

State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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October 3, 2022

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Subject: Pure Water Project Las Virgenes–Triunfo, Draft Programmatic Environmental Impact Report, SCH #2021090157, Las Virgenes - Triunfo Joint Powers Authority, Los Angeles County and Ventura County

Dear Mr. Slosser,

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Programmatic Environmental Impact Report (PEIR) from the Las Virgenes–Triunfo Joint Powers Authority (JPA) for the Pure Water Project Las Virgenes–Triunfo (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW's Role

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

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

Project Description and Summary

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Objective: The Project would address new stringent nitrogen and phosphorus total maximum daily loads discharge to Malibu Creek through installation of a new Advanced Water Purification Facility (AWPF) and a series of interrelated pipelines. The Project would consist of treating effluent from the existing Tapia Wastewater Reclamation Facility (Tapia WRF) at an AWPF, discharging the purified water to the Las Virgenes Reservoir for storage, and sending the filtered reject through a concentrate disposal pipeline for ocean disposal.

Tapia Wastewater Reclamation Facility

The Project does not propose substantial changes at the Tapia WRF. The capacity of the Tapia WRF is not expected to increase. Some minor upgrades to existing facilities would be required within the existing plant footprint in order to operate the project efficiently. The primary change at the Tapia WRF is operational. All treated effluent would be sent to the recycled water system and the new AWPF; all discharges to Malibu Creek would be eliminated.

Advanced Water Purification Facility

The Project has two alternative locations for new AWPF.

- **Agoura Road AWPF, Alternative 1.** Tapia WRF effluent would be conveyed to an 47,750 square feet AWPF at Agoura Road in the City of Agoura Hills. In addition to the AWPF, the facility would contain the following: pumps to operate the filtration systems; chemical facilities (e.g., storage, pumps, and pipes); large pumps to help convey purified water to Las Virgenes Reservoir and effluent (i.e., concentrate) to the ocean; electrical facilities, including emergency generators; extensive piping to convey water from one process to the next; maintenance and laboratory facilities; access driveways from Agoura Road; operations and maintenance facilities; paved areas for internal circulation, including materials deliveries; and parking spaces. The new facility would occupy a total of 2.8 acres of a 7.1-acre undeveloped site.
- **Reservoir AWPF, Alternative 2.** Tapia WRF effluent would be conveyed to an AWPF located next to the Las Virgenes Reservoir in the City of Westlake Village. The Alternative 2 AWPF site, unlike Alternative 1, is not adjacent to an existing road. Therefore, a new access road would need to be built. The new, paved access road would connect to the eastern end of Triunfo Canyon Road. The road would be approximately 3,200 feet and sized to accommodate construction vehicles and materials delivery trucks during facility operation.

Pipelines

The Project would require a series of interrelated pipelines. The following would be proposed pipeline configurations and locations under Alternative 1 Agoura Road AWPF.

- **Source-Water Pipeline.** A source-water pipeline no larger than 24 inches in diameter would connect existing recycled water distribution pipelines to the new AWPF. Two points of connection are being evaluated: Agoura Road at Lewis Road and Lindero Canyon Road at Thousand Oaks Boulevard.
 - Source-Water Pipeline Alignment Option 1. The alignment would follow Agoura Road and Lewis Road to Agoura Road AWPF and continue along Agoura Road all the way to the AWPF (total distance of 15,210 feet). This option has one sub option.

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- Flood Control Channel Alignment Option 1A. The pipeline would be constructed along the side of a flood control channel parallel to Agoura Road (total distance 2,641 feet).
 - Source-Water Pipeline Alignment Option 2. This alignment would follow Lindero Canyon Road and Thousand Oaks Boulevard to Agoura Road AWPf. The alignment would continue along Lindero Canyon Road and Agoura Road (total distance of 9,590 feet).
 - Source-Water Pipeline Alignment Option 3. This alignment would follow Lindero Canyon Road and Thousand Oaks Boulevard to Agoura Road AWPf and continue along Russell Ranch Road, through an office complex parking lot, along a flood control channel, under Highway 101, and through a small commercial development to connect to Agoura Road and the Agoura Road AWPf (total distance of 6,070 feet long).
- **Purified Water Pipeline** - a 20-inch-diameter purified water pipeline would connect the new AWPf to Las Virgenes Reservoir.
 - Purified-Water Pipeline Alignment Option 1. The alignment would be installed along Agoura Road, Lindero Canyon Road, and Triunfo Canyon Road. A segment of the pipeline would be installed in Triunfo Creek Park within an easement generally following the Westlake Vista Trail (totaling 16,190 feet long). Because of the potential for purified water from the AWPf to not meet quality specifications, a bypass valve would be installed along Triunfo Canyon Road to direct flows, if needed, to the storm drain and to Potrero Creek. This option has two sub options.
 - Flood-Control-Channel Alignment Option 1A. Installation would occur along Lindero Canyon Road between Agoura Road and Foxfield Drive. This alignment would be constructed along the side of the flood control channel parallel to Lindero Canyon Road, rather than along the road itself.
 - Trenchless Alignment in Triunfo Creek Park Option 1B. Installation of the 1,250-foot segment of the alignment within Triunfo Creek Park would be built with trenchless methods such as horizontal direction drilling.
- **Concentrate Disposal Pipeline** - The longest segment of the Project is the concentrate disposal pipeline, which would be a 10-inch-diameter pipeline connecting the AWPf to the Calleguas Salinity Management Pipeline (SMP), an ocean discharge pipeline being constructed and operated by the Calleguas Municipal Water District. Depending on the alignment option, the concentrate-disposal pipeline would range from 13.2 to 14.1 miles long, most of which would be in the City of Thousand Oaks. The alignment follows Agoura Road and Hampshire Road to Thousand Oaks Boulevard, along Thousand Oaks Boulevard to just past Moorpark Road, then continues along Hillcrest Road, Ventu Park Road, and Rancho Conejo Boulevard to the City of Thousand Oaks Municipal Service Center. From this location, the pipeline would follow an existing Conejo Canyons Open

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Space recreation trail and fire road, cross Arroyo Conejo, and then follow the Hill Canyon Fire Road to the SMP on Santa Rosa Road.

- **Sewer Pipeline** - The Agoura Road AWPf would require a sewer pipeline for on-site wastewater and waste processing. The sewer pipeline would connect with an existing sewer pipeline on Agoura Road.

Under Alternative 2 Reservoir AWPf, the general pipeline corridors would be the same as described for Alternative 1 Agoura Road AWPf. However, the specific pipeline alignments would be as follows:

- **Source-Water Pipeline.** the source-water pipeline would connect one of the two recycled water system connection points to the Reservoir AWPf, following the Lindero Canyon Road and Triunfo Creek Park Alignment.
 - The source-water pipeline would require a pump station to meet hydraulic requirements. The pump station would be an aboveground structure with a masonry block control building, surge tank, pumps, and ancillary facilities on a small footprint of approximately 40 feet wide by 90 feet long. The pump station would be located within Westlake Village at one of two optional sites along Lindero Canyon Road: 1) within the Westlake Village Marketplace shopping center, near the corner of Lindero Canyon Road and Russell Ranch Road or 2) within the Westlake Golf Course between Agoura Road and Highway 101.
- **Purified Water Pipeline.** Alternative 2 Reservoir AWPf would require a short, purified water pipeline discharge into Las Virgenes Reservoir.
- **Concentrate Disposal Pipeline.** the concentrate disposal pipeline would be longer and would follow the same route options through Thousand Oaks, but also would run through Triunfo Creek Park and along Lindero Canyon Road.
- **Sewer Pipeline.** the sewer pipeline would follow the source water and concentrate disposal pipelines to connect to an existing sewer pipeline on Triunfo Canyon Road.

