



## Reservoir Retrofit and Replacement Project

### Responses to Comments on the Public Review Draft IS-MND

*prepared by*

**Montecito Water District**

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*prepared with the assistance of*

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**July 2021**



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# Responses to Comments on the Public Review Draft IS-MND

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This section includes comments received during the circulation of the Public Review Draft Initial Study-Mitigated Negative Declaration (IS-MND) prepared for the Montecito Water District (District) Reservoir Retrofit and Replacement Project (Project).

The Public Review Draft IS-MND was circulated for a 30-day public review period that began on June 10, 2021 and ended on July 12, 2021. The District received two comment letters on the Public Review Draft IS-MND. The commenters and the page number on which each commenter's letter appear are listed below.

Letter No. and Commenter	Page No.
1 Pat Tumamait, Barbareño/Ventureño Band of Mission Indians	2
2 Erinn Wilson-Olgin, Environmental Program Manager I, California Department of Fish and Wildlife	4

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The comment letters and responses follow. The comment letters have been numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1.1, for example, indicates that the response is for the first issue raised in comment Letter 1).

# Letter 1

**From:** [natchumash@yahoo.com](mailto:natchumash@yahoo.com) <[natchumash@yahoo.com](mailto:natchumash@yahoo.com)>

**Sent:** Monday, June 21, 2021 5:22 PM

**To:** Dennis Hanson <[dhanson@montecitowater.com](mailto:dhanson@montecitowater.com)>

**Subject:** Romero Reservoir, etc.

Hello Adam, I hope all is well with you.

I know Ramero Reservoir is a Culturaly sensitive area and would like to know if there are other project sites that are deemed sensitive. Also, I would recommend that the District hire a Native Chumash monitor for the Ramero site and any projects sites that show sensitivity. Please, if you get a chance give me a call. Thx

## Letter 1

**COMMENTER:** Patrick Tumamait, Barbareño/Ventureño Band of Mission Indians

**DATE:** June 21, 2021

The commenter states Romero Reservoir is a culturally sensitive area and requests information on whether other project sites are culturally sensitive. The commenter recommends retention of a native Chumash monitor for work at the Romero Reservoir site and for other project sites that show cultural sensitivity.

As stated in Section 18, *Tribal Cultural Resources*, of the Draft IS-MND, the District held a phone call with the commenter on May 10, 2021 as part of the Assembly Bill 52 consultation process. During this call, the commenter recommended a Native American monitor be present on-site during project related ground disturbing activities. During a follow-up call with District staff on May 27, 2021, the commenter indicated consultation was concluded. Based on input from local Native American representatives during the Assembly Bill 52 consultation process, including the commenter and others, Mitigation Measures TCR-1 and TCR-2 were included in the Draft IS-MND to reduce impacts on tribal cultural resources to a less-than-significant level. These mitigation measures include a cultural resources sensitivity training and Native American monitoring during ground-disturbing activities up to five feet below the ground surface.

In addition, Section 5, *Cultural Resources*, of the Draft IS-MND details the cultural resource evaluation conducted for the project sites, including a cultural resources records search and pedestrian field survey. As stated therein, a known prehistoric cultural resource is located approximately 350 feet from one of the project sites; therefore, the project vicinity is considered sensitive for the presence of archaeological resources. However, because no archaeological resources were identified during the pedestrian field survey and proposed ground disturbance would occur mostly within previously disturbed soils, the potential to encounter intact archaeological resources is low. Nonetheless, Mitigation Measure CUL-1, which includes provisions for addressing unanticipated discoveries of archaeological resources, was included in the Draft IS-MND to reduce impacts on archaeological resources to a less-than-significant level.

Adam Kanold, Assistant General Manager/Engineering Manager, followed up with the commenter via phone call on June 23, 2021 to clarify that the commenter had already provided comments on the project during Assembly Bill 52 consultation. Mr. Kanold explained the commenter's concerns were already addressed in the Draft IS-MND.



