBVI), tricolored blackbird (*Agelaius tricolor*), and peregrine falcon (*Falco peregrinus*).

### **Western Riverside County Multiple Species Habitat Conservation Plan**

Within the Inland Deserts Region, CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Western Riverside County MSHCP per Section 2800, *et seq.*, of the California Fish and Game Code on June 22, 2004. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable

general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the MSHCP please go to: <http://rctlma.org/epd/WR-MSHCP>.

The State Water Board is the lead agency but is not signatory to the MSHCP, therefore, in order to participate in the MSHCP the State Water Board would need to act as a Participating Special Entity (PSE). If the State Water Board chooses to act as a PSE and obtain take through the MSHCP, then the following MSHCP policies and procedures will apply to this Project: *list here: e.g.*, Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (MSHCP Section 6.1.2), Protection of the Narrow Endemic Plant Species (MSHCP Section 6.1.3), Additional Survey Needs and procedures (MSHCP section 6.3.2), and Urban/Wildland Interface Guidelines (MSHCP section 6.1.4). If the Project is not processed through the MSHCP for covered species, then the Project may be subject to the Federal Endangered Species Act (FESA) and CESA for threatened, endangered, and candidate species.

Regardless of whether take of threatened and/or endangered species is obtained through the MSHCP or through a CESA ITP, the DEIR needs to address how the proposed Project will affect the policies and procedures of the MSHCP. Therefore, all surveys required by the MSHCP policies and procedures listed above to determine consistency with the MSHCP should be conducted and results included in the DEIR so that CDFW can adequately assess whether the Project will impact the MSHCP.

### **Lake and Streambed Alteration Program**

The Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian

resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

## **ADDITIONAL COMMENTS AND RECOMMENDATIONS**

CDFW previously provided comments to FERC on Scoping Document (SD) 1. A comment letter was submitted on August 17, 2020 (Attachment 1), identifying requests for: additional studies, focused surveys, incorporation of state sensitive and special-status species not considered within SD1, and a cumulative effects analysis. Thus, as recommended previously, the below content (not all-inclusive) should be considered for the DEIR.

### **EIR Content and Consideration**

#### ***Cumulative Impacts***

CDFW recommends that the Project DEIR include a robust cumulative effects analysis as described under CEQA Guidelines section 15130. CDFW encourages that general and specific plans, as well as past, present, and anticipated future projects, be analyzed relative to their impacts on similar plant and wildlife species and habitats.

#### ***Mitigation***

Mitigation measures should emphasize avoidance and reduction of Project impacts and be roughly proportional to the level of impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). For unavoidable impacts, onsite mitigation, including habitat restoration and/or enhancement, and preservation, should be effective, specific, enforceable, and feasible actions that will improve environmental conditions. Where habitat preservation is not available onsite, offsite land acquisition, monitoring and management, and preservation should be evaluated and discussed in detail.

### **Biological Resources**

#### ***Mammals***

##### ***Bats***

To appropriately identify and analyze the potential impacts to special-status bats, and ensure avoidance, minimization, and mitigation measures are effective in addressing the potential impacts, CDFW recommends the DEIR provide the results of a comprehensive assessment of the diversity and distribution of special- status bats within

the Project vicinity and identify potential impacts to these species. This information should be obtained through the completion of species-specific surveys by a CDFW-approved bat biologist. Surveys should consider all roosting colonies not just maternity colonies. The Project DEIR should also consider the long-term effects to bats and identify the need for future acoustic monitoring (e.g. Santa Rosa Powerhouse, the northern and southern substations, and the Decker Canyon reservoir) using appropriate acoustic detectors and analyzing software (Anabat Express and/or Swift).

### *Corridors*

CDFW recommends the lead agency conduct a Terrestrial Wildlife Movement Study to provide information on large mammal wildlife (e.g. mountain lion) movement/corridors, and important habitat features, within the vicinity of the Project. CDFW recommends the DEIR include data and information derived from the completion of the Terrestrial Wildlife Movement Study that includes, among other things, consultation with researchers and review of existing studies; the deployment of game cameras along suitable wildlife movement areas and important habitat features; identification and recordation of large mammal tracks/scat observed during field visits conducted by qualified biologists; and modelling of all data to identify wildlife movement corridors, and important habitat features. The results of the Terrestrial Wildlife Movement Study should inform the development of project alternatives and mitigation measures to reduce the level of potential impacts to less than significant.

### ***Avian***

Direct, indirect, and cumulative impacts of the Project on avian resources should be identified, analyzed, and disclosed in the DEIR in order to determine any potentially significant impacts that may require mitigation beyond the avoidance of direct “take” (i.e., compensatory mitigation). To ensure that all potentially significant effects are identified and analyzed, CDFW recommends the completion of protocol surveys for special-status birds to provide data and information to inform preparation of the DEIR. CDFW recommends that measures incorporate efficacy monitoring, adaptive strategies to minimize impacts should designated buffers and seasonal avoidance measures prove ineffective, and impact-specific mitigation, where necessary, based on the results of focused surveys.

CDFW recommends that the DEIR addresses how the Project would be designed to minimize impacts to flight paths and safety to avian species from the proposed transmission lines.

### *Passerines*

CDFW believes that state sensitive avian species that were not considered within SD 1

may also be affected by the Project and should be incorporated into the Project DEIR. These include but are not limited to tricolored blackbird (*Agelaius tricolor*), a state threatened species, and, yellow breasted chat (*Icteria virens*), yellow warbler (*Setophaga petechia*), and coastal cactus wren (*Campylorhynchus brunneicapillus*), state species of special concern.

### *Raptors*

CDFW recommends surveys for bald eagles be conducted using *Bald Eagle Breeding Survey Instructions* (CDFG 2010) and the *Protocol for Evaluating Bald Eagle Habitat and Populations in California* (Jackman and Jenkins 2004), and that the results of those surveys be incorporated into the Project DEIR.