Location: The Tapia WRF is an existing WRF located on Malibu Canyon Road in the Santa Monica Mountains. The Tapia WRF treats wastewater for use primarily for nonresidential landscape irrigation, such as roadway medians, school yards, and golf courses within Calabasas, Agoura Hills, and Westlake Village. Excess recycled water is either discharged to Malibu Creek, used in nearby sprayfields, or sent to the Los Angeles River.

Under Alternative 1, the AWPf would occupy a vacant parcel (Assessor's Parcel Number. 2061-1-25) owned by the Las Virgenes Municipal Water District along Agoura Road in the City of Agoura Hills. Under Alternative 2, the AWPf would be located next to Las Virgenes Reservoir in the City of Westlake Village. The Alternative 2 Reservoir AWPf site is currently a vacant, undeveloped property. The series of interrelated pipelines would occur within the City of Agoura Hills, City of Westlake Village, City of Thousand Oaks, and unincorporated Ventura County.

Comments and Recommendations

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JPA prepared maps showing natural communities, oaks, and rare plants at the Alternative 1 Agoura Road AWWP site, Alternative 2 Reservoir AWWP sites, the alignment of the Purified Water Pipeline from Triunfo Canyon Road to the Las Virgenes Reservoir, and the alignment along the Concentrate Disposal Pipeline from Rancho Conejo Boulevard to the City of Thousand Oaks Municipal Service Center. JPA provided these maps for CDFW's review upon our request on September 8, 2022. Based on our review of the Project's CEQA document and vegetation maps, CDFW offers the comments and recommendations below to assist JPA in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts on Least Bell's Vireo (*Vireo bellii pusillus*)

Issue: The Project may impact least Bell's vireo (*Vireo bellii pusillus*), an Endangered Species Act (ESA) and CESA-listed species.

Specific impacts: The Project occurring during the least Bell's vireo nesting season could adversely affect breeding behavior of least Bell's vireo. Elevated noise and ground-disturbance could result in least Bell's vireo abandoning nesting territory. In addition, elevated noise could result in the incidental loss of nests, fertile eggs, or nestlings.

Why impacts would occur: A review of the California Natural Diversity Database (CNDDDB) (CDFW 2022a), Information for Planning and Consultation (IPaC) (IPaC 2022), and E-bird (E-bird 2022) revealed that least Bell's vireo has potential to occur in and around the Project site. According to Figure 5-1 of the DPEIR, least Bell's vireo occurrences have been documented near the northern most point of the concentrate disposal pipeline, exiting the Conejo Canyons Open Space area. However, the DPEIR did not offer any specific mitigation measures for least Bell's vireo or protocol surveys for the species.

The DPEIR did not discuss potential impacts related to noise to least Bell's vireo. As an ESA-listed species, "take" includes activities that may disrupt or alter behaviors necessary for species survival. Project activities include excavation with heavy machinery such as rockwheel trenchers, jackhammers, and excavators. Localized blasting may also be necessary in some areas, including the Conejo Canyons Open Space area. These activities could result in elevated levels of noise. Substantial noise may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber 2009). The Project could adversely affect least Bell's vireos by disrupting foraging or breeding behavior, or by causing adults to abandon nests. Disruptions to breeding behavior could include a temporary reduction breeding activity if least Bell's vireos avoid noisy areas. Noise has also been shown to reduce the density of nesting birds (Francis 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011). Project activities occurring during the breeding season of least Bell's vireo could result in the incidental loss of fertile eggs, nestlings,

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or nest abandonment. Least Bell's vireo could be forced from their territory into adjacent habitat that may be less suitable where they would be at risk of predation, starvation, or other injury.

Evidence impact would be significant: Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, take under the ESA is more broadly defined than take under CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Impacts on least Bell's vireo requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). CDFW considers impacts to CESA-listed species a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DPEIR has yet to provide mitigation for the Project's potential impact on least Bell's vireo. Accordingly, the Project continues to have a substantial adverse 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 the CDFW or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. 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 for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

Mitigation Measure #1: JPA should perform protocol surveys for least Bell's vireo within the Conejo Canyons Open Space and where there is habitat for least Bell's vireo in the Project area. Least Bell's vireo is commonly found in dense scrubby vegetation within riparian scrub, upland scrub, riparian woodlands dominated by willow, and at the edge of agricultural fields (Cornell 2022, USGS 2018). Surveys should adhere to the USFWS 2001 [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001). Per protocol guidelines, a final survey report (including negative findings) should be provided to USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report should be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.

Mitigation Measure #2: If least Bell's vireo is present in the Project area, JPA should fully avoid impacts to least Bell's vireo. An Avoidance Plan should be developed prior to implementing

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Project-related ground-disturbing activities and vegetation removal. Occupied habitat should be avoided and delineated by high visibility flagging.

Mitigation Measure #3: To fully avoid impacts to least Bell's vireo, no ground-disturbing activities, including staging, as well as disturbances to native and nonnative vegetation should occur during the least Bell's vireo breeding season from March 15 through September 15 to avoid take of least Bell's vireo birds, nestlings, or their eggs. If construction activities occur within this time, nesting bird surveys should be conducted. Active least Bell's vireo nests should be avoided with a 500-foot buffer delineated by high visibility flagging. Construction activities should not continue within the buffer until the young have fledged or the nest is no longer active.

Mitigation Measure #4: If impacts to least Bell's vireo cannot be avoided, JPA should consult CDFW and USFWS to obtain take authorization. Appropriate take authorization should be obtained from CDFW and USFWS prior to any ground-disturbing activities and vegetation removal.

Comment #2: Impacts on Coastal California Gnatcatcher (*Polioptila californica californica*)

Issue: The Project may impact coastal California gnatcatcher (*Polioptila californica californica*), an ESA-listed species and a California Species of Special Concern (SSC).

Specific impacts: The Project could result in temporary or permanent impacts to coastal California gnatcatcher through alteration or loss of suitable nesting and foraging habitat. Project activities occurring during the breeding and nesting season could also result in the incidental loss of fertile eggs or nestlings.

Why impacts would occur: Coastal California gnatcatcher have potential to occur at Project sites within the Conejo Canyon Open Space. The DPEIR offered protocol presence/absence surveys and avoidance buffers for coastal California gnatcatcher. However, the document did not offer mitigation for habitat that may be lost or altered due to the placement of the concentrate disposal pipeline within the Conejo Canyons Open Space. Habitat loss and fragmentation are key factors in population loss and species extinction in a multitude of species (Vandergast 2019).