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## Letter 2

July 12, 2021

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**Subject: Comments on the Draft Mitigated Negative Declaration (DMND) for the Reservoir Retrofit and Replacement Project; SCH #2021060200; Santa Barbara County**

Mr. Kanold:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Availability of a Draft Mitigated Negative Declaration (DMND) for the Reservoir Retrofit and Replacement Project (Project). The Montecito Water District (District) is the lead agency preparing a DMND pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et. seq.) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; 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 (Public 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 & Game 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

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species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and Game Code §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

**Project Description and Summary**

**Objective:** The Project involves seismic retrofits, repairs, and replacements at eight of the District’s nine existing water storage reservoirs: Doulton, Romero, Terminal, Bella Vista, Park Lane, Cold Springs, Hot Springs, and Buena Vista. The project would bring all eight reservoirs into compliance with seismic design codes and regulations. No retrofit or replacement would expand the water storage capacity of an existing reservoir.

**Location:** The Project consists of eight reservoirs in the communities of Montecito, Summerland, and Santa Barbara County. Specifically, the reservoirs are located at: Doulton (1075 Toro Canyon Road), Romero (intersection of Bella Vista Drive and Romero Canyon Road), Terminal (intersection of East Mountain Drive and Cold Springs Road), Bella Vista (2750 Bella Vista Drive), Park Lane (intersection of Park Hill Lane and East Mountain Drive), Cold Springs (intersection of East Mountain Drive and Cold Springs Road), Hot Springs (intersection of Hot Springs Road and Hot Springs Lane), and Buena Vista (915 Park Lane).

**Comments and Recommendations**

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

**Project Description and Related Impact Shortcoming**

**Comment #1: Impacts to Riparian Resources**

**Issue:** CDFW has determined that streams subject to Fish and Game Code, section 1600 et seq. may be impacted by the proposed Project.

**Specific Impact:** The DMND states the Project could result in impacts to jurisdictional resources. Potentially jurisdictional streams (Hot Springs Creek and an unnamed drainage) occur within 100 feet of the Hot Springs and Park Lane sites. The DMND states indirect impacts from construction material run-off could adversely affect water quality (e.g., increased turbidity, addition of pollutants) particularly during storm events.

**Why impact would occur:** Degradation of water quality due to construction runoff may impact fish, amphibians, and riparian dependent species such as birds and bats. Runoff with high total suspended solids and total dissolved solids, has been shown to be high in nutrients, as well as other contaminants. Drilling fluid can be toxic to aquatic organisms.

**Evidence impact would be significant:** The Project may substantially adversely affect the existing water quality and geomorphologic processes through the alteration of the channel.

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**Mitigation Measure #1:** CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSAA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020d).

CDFW’s issuance of an 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 CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.

Any LSAA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSAA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to aquatic resources, additional mitigation conditioned in any LSAA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

**Mitigation Measure #2:** A weed management plan should be developed for the Project area and implemented both during construction and for the life of the Project. Soil disturbance such as maintenance including mowing or clearing vegetation around the reservoirs, promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.

**Mitigation Measure #3:** A non-toxic, water-based drilling fluid should be used to reduce the risk to aquatic life.

**Comment #2: Survey and Assessment Methodology – Preconstruction Surveys as Mitigation**

**Issue:** The DMND relies on pre-construction surveys for the detection of CEQA-rare, threatened, and endangered species.

**Specific impacts:** Direct impacts include Project activities that result in vegetation crushing, trimming or removal, burial, human intrusion, and the erosion, crushing and compaction or excavation of soil. Indirect effects include the spread of invasive, non-native weeds, which impact adjacent habitat as well as vibration and construction noise and lighting.

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**Why impact would occur:** The Project may result in impacts to CEQA-rare plant and animal species without including any specific disclosure or analysis in the DMND. Deferring impact assessment and disclosure to pre-construction botanical and animal surveys does not allow adequate disclosure of impacts during the CEQA review period. Surveys should be conducted during the appropriate times, following established protocols to determine what, if any, sensitive species occur in the Project footprint. This information should be included in the DMND, including location (map), population/occurrence size estimates, and an assessment of specific impacts with avoidance and minimization measures. CDFW does not consider translocation of CEQA-rare species as adequate mitigation under CEQA.

CDFW is concerned the DMND does not contain sufficient information regarding existing, known biological resources on the proposed Project to allow for a meaningful discussion of impacts and alternatives analysis. The DNMD is based on a reconnaissance biological assessment, which does not equate to actual surveys for the presence or absence of any species.

