



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE

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June 30, 2022

Governor's Office of Planning & Research

**Jun 30 2022**

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## STATE CLEARINGHOUSE

**Subject: Rainbow Municipal Water District Water and Sewer Facilities Plan, Draft Program Environmental Impact Report, SCH #2021050602, San Diego County**

Dear Mr. Tamimi:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Program Environmental Impact Report (PEIR) from the Rainbow Municipal Water District (District; Lead Agency) for the Water and Sewer Facilities Plan (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, CDFW appreciates 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 previously provided a letter, dated June 25, 2021, commenting on the Notice of Preparation of the PEIR.

### 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. 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.), related authorization as provided by the Fish and Game Code will be required.

**Project Description and Summary:** The PEIR was developed for implementation of the Project in compliance with CEQA and the State CEQA Guidelines. The Project proposes

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improvements to accommodate future needs for potable water and wastewater systems District-wide. As required by CEQA, the PEIR: 1) assesses the potentially significant direct, indirect, and cumulative environmental effects of the Project; 2) identifies potential feasible means of avoiding or mitigating significant adverse impacts; 3) identifies significant and unavoidable adverse impacts that cannot be mitigated to below a less than significant level; and 4) evaluates a range of reasonable alternatives to the Project, including the required No Project Alternative.

The PEIR broadly addresses the District's water and sewer pipelines, including 336 miles of water pipelines and 76 miles of sewer pipelines. Specific locations, details, and timing of replacements or improvements along pipeline projects are unknown currently. The District will undertake the required CEQA review once adequate information is available regarding the specific replacement and improvement projects to support a Project-level environmental analysis and prior to approving any specific replacements or improvements. Subsequent environmental documents (if needed) for future individual activities would tier from this PEIR, and may include addenda, initial studies, negative declarations, mitigated negative declarations, and subsequent or supplemental EIRs. If a later activity would have effects that were not examined in the PEIR, a new initial study would need to be prepared to determine the appropriate level of CEQA analysis. The District will incorporate mitigation measures and alternatives developed in the PEIR into subsequent actions in the program.

**Background:** In 2016, the Water and Wastewater Master Plan Update provided a comprehensive review of the District's potable and wastewater systems and identified a plan of capital improvements necessary for the systems to adapt to future conditions, including major planned land development projects. Planning for the 2016 Master Plan was based on regional growth forecasts developed by the San Diego Association of Governments and was consistent with the adopted land use plans of jurisdictions within the District boundaries. In 2018, the District prepared a Water Pipeline Condition Assessment to analyze the current condition of the potable water system and to plan for future maintenance of the system. The District prepared an Urban Water Management Plan in 2020 that assessed demands and supplies over a 20-year planning horizon and addressed methods to ensure reliable and adequate water service to meet the needs of the various categories of customers during normal, dry, and multiple dry years. Based on these sources, the District developed a list of capital improvement projects to be implemented in the near-term and long-term future. Additionally, as many of the pipes in the District's service area have reached their useful life (over 50 years old), the Project would cover potential breakages or repairs over the entire District service area.

**Objective:** Specific key objectives of the Project are to: 1) implement improvements, repairs, and replacements needed to bring existing facilities up to current design, safety, and regulatory standards; 2) address system deficiencies under current demand and flow conditions; and 3) meet future water demand and flow conditions in the short term (2030) and long term (2050).

**Location:** The District is a publicly owned retail water and sewer agency serving 82 square miles in northern San Diego County. The District shares common boundaries with Riverside County and Camp Pendleton Marine Base. The District's service boundaries encompass several unincorporated areas including the communities of Rainbow and Bonsall, portions of Pala and Fallbrook, and a small portion within the City of Oceanside. The Fallbrook Public Utility District is located west of the District, and the Valley Center Municipal Water District lies to the east. The District comprises five District Divisions. The District provides water service to nearly all the area within its boundaries, encompassing approximately 8,771 metered accounts, including agricultural uses and approximately 5,300 residences. The District has a contractual

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right to treat 1.5 million gallons of sewage per day at the San Luis Rey Wastewater Treatment Plant in Oceanside. The District's sewer service area includes over 2,500 connections, mainly along the State Route 76 corridor.