Populations of coastal California gnatcatcher in the Ventura County area have been found to be genetically isolated from other populations within their range (Vandergast 2019). Lack of genetic mixing between other geographical populations is likely due to heightened fragmentation and loss of suitable habitat between Ventura County and the remainder of their range across southern California (Vandergast 2019). Nesting sites for coastal California gnatcatcher are often found within sagebrush, buckwheat, or other scrub species located on gentle slopes or drainages (USFWS 1997). The Conejo Canyons Open Space supports large sections of appropriate coastal sage scrub vegetation which could be impacted by Project activities. Direct and indirect impacts may occur as a result of ground disturbance; vegetation clearing; use of construction equipment and vehicles; increased foot traffic; and localized blasting. Species within the potentially impacted natural community include black sage (*Salvia mellifera*), white sage (*Salvia apiana*), California buckwheat (*Eriogonum fasciculatum*), ashy-leaved buckwheat (*Eriogonum cinereum*), and lemonadeberry (*Rhus integrifolia*) (COSCA 2022). These plant species and natural communities are vital for the persistence of coastal California gnatcatcher

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within the Conejo Canyons Open Space and Ventura County. Genetic isolation paired with continuous removal and alteration of suitable habitat makes coastal California gnatcatchers in Ventura County more susceptible to local extirpation (Vandergast 2019). Moreover, the risk of local extirpation is heightened following major habitat disturbances such as fires and drought. Both disturbance events have increased in frequency and severity in southern California.

Evidence impact would be significant: The Project could result in impacts on coastal California gnatcatcher. As an ESA-listed species, gnatcatcher is considered an endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022b).

CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Take of coastal California gnatcatcher could require a mandatory finding of significance (CEQA Guidelines, § 15065). Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

Thus, the Project may still have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #5: CDFW recommends JPA revise Mitigation Measure 5-2 for coastal California gnatcatcher in order to mitigate the Project's impact to below a level of significance or, the Project may continue to have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species by CDFW. CDFW recommends JPA incorporate the following underlined language:

“Coastal California Gnatcatcher: Protocol presence or absence surveys for coastal California gnatcatcher will be performed by a qualified biologist with a USFWS Section 10(a)(1)(A) permit. If coastal California gnatcatcher are present, the Pure Water Project and its contractors will

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avoid impacting occupied habitat by maintaining a 500-foot buffer. In addition, no construction activities will occur within 500 feet of an active nest. Buffers will be maintained until young have fledged (left the nest on their own), as determined by a qualified biologist, or the nest is no longer active. Buffers will be delineated by high visibility flagging. If these avoidance techniques are not feasible, USFWS and CDFW will be contacted regarding alternative avoidance measures for the species.”

Mitigation Measure #6: If coastal California gnatcatcher is present, JPA should consult with the USFWS to determine if the Project would result in take of coastal California gnatcatcher. Consultation with the USFWS, in order to comply with the ESA, is advised well in advance of any ground-disturbing activities and/or vegetation removal that may impact gnatcatcher.

If a take permit from the USFWS is needed, JPA should comply with the mitigation measures detailed in a take permit issued from USFWS.

Mitigation Measure #7: If the Project would result in permanent loss of habitat, JPA should provide replacement habitat at no less than 2:1 for the total acreage of habitat that is impacted. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed by JPA prior to any ground-disturbing activities or vegetation removal.

Comment #3: Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural Communities¹

Issue: The Project continues to have a significant impact on rare, threatened, and endangered plants as well as Sensitive Natural Communities.

Specific impacts: The Project could result in the loss of individuals and populations of rare, threatened, and endangered plants including, but not limited to, the following species (Table 1):

Table 1. Rare plants that may be impacted by the Project.

¹ Oak woodlands and walnut woodlands are addressed under Comment #4.

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Species Name	CESA status	ESA status	California Rare Plant Rank
Agoura Hills dudleya (<i>Dudleya cymosa</i> ssp. <i>agourensis</i>)			1B.2
Blochman's dudleya (<i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i>)			1B.1
Braunton's milk-vetch (<i>Astragalus brauntonii</i>)		Endangered	1B.1
California Orcutt grass (<i>Orcuttia californica</i>)	Endangered	Endangered	1B.1
Catalina mariposa lily (<i>Calochortus catalinae</i>)			4.2
Chaparral ragwort (<i>Senecio aphanactis</i>)			2B.2
Lyon's pentachaeta (<i>Pentachaeta lyonii</i>)	Endangered	Endangered	1B.1
slender mariposa lily (<i>Calochortus clavatus</i> var. <i>gracilis</i>)			1B.2
southern tarplant (<i>Centromadia parryi</i> ssp. <i>australis</i>)			1B.1

The Project's impact on these and potentially additional species of rare plants not previously identified could substantially reduce the number of endangered, rare, or threatened species; reduce the habitat for endangered rare, or threatened species; and result in local population declines or local extirpation of endangered rare, or threatened species.

In addition, the Project could result in the loss of Sensitive Natural Communities. According to the DPEIR, the Project could impact the following (Table 2):

Table 2. Sensitive Natural Communities that may be impacted by the Project.

Sensitive Natural Community	Alliance or Association	State Rarity Rank
Arroyo willow – Mulefat thickets (<i>Salix lasiolepis</i> - <i>Baccharis salicifolia</i>)	Association	S4
Ashy buckwheat scrub (<i>Eriogonum cinereum</i>)	Alliance	S3
California rose briar patches (<i>Rosa californica</i>)	Alliance	S3
California bulrush marshes [<i>Schoenoplectus (acutus, californicus)</i>]	Alliance	S3/S4
Clustered tarweed – Annual grass fields (<i>Deinandra fasciculata</i> – annual grass-herb)	Association	S2
Longstem buckwheat fields (<i>Eriogonum elongatum</i>)	Alliance	S4
Mulefat thickets (<i>Baccharis salicifolia</i>)	Alliance	S4
Needle grass – Melic grass grassland (<i>Nassella pulchra</i> – <i>Melica californica</i> – annual grass)	Association	S4
Poison oak – Sticky monkeyflower scrub (<i>Toxicodendron diversilobum</i> – <i>Diplacus aurantiacus</i>)	Association	S3

Why impacts would occur: The Project would result in direct physical changes to the environment (e.g., mass grading, excavating, laying concrete foundation, paving, trenching, drilling, jackhammering, and blasting). The Project could remove rare plants and habitat supporting rare plants. In addition, the Project could remove Sensitive Natural Communities. The Project could impact habitat supporting rare plants and Sensitive Natural Communities by introducing edge effects. Edge effects that could impact rare, special status, and sensitive biological resources include encroachment, introduction of non-native plants and pests (e.g., Argentine ants), increasing fire risk (e.g., at the Agoura Road AWPf site), and fuel modification.

According to Table 5-8 in the DPEIR, the Project would have significant and unavoidable impacts on rare, threatened, and endangered plants as well as Sensitive Natural Communities

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under both AWPf alternatives. Installation of the pipeline network would also result in significant and unavoidable impacts. According to pages 5-25 through 5-27 in the DPEIR, the Project would have the following impacts:

- Agoura Road AWPf, Alternative 1
 - **Plants:** Loss of 11 subpopulations of Ojai navarretia containing approximately 500 individual plants.
 - **Sensitive Natural Communities:** 0.11 acre of sensitive natural communities.
- Reservoir AWPf, Alternative 2
 - **Plants and Sensitive Natural Communities:** An undetermined number of special-status plant subpopulations and native plant communities along the access road and at the AWPf site.
- Pipelines
 - **Plants and Sensitive Natural Communities:** Pipeline installation may result in the loss of special-status species plant species and natural communities and would remove an unknown number of individuals. Species and natural communities impacted include Lyon's pentachaeta, Catalina mariposa lily, slender mariposa lily, and Agoura Hills dudleya.