CEQA Guidelines §15070 and §15071 require the document to analyze if the Project may have a significant effect on the environment as well as review if the Project will 'avoid the effect or mitigate to a point where clearly no significant effects would occur'. Relying on future surveys, the preparation of future management plans, moving out of harm's way, or mitigating by obtaining permits from CDFW are considered deferred mitigation under CEQA.

**Evidence impact would be significant:** Impacts to CEQA-rare plant and animal species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service.

CDFW is unable to determine the extent of impacts based on the biological analysis conducted for the DMND. Absent survey data, CDFW is unable to provide meaningful avoidance, minimization, or mitigation measures related to special status plant resources.

### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #1:** In order to analyze if a project may have a significant effect on the environment, the Project related impacts, including survey results for species that occur in the entire Project footprint, need to be disclosed during the public comment period. This information is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Appropriate surveys, including protocol botanical and animal surveys, should be conducted at the appropriate time of year to document the presence/absence of CEQA-rare species prior to finalizing the DMND. Based on the survey results, the final CEQA document should propose avoidance and specific mitigation for Project impacts to CEQA-rare species. Surveys should be timed during the appropriate season for maximum detection of sensitive species. For botanical species, CDFW's Updated protocols (CDFW, 2018) should be utilized.

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### Comment 3: Mitigation for Sensitive Vegetation Communities

**Issue #1:** The DMND states CDFW sensitive vegetation community habitats would be impacted and proposes topsoil salvage as mitigation. CDFW is concerned topsoil salvage for temporary or permanent impacts is not adequate.

**Issue #2:** Acreages of impacts by vegetation community are not listed.

**Specific Impact:** Inadequate avoidance, minimization, and mitigation measures for impacts to these CEQA-rare vegetation communities will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

**Why Impact Would Occur:** Project implementation includes grading, vegetation clearing, trail/road construction, soil compaction, utilities construction, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of vegetation communities.

**Evidence Impact would be significant:** Sensitive vegetation communities are defined by their dominant plant species, such as *Adenostoma fasciculatum* – (Ceanothus megacarpus) Association (S3). The DMND states two alliances (Rhus integrifolia shrubland alliance (S3) and Quercus agrifolia woodland alliance (S4) are considered sensitive by CDFW, but does not define the California Sagebrush Scrub or Bigpod ceanothus as specific alliances. The Bigpod ceanothus chaparral alliance is ranked S4, and there are many different alliances and associations with “California sagebrush” in the name ranging from the S2-ranked *Artemisia californica* – *Eriogonum fasciculatum* – *Opuntia littoralis* / *Dudleya (edulis)* alliance to the many S3 and S4-ranked alliances and associations such as the *Artemisia californica* – *Eriogonum fasciculatum* – *Salvia leucophylla* alliance.

CDFW does not recommend topsoil salvage or transplantation as viable mitigation options. Several studies have documented topsoil salvage had no effect on the recolonization of the target plant species (Hinshaw, 1998, Dixon, 2018). Based on the scientific literature available, relying on topsoil salvage alone to mitigate impacts to CEQA-rare, sensitive vegetation communities does not appear to provide any value to mitigate impacts to the plants.

CEQA Guidelines sections 15070 and 15071 require the DEIR to analyze if the Project may have a significant effect on the environment as well as review if the Project will “avoid the effect or mitigate to a point where clearly no significant effects would occur.”

In order to analyze if a project may have a significant effect on the environment, the location, species composition, and success criteria of proposed mitigation information is necessary to allow the Department to comment on alternatives to avoid impacts, as well as assess the adequacy of the mitigation proposed.

Removing a plant from the ground is a permanent impact resulting in its death, replacing it is considered mitigation. All impacts that remove plants from the ground should be considered under the same lens whether the restoration occurs in the same area as the impacts or in new areas. Both scenarios may or may not produce successful new individuals or the targeted

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vegetation community assemblage. Both scenarios result in: 1) the loss of established individuals; and, 2) the replacement planting of new individuals. Both scenarios incur temporal losses as well as intensive management to ensure the desired habitat is re-created. Both are at risk for failure and are a community of same-aged individuals lacking the age stratification and complexity of the original habitat.