## Biological Setting

The potential for sensitive vegetation communities and special-status plant and animal species to occur within the District's service area and vicinity of projected future projects was determined primarily based on database review and habitat assessment surveys at select locations in the field. Protocol-level surveys for special-status species were not conducted because the exact timing of specific projects is not yet known and may occur over multiple years. As such, protocol-level surveys undertaken at this time would likely result in inaccurate estimates of Project impacts. The PEIR provides comprehensive assessment of the potential presence of special-status species within the District's service area, including prior known occurrences of special-status species within the Project disturbance area. Biological surveys of individual future project areas will be undertaken on a site-by-site basis.

The District's service area is primarily composed of valleys, canyons, and low mountains. The area is characterized by agriculture, single-family residential development, and undeveloped lands, with additional land uses within the service area including small areas of commercial development, parks, schools, transportation infrastructure, water conveyance infrastructure, and golf courses.

Vegetation communities present within the District's service area, as mapped on a regional scale, can be separated into three categories: wetlands and waters; sensitive uplands; and non-sensitive uplands. Sensitive vegetation communities found within the service area include chamise chaparral, coast live oak woodland, coastal scrub, Diegan coastal sage scrub, Engelmann oak woodland, freshwater marsh, maritime succulent scrub, mule fat scrub, native grassland, non-native grassland, non-native riparian, open water, scrub oak chaparral, southern arroyo willow riparian forest, southern coast live oak riparian forest, southern cottonwood-willow riparian forest, southern maritime chaparral, southern mixed chaparral, southern riparian forest, southern riparian woodland, southern sycamore-alder riparian woodland, and southern willow scrub. Non-sensitive vegetation communities include disturbed habitat, developed, eucalyptus woodland, non-native vegetation, and agriculture/orchard. Potential jurisdictional features generally include wetland and riparian habitat types, as well as both vegetated and unvegetated drainages or streambeds.

Special-status wildlife species with the potential to occur near the Project include: State and federally endangered least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher); the state and federally threatened Stephens' kangaroo rat (*Dipodomys stephensi*); federally protected and California Fully Protected golden eagle (*Aquila chrysaetos*); federally endangered and California Species of Special Concern (SSC) arroyo toad (*Anaxyrus californicus*); federally threatened and SSC coastal California gnatcatcher (*Polioptila californica californica*); federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and Quino checkerspot butterfly (*Euphydryas editha quino*); SSC coastal cactus wren (*Campylorhynchus brunneicapillus sandiegonensis*), SSC yellow-breasted chat (*Icteria virens*), International Union for the Conservation of Nature Watch List Cooper's hawk (*Accipiter cooperii*), SSC western spadefoot (*Spea hammondi*), SSC orange-throated whiptail (*Aspidoscelis hyperythra*), SSC coast horned lizard (*Phrynosoma blainvillii*), SSC California glossy snake (*Arizona elegans*

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*occidentalis*), SSC red-diamond rattlesnake (*Crotalus ruber*), SSC arroyo chub (*Gila orcuttii*), SSC Dulzura pocket mouse (*Chaetodipus californicus femoralis*), and hoary bat (*Lasiurus cinereus*).

Several wildlife movement corridors and linkages occur within the District's service area. These biological linkages provide north-to-south and east-to-west links between biological core areas. Maintenance projects would occur on, within, and/or immediately surrounding existing District facilities, pipelines, and components primarily located within disturbed habitat or developed lands; therefore, impacts to wildlife corridors and linkages are not expected.

Special-status plant species identified with the potential to occur include: federally and state endangered and California Native Plant Society (CNPS) Rare Plant Rank 1B.1 thread-leaved brodiaea (*Brodiaea filifolia*), San Diego button-celery (*Eryngium aristulatum var. parishii*), San Diego thornmint (*Acanthomintha ilicifolia*), and Nevin's barberry (*Berberis nevinii*); federally endangered, State threatened, and CNPS Rare Plant Rank 1B.1 Munz's onion (*Allium munzii*); and federally endangered and CNPS Rare Plant Rank 1B.1 San Diego ambrosia (*Ambrosia pumila*) and spreading navarretia (*Navarretia fossalis*). Other sensitive plant species with the potential to occur near the Project include CNPS 1B.1 Rainbow manzanita (*Arctostaphylos rainbowensis*), CNPS 1B.1 smooth tarplant (*Centromadia pungens ssp. laevis*), CNPS 1B.1 Parry's tetracoccus (*Tetracoccus dioicus*), CNPS 1B.1 bottle liverwort (*Sphaerocarpos drewiae*), and CNPS 2B.2 wart-stemmed ceanothus (*Ceanothus verrucosus*).