The DPEIR provides Mitigation Measure 5-1 that would require JPA to develop a mitigation plan for impacts on special-status plants. However, the Project's impact on rare, threatened, and endangered species has yet to be mitigated below a level of significance. First, Mitigation Measure 5-1 relies on top soil salvage and relocation of individual plants to mitigate for the Project's impact. Compensatory mitigation has yet to be provided. Translocation, topsoil salvage, and plant salvage should be considered experimental in nature and not be considered as a measure to mitigate for rare, endangered, and threatened plants below a significant level under CEQA (Fiedler 1991; Fahselt 2007; Godefroid 2010). CDFW generally does not support the use of translocation, transplantation, or salvaging plants as the primary mitigation strategy for unavoidable impacts to rare, endangered, and threatened plants. Studies have shown that these efforts are experimental and the outcome unreliable (CNPS 1998). CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and their habitats. Additionally, rare, endangered, and threatened plants are habitat specialists that require specific habitat conditions to exist and persist. Moving rare plants to an area that does not support habitat for rare plants could result in loss of those salvaged plants.

Second, compliance with regulatory permits has yet to be provided even though take of CESA and/or ESA-listed species would require take authorization from CDFW and/or USFWS, respectively. Lastly, success criteria and performance standards have yet to be provided.

Evidence impact would be significant: Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law under CESA (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, take under the ESA is more broadly defined than take under CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or

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injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Plants with a CRPR of 1B and 2B meets the definition of endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380; CNPS 2022). Plants with a CRPR of 4 may meet the definition of endangered, rare, or threatened species. Impacts on rare plants could require a mandatory finding of significance.

Sensitive Natural Communities are communities that are of limited distribution State-wide or within a county or region and are often vulnerable to environmental effects of projects. CDFW considers plant communities, alliances, and associations with a State ranking of S1, S2, and S3 as sensitive and declining at the local and regional level. An S3 ranking indicates there are 21 to 100 viable occurrences of this community in existence in California, S2 has six to 20 occurrences, and S1 has fewer than six viable occurrences (Sawyer et al. 2009). Impacts to sensitive natural communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

For reasons discussed above, the Project continues to have a substantial adverse 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 the CDFW or USFWS. Moreover, Mitigation Measure 5-1 may not meet the standards required for deferred mitigation. Mitigation Measure 5-1 has yet to 1) commit JPA to mitigation, 2) adopt specific performance standards the mitigation will achieve, and 3) identify the types of potential actions that can feasibly achieve that performance standard (CEQA Guidelines, § 15126.4).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #2: CDFW recommends JPA provide the following clarification to Mitigation Measure 5-1:

- 1) How would JPA mitigate for the Project's temporary/temporal impacts on rare, threatened, and endangered plants habitat as well as Sensitive Natural Communities;
- 2) What specific and measurable goals, success criteria, and performance standards would mitigation achieve;
- 3) What types of potential actions would be implemented to achieve those performance standards;
- 4) How would JPA commit the Project to mitigation;
- 5) Where would JPA potentially acquire land for off-site compensatory mitigation;
- 6) How and when potential off-site compensatory mitigation lands would be protected and conserved in perpetuity;
- 7) What criteria JPA would look for to determine suitable receiver sites for each plant species that would be impacted by the Project;
- 8) Where would JPA potentially transplant/relocate topsoil or plants in order to minimize the Project's impact;
- 9) How those receiver site(s) would be protected and conserved in perpetuity;
- 10) What types of mitigation credits would JPA purchase and when credits would be purchased; and
- 11) Why those credits would be appropriate for mitigating the Project's impacts on rare, threatened, and endangered plants as well as Sensitive Natural Communities.

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Recommendation #3: Mitigation Measure 5-1 currently proposes a minimum of five years for monitoring mitigation sites. CDFW recommends a minimum of 10 years of monitoring with at least seven years without supplemental irrigation. Under prolonged drought conditions, habitat restoration, creation, or enhancement efforts could take longer than five years to achieve desired performance standards. In addition, certain natural communities such as oak woodlands could take between 20 to 40 years in order for replacement oak trees to reach maturity and restore the habitat, structure, foliage, and canopy lost by removing woodlands. Assuming risk of failure, drought, stochastic events, and the time it may take for new plantings to mature and produce seeds (i.e., self-sustaining population), five years is insufficient for monitoring whether mitigation is successful.

CDFW recommends JPA incorporate the following recommended mitigation measures into Mitigation Measure 5-1:

Mitigation Measure #8: The Project should fully avoid impacts on rare, endangered, and threatened plants and habitat as well as Sensitive Natural Communities to the maximum extent possible. JPA, in consultation with a qualified biologist, should prepare an Avoidance and Relocation Plan. JPA should submit the Avoidance and Relocation Plan to CDFW for review. JPA should resolve all CDFW concerns and comments prior to finalizing the Avoidance and Relocation Plan. No ground-disturbing activities or vegetation removal should occur until after the Avoidance and Relocation Plan is implemented.

Mitigation Measure #9: For impacts on CESA-listed and/or ESA-listed species, JPA should consult with CDFW and/or USFWS and obtain appropriate take authorization². JPA should obtain appropriate take authorization from CDFW and/or USFWS prior to any ground-disturbing activities and vegetation removal.

Mitigation Measure #10: For impacts on CESA-listed species, JPA should provide compensatory mitigation at no less than 5:1, or as required in an Incidental Take Permit issued by CDFW.

Mitigation Measure #11: For impacts on CRPR 1 or 2 species, JPA should provide compensatory mitigation at no less than 3:1. For impacts on CRPR 4 species, JPA should provide compensatory mitigation at no less than 2:1. Compensatory mitigation should be provided for the total number of plants and total acreage of habitat supporting those plants impacted.

Mitigation Measure #12: For impacts on S2 ranked natural community alliance or association, JPA should provide compensatory mitigation at no less than 3:1. For impacts on S3 ranked community alliance or association, JPA should provide compensatory mitigation at no less than 2:1. Mitigation should replace the natural community association or alliance that was impacted. Areas that may be impacted by permanent fuel modification should be included as part of the total acreage that would need to be compensated.

² Consultation with the USFWS, in order to comply with ESA, is advised well in advance of any activities that may impact ESA-listed species.

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Mitigation Measure #13: Mitigation lands should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands³. An appropriate endowment should be provided for the long-term management of mitigation lands. A mitigation plan should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that should be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds should be fully acquired, established, transferred, recorded, or otherwise executed prior to any ground-disturbing activities and vegetation removal.

Mitigation Measure #14: For compensatory mitigation at a mitigation bank, JPA should purchase credits prior to any ground-disturbing activities and vegetation removal.

Comment #4: Impacts on Streams and Associated Natural Communities

Issue: The Project continues to have a significant impact on streams and associated natural communities.

Specific impacts: The Project would result in permanent and/or temporal loss of streams and associated natural communities. Ground-disturbing activities resulting in erosion and earth movement that could impair streams, whether ephemeral, intermittent, or perennial. The Project may require streams to be channelized or diverted from their natural course of flow. The Project may require vegetation along streams to be removed or may degrade vegetation along streams through habitat modification (e.g., loss of water source, encroachment, and edge effects leading to introduction of non-native plants).

Why impacts would occur: According to page 5-28 through 5-29 in the DPEIR, the Project would impact the following stream features:

- Agoura Road AWPf, Alternative 1
 - “A 0.177-acre wetland at the Alternative 1 Agoura Road AWPf site, located along the southern side of Agoura Road and within the AWPf construction footprint. This wetland area also contains 0.04 acres of mulefat thicket, a sensitive natural community.”
- Reservoir AWPf, Alternative 2
 - “Seasonally flooded aquatic resource complexes at the Alternative 2 Reservoir AWPf site.”
- Pipelines
 - “Along the margins of Las Virgenes Reservoir, where the purified water pipeline

³ Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

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- enters the reservoir at an area containing California bullrush marsh.”
- “A 140-foot linear wetland along the edge of the Conejo Canyons Open Space Trail on the concentrate pipeline alignment.”