**Mitigation Measure #1:** CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, the Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. CDFW recommends all impacts to the S3 sensitive vegetation communities (*Rhus integrifolia* shrubland alliance) (unknown-acres) should be mitigated at a 4:1 ratio and impacts to the S4 and S5 communities (Mountain Mahogany chaparral, *Quercus agrifolia* woodland, Bigpod ceanothus (unknown-acres) be mitigate at a 2:1 ratio due to the overall decline of coastal scrub habitats region wide.

All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism for long-term management. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968).

**Mitigation Measure #2:** Success criteria should be based on the specific composition of the vegetation communities being impacted. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria should be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria shall include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria shall be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each layer shall be compared to the success criteria of the reference site, as well as the alliance criteria in MCV2, ensuring one species or layer does not disproportionately dominate a site but conditions mimic the reference site and meets the alliance membership requirements.

**Mitigation Measure #3:** A weed management plan should be developed for the Project area and implemented both during construction and for the life of the Project. Soil disturbance such as maintenance including mowing or clearing vegetation around the reservoirs, promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.

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## Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife resources, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency 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. (California Code of Regulations, tit. 14, § 753.5; Fish and Game Code, § 711.4; Public Resources Code, § 21089).

## Conclusion

We appreciate the opportunity to comment on the project to assist Montecito Water District in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the District has to our comments and to receive notification of any forthcoming hearing date(s) for the project. Questions regarding this letter and further coordination on these issues should be directed to Kelly Schmoker-Stanphill, Senior Environmental Scientist (Specialist), at (626) 335-9092 or [Kelly.Schmoker@wildlife.ca.gov](mailto:Kelly.Schmoker@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erinn Wilson-Olgin*

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Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region

Attachments: Attachment A: Draft Mitigation and Monitoring Reporting Plan

ec: CDFW

Steve Gibson, Los Alamitos – [Steve.Gibson@wildlife.ca.gov](mailto:Steve.Gibson@wildlife.ca.gov)

Sarah Rains, Fillmore – [Sarah.Rains@wildlife.ca.gov](mailto:Sarah.Rains@wildlife.ca.gov)

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State Clearinghouse, Sacramento – [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

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**Attachment A: Draft Mitigation and Monitoring Reporting Plan**

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM) or Recommendation (REC)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1- Impacts to Riparian Resources</b>	<p>CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSAA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020d).</p> <p>CDFW’s issuance of an 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 CEQA document from the County for the Project. To minimize additional requirements by CDFW</p>	<p>Prior to/After Project construction and activities</p>	<p>Lead Agency/ Applicant</p>

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	<p>pursuant to Fish and Game Code, section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.</p> <p>Any LSAA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSAA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to aquatic resources, additional mitigation conditioned in any LSAA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>		
<p><b>MM-BIO-2- Impacts to Riparian Resources</b></p>	<p>A weed management plan should be developed for the Project area and implemented both during construction and for the life of the Project. Soil disturbance such as maintenance including mowing or clearing vegetation around the reservoirs, promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.</p>	<p>During Project construciton activities</p>	<p>Lead Agency/ Applicant</p>

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<b>MM-BIO-3- Impacts to Riparian Resources</b>	A non-toxic, water-based drilling fluid should be used to reduce the risk to aquatic life.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>MM-BIO-4- Survey and Assessment Methodology</b>	Appropriate surveys, including protocol botanical and animal surveys, should be conducted at the appropriate time of year to document the presence/absence of CEQA-rare species prior to finalizing the DMND. Based on the survey results, the final CEQA document should propose avoidance and specific mitigation for Project impacts to CEQA-rare species. Surveys should be timed during the appropriate season for maximum detection of sensitive species. For botanical species, CDFW's Updated protocols (CDFW, 2018) should be utilized.	Prior to Project construction and activities	Lead Agency/ Applicant
<b>MM-BIO-5- Impacts to Sensitive Vegetation Communities</b>	<p>CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, the Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. CDFW recommends all impacts to the S3 sensitive vegetation communities (<i>Rhus integrifolia</i> shrubland alliance) (unknown-acres) should be mitigated at a 4:1 ratio and impacts to the S4 and S5 communities (Mountain Mahogany Chaparral, <i>Quercus agrifolia</i> woodland, Bigpod <i>ceanothus</i> (unknown-acres) be mitigate at a 2:1 ratio due to the overall decline of coastal scrub habitats region wide.</p> <p>All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring</p>	Prior to Project construction and activities	Lead Agency/ Applicant