CDFW recommends a special-status raptor study be conducted to identify and analyze potential impacts to golden eagles (*Aquila chrysaetos*), a state protected raptor, peregrine falcons (*Falco peregrinus*), a state endangered species, and California spotted owls (*Strix occidentalis occidentalis*) and burrowing owls (*Athene cunicularia*), state species of special concern.

CDFW recommends that measures incorporate efficacy monitoring, adaptive strategies to minimize impacts should designated buffers and seasonal avoidance measures prove ineffective, and impact-specific mitigation, where necessary, based on the results of focused surveys.

### ***Amphibians***

CDFW recommends updated arroyo toad surveys following the USFWS's *Survey Protocol for the Arroyo Toad* (1999) and updated surveys for the red-legged frog (*Rana draytonii*) following the USFWS's *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog* (2005) be completed, and the results of those surveys be included in the DEIR.

CDFW also recommends that the DEIR include arroyo toad data collected by the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) Biological Monitoring Program, the United States Geological Survey, and the Cleveland National Forest from areas downstream of the proposed Project impact areas to facilitate the development of appropriate avoidance and minimization measures to address potential impacts during construction, operation, and in the event of a failure or unplanned release from the proposed Decker Canyon reservoir. In addition to the above-mentioned species, CDFW also recommends the DEIR consider western spadefoot (*Spea hammondi*) and coast-range newt (*Taricha torosa torosa*) for surveys and impact analysis.

### ***Reptiles and Fish***

CDFW recommends surveys be conducted for special-status fish and reptiles that could

be affected by the Project, and the results of the surveys and an associated impact analysis be provided in the DEIR. Species recommended for surveys include: Steelhead Trout (*Oncorhynchus mykiss*), arroyo chub (*Gila orcuttii*), western pond turtle (*Actinemys marmorata*), and two-striped garter snake (*Thamnophis hammondi*).

Placement of a reservoir in the headwaters to the San Juan Creek watershed and the pumping of Lake Elsinore water into the reservoir has the potential to introduce non-native fish species and “low-quality” water to San Juan Creek. The DEIR should adequately analyze potential impacts from the transfer and storage of Lake Elsinore water in the upper reservoir, including the potential effects the introduction of out-of-basin water and introduction of non-naive fish species could have on the San Juan Creek watershed and the species it supports, including steelhead trout and its Critical Habitat, and arroyo toad.

### ***Insects***

State sensitive invertebrate species, including the Laguna Mountains skipper, Quino checkerspot butterfly, Harbison’s dun skipper, or Hermes copper may occur within the vicinity of the Project. CDFW recommends that the Project DEIR include a current comprehensive habitat assessment and current focused surveys for state sensitive invertebrate species.

### ***Plants***

CDFW recommends focused surveys be conducted for rare, special-status plant species with the potential to occur on the Project site and results be included in the DEIR. Please refer to CDFW’s August 17, 2020 comment letter (Attachment 1) for a list of plant species of CDFW-concern with the potential to occur on the Project site.

### ***Habitat***

#### ***Vernal Pools***

Vernal pool surveys should be conducted within suitable habitat in the Project. The Project DEIR should include the results of such surveys, including a map of where vernal pools have been, or are currently, located using *Survey Guidelines for the Listed Large Branchiopods* (USFWS 2015); an impact analysis, including direct and indirect effects (e.g. groundwater level or flow and the geologic, climatic, and edaphic [soil-related] settings of the pools); and specific avoidance, minimization, and mitigation measures, informed by survey results and impact analysis.

#### ***Oak Woodland***

CDFW recommends that the DEIR include mitigation for removal of mature coast live oak trees in Decker Canyon at a minimum ratio of 10:1 (replacement to impact).

### *Natural Springs*

CDFW recommends the DEIR include an assessment of spring habitat within Decker Canyon and the identification of habitat that may be dependent on this resource. Cumulative impacts associated with the removal of natural springs in Decker Canyon and associated habitat should also be fully addressed in the DEIR as well.

### **Hydrology**

The Project will permanently impact natural springs within Decker Canyon, which will, in turn, impact associated and dependent fish, wildlife, and plant resources. CDFW recommends that the DEIR analyze the potential impacts of the loss of springs on local stream hydrology, as well as the potential concomitant impacts to associated fish, wildlife, plant, and habitat resources. Measures to avoid impacts to springs should be addressed in the DEIR.

CDFW recommends an analysis of a water balance and operations model/study to detect the potential changes and long-term cumulative impacts to the water supply, Lake Elsinore water levels, as well as fish, wildlife, and plant species be included within the DEIR.

CDFW recommends the DEIR address potential effects of the Project on water quality in San Juan Creek drainage, including potential effects of structural failure and leakage.

### **CONCLUSION**

CDFW appreciates the opportunity to comment on the NOP of a DEIR for the Lake Elsinore Advance Pumped Storage Project (FERC No. 14227) and recommends that the State Water Board address the CDFW's comments and concerns in the forthcoming DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Cindy Castaneda, Environmental Scientist, Specialist, at (805) 712-0346 or at [Cindy.Castaneda@wildlife.ca.gov](mailto:Cindy.Castaneda@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
8091B1A9242F49C...

Scott Wilson  
Environmental Program Manager

Mr. Chase Hildeburn, Water Resource Control Engineer  
State Water Resources Control Board  
April 12, 2021  
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Attachment 1: CDFW August 17, 2020 Comment Letter

ec: HCPB CEQA Program  
Habitat Conservation Planning Branch  
[CEQAcommentletters@wildlife.ca.gov](mailto:CEQAcommentletters@wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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