The DPEIR also states “In addition to these wetland areas, other waters of the United States were identified in several areas, including on the Alternative 1 Agoura Road AWPf site, along the access road to the Alternative 2 Reservoir AWPf site, and along the Westlake Vista Trail pipeline corridor. These features are likely to be considered jurisdictional features subject to regulatory review if they cannot be avoided by project construction.”

The DPEIR provides Mitigation Measure 5-3 that would require JPA to first avoid impacts on streams. If impacts cannot be avoided, “permits must be obtained” and 1:1 compensatory mitigation will be provided through credits at a mitigation bank or through payment of in-lieu fees. However, the Project’s impact on streams and associated natural communities has yet to be mitigated below a level of significance. First, Mitigation Measure 5-3 proposes a buffer of 10 feet from streams during construction and 50 feet from streams for construction staging areas. The proposed avoidance only pertains to construction. It is unclear if and how the site plans for the AWPf and pipeline would be configured to avoid streams and associated natural communities. In addition, it is unclear how a 10-foot or 50-foot buffer provides sufficient setback to avoid substantial impacts on streams and associated natural communities as well as preserve the function of the stream. Second, Mitigation Measure 5-3 proposes compensatory mitigation at 1:1 which may be insufficient for significant impacts on a regionally diminishing resource that provides significant and essential habitat for resident and migratory fish and wildlife. In addition, 1:1 may be insufficient for impacts on a Sensitive Natural Community adjacent to a stream considering the rarity of the vegetation community, local significance of wetland features, and uncertainties and often failures when creating or restoring vegetation communities dependent on complex and specific interactions between hydrologic processes and soils. Lastly, Mitigation Measure 5-3 proposes payment of in-lieu fees. It is unclear how, to whom, or when in-lieu fees would be applied to appropriately mitigate for impacts to streams and associated natural communities such that there is no net loss. In addition, in-lieu fees may result in prolonged temporal loss of resources until the fees are paid and use of those fees is identified.

Evidence impacts would be significant: The Project may impact streams and associated natural communities. CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 *et seq.* to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake⁴;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

⁴ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). 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 water body.

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CDFW requires a LSA Agreement when a project activity may substantially adversely affect fish and wildlife resources.

For reasons discussed above, the Project continues to have a substantial adverse effect on state or federally protected wetland (e.g., marsh, vernal pool, and coastal) through direct removal, filling, hydrological interruption, or other means.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #4: CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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 an LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

CDFW recommends JPA incorporate the following recommended mitigation measures into Mitigation Measure 5-3:

Mitigation Measure #15: JPA should notify CDFW pursuant to Fish and Game Code section 1602 for construction and activities occurring near or impacting streams and associated natural communities. JPA should notify CDFW prior to any ground-disturbing activities and vegetation removal, including staging, near streams. The notification to CDFW should provide the following information:

- 1) A stream delineation in accordance with the U.S. Fish and Wildlife Service wetland definition adopted by CDFW⁵ (Cowardin et al. 1979);
- 2) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#);
- 3) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and,
- 4) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and

⁵ Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

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2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions.

Mitigation Measure #16: If the Project would impact streams and associated natural communities, JPA should obtain an LSA Agreement prior to any ground-disturbing activities and vegetation removal, including staging, near streams.

Mitigation Measure #17: JPA should provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement.

Comment #5: Impacts on Oak Woodlands & Southern California Black Walnut Woodlands

Issue: The Project continues to have a significant impact on valley oak – coast live oak woodland (*Quercus lobata* – *Quercus agrifolia*) Woodland Association and California walnut – toyon groves (*Juglans californica* – *Heteromeles arbutifolia*) Woodland Association.

Specific impact: The Project could result in the loss of individual valley oak and coast live oak trees (oak trees) and southern California black walnut trees (walnut trees), as well as acres of valley oak – coast live oak woodland and California walnut – toyon groves.

Why impacts would occur: The Project would result in direct physical changes to the environment (e.g., mass grading, excavating, laying concrete foundation, paving, trenching, drilling, jackhammering, and blasting). The Project could remove woodlands which are considered to be Sensitive Natural Communities. In addition, the Project could impact woodlands by introducing edge effects. Edge effects that could impact rare, special status, and sensitive biological resources include encroachment, introduction of non-native plants and pests (e.g., Argentine ants), increasing fire risk (e.g., at the Agoura Road AWPf site), and fuel modification.

According to pages 5-25 through 5-27 and 5-30 through 5-31 in the DPEIR, the Project would have the following impacts:

- Agoura Road AWPf, Alternative 1
 - 0.11 acre of sensitive natural communities.
 - Oak tree impacts would occur within the AWPf site development footprint.
- Reservoir AWPf, Alternative 2
 - An undetermined number of oak trees and oak tree natural community areas along the access road that would need to be removed during grading and road construction.
- Pipelines
 - Southern-California-black walnut occurs along the Conejo Canyons Open Space Trail. In this area, sensitive natural communities may be affected by project construction.
 - Construction within Triunfo Creek Park may impact oak trees.

The DPEIR provides Mitigation Measure 5-1 for mitigating impacts on Sensitive Natural

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Communities and Mitigation Measure 5-4 for mitigation impacts on oak tree natural communities. Neither mitigation measure provides compensatory mitigation for impacts to the habitat or natural communities as a whole. Instead, mitigation primarily focuses on replacing individual trees. Loss of woodlands supporting foraging, nesting, and dispersing wildlife may not be completely mitigated by planting individual trees. Individual trees may not completely replace the loss of viable habitat, understory vegetation, mycorrhizal fungi, and biological functions.

In addition, Mitigation Measure 5-1 and Mitigation Measure 5-4 prescribes a minimum monitoring period of five years. There is a long establishment period for oak trees and walnut trees before replacement trees reach maturity and produce seeds (i.e., self-sustaining population). It may take 20 to 40 years for oaks and five to eight years for walnut trees, potentially longer under drought conditions, for replacement trees to reach maturity, produce seeds, and restore the habitat, structure, foliage, and canopy lost. Even if replacement oak trees survive, oak tree saplings could remain small and shrubby for many years. As such, wildlife such as birds may be unable to nest in planted oak trees and shrubs until they mature. This could result in local extirpation of wildlife. Assuming risk of failure, drought, stochastic events, and the time it may take for new plantings to mature and produce seeds, five years is insufficient for monitoring whether mitigation is successful.

Evidence impacts would be significant: Oak woodlands have higher levels of biodiversity than any other terrestrial ecosystem in California. Over 330 species of birds, mammals, reptiles, and amphibians depend on oak woodlands in California at some stage in their life cycle (CalPIF 2002). Oak trees provide nesting and perching habitat for approximately 170 species of birds. Large oak trees in oak woodland habitats are important for cover, nesting sites for cup nesting species and cavity nesting species, as well as caching sites for birds storing acorns (CalPIF 2002). Oak woodlands also serve several important ecological functions important within an ecosystem such as protecting soils from erosion and land sliding, regulating water flow in watersheds, and maintaining water quality in streams and rivers.