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	<p>methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism for long-term management. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968).</p>		
<p><b>MM-BIO-6-                  Impacts to                  Sensitive                  Vegetation                  Communities</b></p>	<p>Success criteria should be based on the specific composition of the vegetation communities being impacted. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria should be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria shall include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria shall be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each layer shall be compared to the success criteria of the reference site, as well as the alliance criteria in MCV2, ensuring one species or layer does not disproportionately dominate a site but conditions mimic the reference site and meets the alliance membership requirements.</p>	<p>Prior to                  Project                  construction                  and                  activities</p>	<p>Lead Agency/                  Applicant</p>

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<p><b>MM-BIO-7-                  Impacts to                  Impacts to                  Sensitive                  Vegetation                  Communities</b></p>	<p>A weed management plan should be developed for the Project area and implemented both during construction and for the life of the Project. Soil disturbance such as maintenance including mowing or clearing vegetation around the reservoirs, promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included. CDFW requests annual reports of weed monitoring be submitted for review.</p>		<p>During Project                  construciton                  activities</p>
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## Letter 2

**COMMENTER:** Erinn Wilson-Olgin, Environmental Program Manager I, California Department of Fish and Wildlife

**DATE:** July 12, 2021

### **Response 2.1**

The commenter provides an overview of the California Department of Fish and Wildlife (CDFW) and its roles as trustee agency and responsible agency under CEQA. The commenter also provides a summary of the proposed project. The commenter states that the letter includes comments and recommendations to address the project's claimed impacts on biological resources.

This comment is introductory, and the District acknowledges the comment. Individual responses regarding the commenter's concerns on environmental impacts are addressed below in Responses 2.2 through 2.4.

### **Response 2.2 (CDFW Comment 1)**

The commenter gives the opinion that the proposed project may impact streams subject to California Fish and Game Code (CFGF) Section 1600 et seq. and may substantially adversely affect the existing water quality and geomorphologic processes through the alteration of the channel. The commenter notes the Draft IS-MND states the proposed project may result in indirect impacts to potentially jurisdictional streams and associated wildlife within 100 feet of the Hot Springs and Park Lane project sites through degradation of water quality as a result of construction material run-off. To address the claimed potential impacts to potentially jurisdictional streams and wildlife, the commenter recommends the following three additional mitigation measures:

- Provide notification to CDFW pursuant to CFGF Section 1600 et seq. so CDFW may determine whether a Lake and Streambed Alteration Agreement (LSAA) is required for the project
- Develop a weed management plan for both construction and operation of the proposed project and provide annual reports to CDFW
- Utilize a non-toxic, water-based drilling fluid to reduce risk to aquatic life

As stated in Section 4, *Biological Resources*, of the Draft IS-MND, direct impacts would not occur within stream channels or areas under state jurisdiction (e.g., riparian vegetation). The project would not divert, obstruct, change or use any material from, or discharge any material into streambeds, and the notification process in CFGF Section 1602 is therefore not anticipated to be required. The proposed project is located within existing disturbed areas, and the construction footprint (including vegetation clearing) is proposed outside of all potentially jurisdictional streambed areas (including the channel and top of bank or edge of riparian vegetation, whichever is greater). Although potentially jurisdictional drainages are located within the study areas at some sites (extending 100 feet from the proposed disturbance footprint), these features are vertically separated by steep topography and are located well outside the construction footprints. Section 4, *Biological Resources*, addresses indirect water quality and geomorphological process impacts to potentially jurisdictional streams and aquatic wildlife from construction material run-off. As stated therein, "direct impacts to streambeds from construction are not anticipated; however indirect impacts from construction material run-off could adversely affect water quality (e.g., increased turbidity, addition of pollutants) particularly during storm events. These impacts would be

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potentially significant absent mitigation, but would be reduced to a less-than-significant level through Mitigation Measures BIO-4 and BIO-5, which would ensure materials are appropriately stored and stormwater controls are in place to protect water quality.”