Projected potential direct and indirect impacts of individual future Capital Improvement Projects (CIP) to specific sensitive species are presented in Table 4.2-2 of the PEIR. Other District Pipeline (ODP) projects with high to moderate potential to result in significant direct and indirect impacts to sensitive habitats are listed in tables in Biological Technical Report Appendices C-1, C-2, D-1, and D-2. Prior to construction of CIP and ODP projects that are included in these tables and will be sited within an undeveloped open space area (i.e., an area supporting naturalized habitat, sensitive habitat, and/or habitat potentially suitable for special-status species), the District will retain a qualified biologist to perform a pre-construction survey to verify existing biological resources on and adjacent to the project activity areas, including protocol level surveys for Coastal California Gnatcatcher, Stephens' Kangaroo Rat, Least Bell's Vireo, and Southwestern Willow Flycatcher, where indicated.

With implementation of mitigation measures MM BIO-1 through MM-BIO-17, where appropriate, potential impacts to sensitive species are anticipated to be avoided or reduced to less than significant levels. The PEIR indicates that the District will coordinate with the Wildlife Agencies (jointly, CDFW and the U.S. Fish and Wildlife Service (USFWS)) regarding both avoidance and mitigation measures.

**Timeline:** Specific construction schedules are not available for the individual improvements at the program level. Proposed improvements for CIPs will be implemented in two general phases: Near Term (through 2030) and Long Term (through 2050). Phasing for individual improvements could be accelerated or deferred as required to account for changes in development schedules, availability of land or rights-of-way for construction, funding limitations, and other considerations that cannot be predicted at this time.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Recommendations may also be included to improve the document.

### Specific Comments

The PEIR provides a foundation for second tier CEQA documents for subsequent projects but does not analyze the project-specific impacts of individual projects. These analyses will be performed on individual project sites as construction of each project is needed. CDFW provides the following recommendations regarding mitigation requirements that fall under CDFW's jurisdiction as a Trustee Agency and a Responsible Agency.

1. Impacts to sensitive habitats or special-status species. CDFW recommends that the District engage in early consultation with the Wildlife Agencies when a Project will result in impacts to a sensitive habitat or species that will result in the need for off-site mitigation including, but not limited to, 1) purchase of preservation credits of occupied habitat from a conservation bank approved by the USFWS and CDFW; 2) acquisition and preservation of off-site mitigation land containing occupied habitat; and/or 3) preparation and implementation of a rare plant salvage and relocation plan. Any of these measures would require approval by the Wildlife Agencies. All off-site mitigation areas should be agreed to by the Wildlife Agencies and the District before construction occurs. Evidence that on- and off-site mitigation has been purchased and/or placed within a biological open space easement should be provided to the Wildlife Agencies and District prior to impacts occurring on the Project site.
2. Impacts to CESA-listed species. If take or adverse impacts to CESA-listed species cannot be avoided during Project activities or over the life of the Project, the District must consult CDFW to determine if a CESA Incidental Take Permit (ITP) is required (pursuant to Fish & Game Code, § 2080 et seq.). To obtain appropriate take authorization under CESA, early consultation with CDFW is encouraged, as significant modification to a Project and mitigation measures may be required 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 reporting program that will meet the requirements of an ITP. For these reasons, the take proposed to be authorized by CDFW's ITP, biological mitigation monitoring, and reporting proposals should be described in detail in the Project's CEQA document to satisfy the requirements for a CESA ITP. For projects with impacts to species that are both State and federally listed as endangered or threatened, the District should consult with the USFWS and obtain a CESA Section 2080.1 Consistency Determination from the CDFW, unless otherwise required by the CDFW.
3. Impacts to wetlands under CDFW jurisdiction. CDFW recommends that the District engage in early consultation regarding impacts to wetland resources under CDFW jurisdiction. CDFW's issuance of a Lake or Streambed Alteration Agreement (LSAA) 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 Impact Report or other

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CEQA document of the local jurisdiction (District) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA.

### Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the District and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

### Conclusion

CDFW appreciates the opportunity to comment on the PEIR to assist the District in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Meredith Osborne, Environmental Scientist, at [Meredith.Osborne@wildlife.ca.gov](mailto:Meredith.Osborne@wildlife.ca.gov).

Sincerely,

DocuSigned by:

  
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ec: CDFW

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