CDFW considers oak woodlands to be a sensitive plant community. Oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360-1372) and Public Resources Code section 21083.4 due to the historic and on-going loss of these resources. Moreover, [CDFW's Areas of Conservation Emphasis - Significant Habitats](#) dataset includes oak woodlands as a Terrestrial Significant Habitat based on its priority for conservation and acquisition planning for some counties, local jurisdictions, and the Wildlife Conservation Board (CDFW 2019c).

Valley oak – coast live oak woodland and California walnut – toyon groves are Sensitive Natural Communities with a State rarity rank of S3. Sensitive Natural Communities are communities that are of limited distribution State-wide or within a county or region and are often vulnerable to environmental effects of projects. CDFW considers plant communities, alliances, and associations with a State ranking of S1, S2, and S3 as sensitive and declining at the local and regional level. An S3 ranking indicates there are 21 to 100 viable occurrences of this community in existence in California, S2 has six to 20 occurrences, and S1 has fewer than six viable occurrences (Sawyer et al. 2009). Impacts to sensitive natural communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

For reasons discussed above, the Project continues to have a substantial adverse effect, either

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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 the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

CDFW recommends JPA incorporate the following recommended mitigation measures into Mitigation Measure 5-1 and/or Mitigation Measure 5-4:

Recommendation #5: The DPEIR should include information posed under Recommendation #3 but for impacts and mitigation to woodlands.

Mitigation Measure #18: For impacts on oak woodlands or walnut woodlands, JPA should offset the loss by no less than 3:1 of the total acreage of woodlands lost. This should include woodlands that would be subject to permanent fuel modification requirements. JPA should restore functioning and self-sustaining woodlands of similar composition, structure, and function to woodlands impacted. Mitigation should include restoration of structurally diverse understory vegetation species (i.e., grass, forb, shrub, subshrub, vine) occurring in the impacted natural communities. Acorns and/or seedlings should originate from plants/trees of the same species (i.e., genus, species, subspecies, and variety) as the species impacted.

Mitigation Measure #19: Prior to removing any oak or walnut trees or the understory vegetation, JPA should prepare a Woodland Restoration Plan. The Woodland Restoration Plan should prescribe the following:

- 1) Species-specific planting methods;
- 2) Planting schedule;
- 3) Measures to control exotic vegetation and protection from herbivory;
- 4) Measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Measurable success criteria should be based on site/habitat conditions prior to impact and/or functional local native oak shrublands/woodlands as reference sites;
- 5) Contingency measures if the success criteria is not met;
- 6) Long-term monitoring for at least 10 years, with a minimum of seven years without supplemental irrigation;
- 7) Adaptive management techniques, including replacement plants if necessary; and
- 8) Annual reporting criteria and requirements.

Mitigation Measure #20: For off-site mitigation, JPA should protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to any ground-disturbing activities and vegetation removal.

Comment #6: Impacts on California Species of Special Concern

Issue: The Project may impact SSC.

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Specific impacts: Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of an SSC. Loss of foraging, breeding, or nursery habitat for an SSC may also occur as a result of the Project. Moreover, excavation and blasting may diminish on-site and downstream water quality within Arroyo Conejo. Increased sediment loads due to these activities may alter hydrologic and geomorphic processes.

Why impacts would occur: According to page 5-2 of the DPEIR, the Project area has the potential to support SSC, which includes the following species: coastal California gnatcatcher; coastal whiptail (*Aspidoscelis tigris stejnegeri*); southern California legless lizard (*Anniella stebbinsi*); and western pond turtle (*Emys marmorata*).

The Project would require ground disturbance and vegetation removal, using heavy equipment. These activities create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. Preconstruction clearance surveys were proposed within the DPEIR. However, this measure only minimizes impacts from crushing and burial to species directly within the work area. Likewise, preconstruction clearance surveys may not be done to a level of detail necessary to locate SSC. SSC could be injured or killed due to lack of focus surveys. Impacts on reptiles of SSC are more likely to occur because these are cryptic species that are less mobile during certain times of the day and seek refuge and hide under structures. Western pond turtles are also at heightened risk to burial or crushing as they aestivate underground and are only reliably detected above ground from May to July (USGS 2006). Further, the DPEIR did not provide any mitigation measures to reduce levels of noise, human activity, dust, or ground vibrations to less than significant for SSC in the surrounding area.

CDFW is also concerned for SSC arroyo chub (*Gila orcuttii*). Potential impacts for arroyo chub were not addressed within the DPEIR nor was the species identified as likely to occur. The Project may introduce debris, soil, silt, sawdust, rubbish, raw cement/concrete, or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous or deleterious to aquatic life. Arroyo Conejo is adjacent to portions of the Project within the Conejo Canyons Open Space. Although a variety of invasive fish species inhabit Arroyo Conejo, arroyo chub has potential to be present (UCANR 2022). Arroyo chub within portions of the creek directly adjacent to the Project sites, as well as downstream populations could be impacted by Project construction and activities. Additional sediment entering the system due to excavation and blasting could alter flow regimes and potentially alter habitat for arroyo chub.

Evidence impacts would be significant: A [California SSC](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is ESA-listed, but not CESA-listed; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,

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- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022b).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated, through appropriate disclosure of the proposed mitigation measures, below a level of significance.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #21: JPA should avoid all impacts to arroyo chub and western pond turtle. Some portions of the Project are within 100 feet of Arroyo Conejo. For this segment, no work should occur on the stream banks adjacent to Arroyo Conejo during the winter rainy season, typically between December 1 through March 31 (NMFS 2011). Additionally, no work should occur during the combined rainy season and breeding season for:

- Arroyo chub: February 1 through August 31 (Tres 1992).
- Western pond turtle: March 1 through July 15 (Morey 2000)

Mitigation Measure #22: Species Surveys – JPA should retain a qualified biologist(s) with experience surveying for each of the following species: coastal California gnatcatcher, arroyo chub, coastal whiptail, southern California legless lizard, and western pond turtle. The qualified biologist(s) should conduct species-specific and season appropriate surveys where suitable habitat occurs in the Project site. Positive detections of SSC and suitable habitat at the detection location should be mapped. These locations would help to develop more species-specific and location-specific mitigation measures. If SSC are detected, the qualified biologist should use visible flagging to mark the location where SSC was detected.

Coastal California gnatcatcher. Surveys for coastal California gnatcatcher should follow the USFWS 1997 [Coastal California Gnatcatcher Presence/Absence Survey Guidelines](#) (USFWS 1997).

Arroyo chub. JPA should perform focus surveys for arroyo chub in Arroyo Conejo. If Arroyo Conejo transitions to subsurface flow, the remainder of the stream should be surveyed to determine if there are isolated pools potentially supporting fish. Surveys should be conducted in areas adjacent to the pipeline alignment in the Conejo Canyons Open Space. Surveys should also be conducted along downstream sections, including segments that are hydrologically connected to Arroyo Conejo such as North Fork Arroyo Conejo.

California legless lizard and coastal whiptail. In addition to the mitigation measures already offered within the DPEIR, CDFW recommends JPA conduct focus surveys for California legless lizard and coastal whiptail. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on site in appropriate habitat suitable for each species.

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Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.

Western Pond Turtle. In addition to the mitigation measures already offered within the DPEIR, CDFW recommends JPA conduct focus surveys for western pond turtle. Surveys should be conducted during the time of greatest pond turtle activity, typically during the breeding season (May to July), and when pond turtles have not left the water to aestivate or overwinter in the uplands. Surveys for southern western pond turtles and potential habitat should follow the United States Geological Survey's 2006 [Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion](#) (USGS 2006).