Given the surrounding existing development and general disturbance of the project sites, a weed management plan is not required to mitigate any potentially significant impacts. Vegetation maintenance around the reservoirs has been ongoing since the reservoirs were constructed between the early 1900s and 1970s and is not part of this project. Construction equipment for the project would generally be operating and travelling on existing paved and unpaved roads and in minimally vegetated and previously disturbed/developed areas around the reservoir. As such, there is a low potential for invasive weeds to spread to natural areas through equipment operation. In areas where native habitat may be disturbed, the topsoil would be salvaged pursuant to Mitigation Measure BIO-3 included in Section 4, *Biological Resources*, of the Draft IS-MND (note this is not required to mitigate a significant impact). In response to this comment, Mitigation Measure BIO-3 has been refined as shown below to clarify requirements for storing and disposing of invasive plant material/soil and prohibiting invasive plantings.

*BIO-3 Minimization of Sensitive Habitat Impacts*

If encroachment into sensitive natural communities cannot be avoided, areas of temporary disturbance within these habitats shall be minimized to the extent practicable. Staging and parking areas shall be limited to sites which are unvegetated and/or previously disturbed areas comprising ruderal vegetation or non-native annual grasslands, ornamental landscaping, and paved/graded areas, to the extent practicable. If removal of sensitive vegetation is necessary during excavation and/or grading, the topsoil (top six inches) shall be salvaged and stored in temporary stockpiles and replaced in the same area following completion of excavation/grading activities. If removal of non-native invasive vegetation is necessary during excavation and/or grading, the plant material and topsoil shall be separated and exported off-site to a landfill or similar disposal facility. Temporary stockpiles with invasive species shall be stored away from salvaged sensitive natural communities and separate from sensitive vegetation topsoil. If revegetation of the site is necessary for soil stabilization and/or fugitive dust control, the revegetation plant palette shall be free of invasive plants listed in the California Invasive Plant Council Inventory.

Project construction would employ a drill/bore rig that would not require use of a drilling fluid. Therefore, an additional mitigation measure requiring the use of a non-toxic, water-based drilling fluid is not necessary.

**Response 2.3 (CDFW Comment 2)**

The commenter states the opinion the Draft IS-MND relies on pre-construction surveys for the detection of special status species and does not include specific disclosure or analysis of impacts to special status plants and animals. The commenter suggests the mitigation measures proposed in Section 4, *Biological Resources*, of the Draft IS-MND for conducting future surveys, preparing future management plans, moving species out of harm’s way, and obtaining permits from CDFW are considered deferred mitigation under CEQA and translocation of CEQA-rare species is not adequate mitigation. The commenter requests disclosure of project-related impacts, including survey results for special status species that occur at the project sites. The commenter also states protocol

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botanical and animal surveys should be conducted to determine if sensitive species occur in the project footprint.

Section 4, *Biological Resources*, of the Draft IS-MND states that no special status plant species or habitat were observed during the spring reconnaissance-level survey and no threatened or endangered species have a potential to occur within the project area due to lack of suitable habitat. Therefore, protocol-level botanical and wildlife surveys are not required to adequately disclose and evaluate project impacts to special status plant and wildlife species.

Nine special status plant species have a low to moderate potential to occur within the study area but outside the construction footprint in areas of chaparral, coastal scrub, and coast live oak woodland habitat located at the edges of the reservoir sites. Due to limited habitat within the construction footprint and low to moderate potential for non-listed special status plant species to occur in the study area, impacts to special status plant species are not anticipated to occur. If impacts were to occur, the number of individuals affected would be low, if any, and the project would not result in population-level effects to these species. As a result, translocation of special status plants is not proposed or required to mitigate a significant impact. Indirect impacts to special status plant species from dust or run-off would be less than significant and would be further reduced through Mitigation Measures BIO-1 through BIO-5.

Eight additional special status wildlife species that are not listed as threatened or endangered have a low potential to occur as transients, as discussed in Section 4, *Biological Resources*, of the Draft IS-MND. CDFW protocol surveys for these species do not exist because they are not threatened or endangered. A pre-construction presence/absence survey is therefore sufficient to locate any species that may be present and relocate them out of harm's way. These species may be impacted during construction activities at the edge of the reservoir sites within woodland and scrub habitats as well as from staging and parking in areas of leaf litter and loose soils. Translocation of mobile special status wildlife species (if detected) is required as part of Mitigation Measure BIO-8; however, the commenter does not provide substantial evidence as to why translocation of mobile wildlife species is not adequate mitigation. In response to this comment, the text of Mitigation Measure BIO-8 has been revised as follows:

*BIO-8 Pre-Construction Presence/Absence Survey for Special Status Wildlife Species*

Within seven days prior to the commencement of ground disturbing activities, a qualified biologist shall be retained to perform a survey for coast range newt, coast patch-nosed snake, and northern California legless lizard in natural habitat areas within the project footprint and a 50-foot buffer to determine the presence/absence of these species. The pre-construction survey shall be conducted on foot within the project footprint and 50-foot buffer. Raking shall be conducted in areas of sandy, loose, and moist soils under sparse vegetation/leaf litter to determine the presence/absence of northern California legless lizard. The qualified biologist shall temporarily move any identified special status wildlife species outside of the construction area, and temporary barriers shall be placed around the construction area, as practicable, to prevent ingress. Construction shall not proceed until the work area is determined to be free of special status wildlife species. The results of these surveys shall be documented in a technical memorandum.

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Impacts to special status wildlife species would be reduced to a less-than-significant level with adherence to Mitigation Measures BIO-1 through BIO-5 and BIO-6 through 10, which require a worker environmental awareness program, minimization of intrusion into sensitive habitats, construction best management practices, pre-construction nesting birds surveys, a pre-construction wildlife survey and relocation of encountered individuals, the presence of a biological monitor during initial ground disturbing activities and vegetation removal, and limitations on night-time construction activities. Indirect impacts and loss of habitat for special status wildlife species would not be significant because the proposed activities would be temporary and localized.

CEQA Guidelines Section 15126.4(a)(1)(B) states, “Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.” Mitigation Measures BIO-6 through BIO-8 are not deferred mitigation measures for the following reasons:

- (1) The District will commit itself to implementation of these mitigation measures
- (2) Mitigation Measures BIO-7 and BIO-8 include specific performance standards that the mitigation will achieve. Mitigation Measure BIO-7 requires that no ground-disturbing activities occur inside the demarcated buffer around nesting birds until the avian biologist has confirmed breeding/nesting is completed, and the young have fledged the nest with encroachment allowed only at the discretion of the qualified biologist. Mitigation Measure BIO-8 requires that the work area be free of non-listed special status species.
- (3) Mitigation Measures BIO-7 and BIO-8 include the actions that can feasibly achieve these performance standards. Mitigation Measure BIO-7 requires a qualified biologist conduct a pre-construction nesting bird survey and demarcate buffers around any identified active nests. Mitigation Measure BIO-8 requires a qualified biologist conduct a pre-construction special status wildlife species survey, temporarily move any identified non-listed special status species outside of the construction area, and place temporary barriers around the construction area, as practicable, to prevent ingress.

Mitigation Measure BIO-6 requires preparation of an arborist study with tree protection recommendations. This measure is proposed to address impacts to the roots and canopy of native trees and woodland habitats near the proposed construction footprints in accordance with the County’s Montecito Community Plan Policies BIO-M-1.15 through BIO-M-1.17 and BIO-M-1.19. However, as noted in Section 4, *Biological Resources*, of the Draft IS-MND, the project involves the repair and replacement of water storage facilities; therefore, County zoning and building codes would not apply to the project pursuant to Section 53091 of the California Government Code. Therefore, this measure is proposed in good faith but is not required to mitigate an identified significant impact under CEQA. Furthermore, none of the mitigation measures in Section 4, *Biological Resources*, of the Draft IS-MND rely on the preparation of future management plans or obtaining permits from CDFW as mitigation of project impacts.