Mitigation Measure #23: Relocation and Avoidance Plan – JPA should retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan should describe all SSC that could occur within the Project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan should include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the Project site. The qualified biologist should submit a copy of a Wildlife Relocation and Avoidance Plan to CDFW for approval prior to any clearing, grading, or excavation work on the Project site.

Mitigation Measure #24: Worker Awareness Training – JPA, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.

Mitigation Measure #25: Biological Monitor – To avoid direct injury and mortality of SSC, JPA should have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where an SSC is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution. A qualified biologist should be on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing activities, as well as vegetation removal, to ensure that no wildlife is harmed.

Mitigation Measure #26: Scientific Collecting Permit – JPA should retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003).

Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022d). Pursuant to

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the [California Code of Regulations, title 14, section 650](#), the qualified biologist must obtain or have appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement (see Comment #4: Impacts on Streams and Associated Natural Communities).

Mitigation Measure #27: Injured or Dead Wildlife – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Additional Recommendations

Recommendation #6: CDFW recommends JPA revise Mitigation Measure 5-2 for nesting birds in order to mitigate the Project's impact on nesting birds and raptors below a level of significance or, the Project may continue to have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species by CDFW. CDFW recommends JPA incorporate the following underlined language:

“Nesting Birds: Preconstruction nesting bird surveys will be performed by a qualified biologist within 500 feet of the construction area no more than seven 14 days prior to construction when work activities in that area begin (or resume after 2 or more weeks of inactivity) between February 1 and August 31. If the construction area and 500 feet of the construction area has nesting habitat for raptors, surveys for nesting raptors will begin January 1 in order to avoid take of birds, raptors, or their eggs.”

Should an active nest be observed, a qualified biologist ~~will determine proper buffers for construction as needed~~ will implement a minimum buffer of 300 feet around migratory bird species nests and 500 feet around active raptor nests. The qualified biologist will notify CDFW of buffers established around any active nests of protected species. Buffers will be maintained until young have fledged (left the nest on their own), as determined by a qualified biologist, or the nest is no longer active.

The biologist will monitor active nests daily when construction is occurring and assess the effect on the nesting birds. If the biologist determines that particular activities pose a high risk of disturbing an active nest, the biologist ~~will~~ may increase the minimum buffer and recommend additional, feasible measures to minimize the risk of nest disturbance. If work cannot proceed without disturbing the nesting birds, or signs of disturbance are observed by a monitor, work ~~will~~ may be stopped or redirected to other areas until the nesting and fledging is completed or the nest has otherwise become inactive.”

Recommendation #7: To place the concentrate disposal pipeline, the Project may require localized blasting along existing paved and unpaved roads through Conejo Canyons Open Space. The existing paved Hill Canyon Fire Road is adjacent to Arroyo Conejo. Prior to finalizing the Project's CEQA document, CDFW recommends JPA provide additional information

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on where blasting may occur, magnitude of the blasting (e.g., peak sound pressure), and the potential effects of the blasting (e.g., noise, ground vibrations, dust, debris flow). The CEQA document should discuss the potential impacts of the blasting on wildlife species that may be in the area, with a special emphasis on aquatic species that occur or may occur in Arroyo Conejo. CDFW recommends the CEQA document discuss potential effects such as temporary impacts on habitat from sedimentation or debris entering Arroyo Conejo and potential for altered fish behavior, fish injury, or fish mortality caused by unattenuated sound pressure. The CEQA document should provide measures to mitigate for adverse impacts on biological resources. Mitigation may include noise attenuation and temporary barriers to prevent sediment or debris resulting from blasting from entering Arroyo Conejo.

CDFW recommends JPA recirculate the Project's CEQA document for public review and commenting if 1) a new significant environmental impact would result from the Project or 2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance (CEQA Guidelines, § 15088.5).

Recommendation #8: CDFW recommends monitoring noise generated by the Project operations during construction to ensure noise from the Project does not affect wildlife in the adjacent river habitat. The DPEIR should set acceptable noise thresholds that would be part of a daily monitoring and reporting program to ensure impact to adjacent habitat is below a threshold that would have an adverse effect on surrounding wildlife. Sounds generated from any means should be below the 55 to 60 dB range within 50 feet from the source.

Construction equipment should use noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer. Stationary noise sources (e.g., generators, pumps) at staging areas within 1,400 feet of sensitive receptors should be shielded at the source by an enclosure, temporary sound walls, or acoustic blankets. Where feasible, sound walls or acoustic blankets should have a height of no less than 8 feet, a Sound Transmission Class of 27 or greater, and a surface with a solid face from top to bottom without any openings or cutouts. Unnecessary construction vehicle use and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off.

Recommendation #9: CDFW recommends JPA include maps showing natural communities, oaks, rare plants, and streams prior to finalizing the Project's environmental document. CDFW also recommends JPA include tables listing the approximate acreage and/or linear feet of impacts to each resource based on each alternative. Tables and maps would assist reviewing agencies and members of the public to review the Project's potential impacts on biological resources. "The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public" (CEQA Guidelines, § 15147).

Recommendation #10: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (e.g., CNDDDB) which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022e). Information

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on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022f).

Recommendation #11: CDFW recommends JPA revise update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist JPA in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), enforceable through permit conditions, agreements, or other legally-binding instruments [CEQA Guidelines, § 15126.4(a)(2)], and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). JPA is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided JPA with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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 and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the JPA in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the JPA has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist, at (562) 619-2230 or by email at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:



B6E58CFE24724F5
Erinn Wilson-Olgin

Environmental Program Manager I

ec: CDFW

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State Clearinghouse - state.clearinghouse@opr.ca.gov

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
REC-1-CEQA document and CDFW's issuance of an Incidental Take Permit	The Project's CEQA document shall address all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document shall also specify a mitigation monitoring and reporting program that will meet the requirements of an Incidental Take Permit (ITP). The take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Biological mitigation monitoring and reporting proposals shall be of sufficient detail and resolution to satisfy the requirements for an ITP.	Prior to finalizing CEQA document	Las Virgenes – Triunfo Joint Powers Authority (JPA)
REC-2-Mitigation Measure 5-1 in the Project's CEQA document	JPA should provide the following clarification to Mitigation Measure 5-1: <ol style="list-style-type: none"> 1) How would JPA mitigate for the Project's temporary/temporal impacts on rare, threatened, and endangered plants habitat as well as Sensitive Natural Communities; 2) What specific and measurable goals, success criteria, and performance standards would mitigation achieve; 3) What types of potential actions would be implemented to achieve those performance standards; 4) How would JPA commit the Project to mitigation; 5) Where would JPA potentially acquire land for off-site compensatory mitigation; 6) How and when potential off-site compensatory mitigation lands would be protected and conserved in perpetuity; 	Prior to finalizing CEQA document	JPA