## Response 2.4 (CDFW Comment 3)

The commenter expresses concern that topsoil salvage for impacts to sensitive vegetation communities is not adequate or viable and states that acreages of impacts by vegetation community are not listed in the Draft IS-MND. The commenter expresses concern that California sagebrush scrub and bigpod ceanothus chaparral are mapped to the alliance and not association level in Section 4, *Biological Resources*, of the Draft IS-MND such that determination of whether these are sensitive vegetation communities is not possible. The commenter recommends avoiding sensitive natural communities, and if avoidance is not feasible, mitigating impacts at a ratio sufficient to achieve a no-net loss for impacts. The commenter also recommends mitigation of impacts to S3 sensitive vegetation communities at a 4:1 ratio and mitigation of impacts to S4 and S5 communities at a 2:1 ratio. The commenter suggests that revegetation and restoration activities included as mitigation should include preparation of a restoration plan to be approved by CDFW. The commenter also suggests success criteria for revegetation and development of a weed management plan.

California sagebrush scrub and bigpod ceanothus chaparral (S4/G4) as defined in Table 6 do not include sensitive associations where present within the Park Lane, Cold Springs, or Hot Springs project site study areas; therefore, they are not mapped at the association level. To clarify this point, the text of Section 4, *Biological Resources*, has been revised as follows:

As shown in Table 6, sensitive natural communities occur at many of the reservoir sites, and include lemonade berry scrub (*Rhus integrifolia* shrubland alliance), which is listed on the CDFW's Sensitive Natural Communities List (CDFW 2020), and coast live oak woodland (*Quercus agrifolia* woodland alliance) which is considered sensitive by the County. The California sagebrush scrub and bigpod ceanothus chapparal vegetation communities do not include sensitive associations where present. Where sensitive communities occur, the project has been designed to avoid impacts to the extent feasible.

As shown in Table 6 in Section 4, *Biological Resources*, of the Draft IS-MND, sensitive natural communities present at the reservoir sites include lemonade berry scrub (*Rhus integrifolia* shrubland alliance [S3/G3]) and coast live oak woodland (*Quercus agrifolia* woodland alliance [S4/G4]), which are considered sensitive by the County of Santa Barbara. Where sensitive communities occur, the project has been designed to avoid impacts. Parking and staging would occur mostly within annual grasslands and other previously disturbed areas. Where parking or staging within the understory of coast live oak woodland is proposed, such as at the Terminal, Romero, Cold Springs, Hot Springs, and Park Lane sites, direct impacts would be minor because the affected areas are small and at the interface where oak woodland habitat abuts the developed reservoirs. Oak trees may need to be trimmed or removed to allow equipment access or excavation needed to expose buried portions of the reservoir for repairs. However, direct impacts to County-designated sensitive coast live oak woodland habitat or impacts to individual trees would be less than significant with adherence to Mitigation Measure BIO-6.

Impacts to lemonade berry scrub would occur only at the Romero site for an approximately 12-foot-wide, 250-foot long area along the edge of the reservoir. Excavation is required to expose the buried reservoir for repairs in this 12-foot-long area. Section 4, *Biological Resources*, of the IS-MND determined that due to the small area impacted along the edge of the habitat and adjacent to the developed reservoir, direct impacts to lemonade berry scrub would be less than significant. The measures included for topsoil salvage in Mitigation Measure BIO-3 would only further reduce an

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already less-than-significant impact. Therefore, compensatory mitigation and on-site restoration are not required.

Indirect impacts to these sensitive vegetation communities would be reduced to a less-than-significant level through implementation of Mitigation Measures BIO-2 and BIO-3, which require limiting staging and parking areas to outside sensitive natural communities and fencing sensitive areas to prevent inadvertent encroachment. Mitigation Measure BIO-3 also includes topsoil salvage as a best management practice in the event removal of sensitive vegetation is necessary during excavation and/or grading but is not needed to mitigate an already less-than-significant impact. As discussed above under Response 2.2, Mitigation Measure BIO-3 has been refined to clarify requirements for storage and disposal of non-native invasive species plant material and soil as well as to prohibit invasive species from being included in the erosion stabilization planting palette if revegetation is necessary.

**Response 2.5**

The commenter summarizes the CDFW filing fee requirements, requests the opportunity to review and comment on the District's response to these comments, requests notification of future public hearings on the project, and provides contact information for questions and coordination on the comments provided.

The District understands the requirement to pay all appropriate CEQA CDFW filing fees. The District will provide the commenter with a copy of the Response to Comments. CDFW was provided notice of the public hearing on the project to be held on July 27, 2021 at 9:30 a.m. via online Zoom meeting as part of the Notice of Intent to Adopt a Mitigated Negative Declaration.



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