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	<p>7) What criteria JPA would look for to determine suitable receiver sites for each plant species that would be impacted by the Project;</p> <p>8) Where would JPA potentially transplant/relocate topsoil or plants in order to minimize the Project's impact;</p> <p>9) How those receiver site(s) would be protected and conserved in perpetuity;</p> <p>10) What types of mitigation credits would JPA purchase and when credits would be purchased; and,</p> <p>11) Why those credits would be appropriate for mitigating the Project's impacts on rare, threatened, and endangered plants as well as Sensitive Natural Communities.</p>		
REC-3-Mitigation Measure 5-1 in the Project's CEQA document	JPA should revise Mitigation Measure 5-1 to provide a minimum of 10 years of monitoring with at least seven years without supplemental irrigation.	Prior to finalizing CEQA document	JPA
REC-4-CEQA document and CDFW's issuance of an Incidental Take Permit	To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's 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 an LSA Agreement.	Prior to finalizing CEQA document	JPA
REC-5-Impacts on Oak Woodlands & Southern California Black Walnut Woodlands	The DPEIR should include information posed under Recommendation #3 but for impacts and mitigation to woodlands.	Prior to finalizing CEQA document	JPA
REC-6- Impacts to Nesting Birds	JPA should revise Mitigation Measure 5-2 for nesting birds per CDFW's recommendation in the comment letter.	Prior to finalizing	JPA

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		CEQA document	
<p>REC-7-Impacts on Aquatic Species</p>	<p>JPA should provide additional information on where blasting may occur, magnitude of the blasting (e.g., peak sound pressure), and the potential effects of the blasting (e.g., noise, ground vibrations, dust, debris flow). The CEQA document should discuss the potential impacts of the blasting on wildlife species that may be in the area, with a special emphasis on aquatic species that occur or may occur in Arroyo Conejo. The CEQA document should discuss potential effects such as temporary impacts on habitat from sedimentation or debris entering Arroyo Conejo and potential for altered fish behavior, fish injury, or fish mortality caused by unattenuated sound pressure. The CEQA document should provide measures to mitigate for adverse impacts on biological resources. Mitigation may include noise attenuation and temporary barriers to prevent sediment or debris resulting from blasting from entering Arroyo Conejo.</p> <p>JPA should recirculate the Project’s CEQA document for public review and commenting if 1) a new significant environmental impact would result from the Project or 2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance (CEQA Guidelines, § 15088.5).</p>	<p>Prior to finalizing CEQA document</p>	<p>JPA</p>
<p>REC-8-Impacts due to Noise</p>	<p>CDFW recommends monitoring noise generated by the Project operations during construction to ensure noise from the Project does not affect wildlife in the adjacent river habitat. The DPEIR should set acceptable noise thresholds that would be part of a daily monitoring and reporting program to ensure impact to adjacent habitat is below a threshold that would have an adverse effect on surrounding wildlife. Sounds generated from any means should be below the 55-60 dB range within 50 feet from the source.</p>	<p>Prior to finalizing CEQA document</p>	<p>JPA</p>

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	Construction equipment should use noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer. Stationary noise sources (e.g., generators, pumps) at staging areas within 1,400 feet of sensitive receptors should be shielded at the source by an enclosure, temporary sound walls, or acoustic blankets. Where feasible, sound walls or acoustic blankets should have a height of no less than 8 feet, a Sound Transmission Class of 27 or greater, and a surface with a solid face from top to bottom without any openings or cutouts. Unnecessary construction vehicle use and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off.		
REC-9-Provide maps and tables in the CEQA document	JPA should include maps showing natural communities, oaks, rare plants, and streams prior to finalizing the Project's environmental document. JPA should also include tables listing the approximate acreage and/or linear feet of impacts to each resource based on each alternative.	Prior to finalizing CEQA document	JPA
REC-10-Submitting Data for Sensitive and Special Status Species and Natural Communities	Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms . Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.	Prior to finalizing CEQA document	JPA
REC-11-Mitigation and Monitoring Reporting Plan	JPA should condition the environmental document to include mitigation measures recommended in CDFW's comment letter.	Prior to finalizing CEQA document	JPA
MM-BIO-1-Impacts on Least Bell's Vireo – Protocol Surveys	JPA shall perform protocol surveys for least Bell's vireo within the Conejo Canyons Open Space and where there is habitat for least Bell's vireo in the Project area. Surveys shall adhere to the U.S. Fish and Wildlife's 2001 Least Bell's Vireo Survey Guidelines . A final survey report (including negative findings) shall be provided to	Prior to any Project-related ground disturbing activities and	JPA

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	USFWS and CDFW within 45 calendar days following the completion of the survey effort. A final survey report shall be submitted to USFWS and CDFW prior to any Project-related ground disturbing activities and vegetation removal.	vegetation removal	
MM-BIO-2- Impacts on Least Bell's Vireo – Avoid Impacts – Avoidance Plan	If least bell's vireo is present in the Project area, JPA shall fully avoid impacts to least Bell's vireo. A final Least Bell's Vireo Avoidance Plan shall be developed prior to implementing Project-related ground-disturbing activities and vegetation removal.	Prior to any Project-related ground disturbing activities and vegetation removal	JPA
MM-BIO-3- Impacts on Least Bell's Vireo – Avoid Impacts	To fully avoid impacts to least Bell's vireo, no ground-disturbing activities, including staging, as well as disturbances to native and nonnative vegetation shall occur during the least Bell's vireo breeding season from March 15 through September 15 to avoid take of least Bell's vireo birds, nestlings, or their eggs. If construction activities occur within this time, nesting bird surveys shall be conducted. Active least Bell's vireo nests shall be avoided with a 500-foot buffer delineated by high visibility flagging. Construction activities shall not continue within the buffer until the young have fledged or the nest is no longer active.	Prior to/during any Project-related ground disturbing activities and vegetation removal	JPA
MM-BIO-4- Impacts on Least Bell's Vireo – Take Authorization	If impacts to least Bell's vireo cannot be avoided, JPA shall consult CDFW and USFWS to obtain take authorization. Appropriate take authorization shall be obtained from CDFW and USFWS prior to any ground-disturbing activities and vegetation removal.	Prior to any Project-related ground disturbing activities and vegetation removal	JPA
MM-BIO-5- Impacts on Coastal California Gnatcatcher –	Protocol presence or absence surveys for coastal California gnatcatcher will be performed by a qualified biologist with a USFWS Section 10(a)(1)(A) permit. If coastal California gnatcatcher are present, the Pure Water Project and its contractors will avoid impacting occupied habitat by maintaining a 500-foot buffer. In addition, no construction activities will occur within 500	Prior to any Project-related ground disturbing activities and	JPA

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Protocol Surveys	feet of an active nest. Buffers will be maintained until young have fledged (left the nest on their own), as determined by a qualified biologist, or the nest is no longer active. Buffers will be delineated by high visibility flagging. If these avoidance techniques are not feasible, USFWS and CDFW will be contacted regarding alternative avoidance measures for the species.	vegetation removal	
MM-BIO-6- Impacts on Coastal California Gnatcatcher – Take Permit	<p>If coastal California gnatcatcher is present, JPA shall consult with the USFWS to determine if the Project would result in take of coastal California gnatcatcher. Consultation with the USFWS, in order to comply with the ESA, is advised well in advance of any ground-disturbing activities and/or vegetation removal that may impact gnatcatcher.</p> <p>If a take permit from the USFWS is needed, JPA shall comply with the mitigation measures detailed in a take permit issued from USFWS.</p>	Prior to any Project-related ground disturbing activities and vegetation removal	JPA
MM-BIO-7- Impacts on Coastal California Gnatcatcher – Replacement Habitat	If the Project would result in permanent loss of habitat, JPA shall provide replacement habitat at no less than 2:1 for the total acreage of habitat that is impacted. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed by JPA prior to any ground-disturbing activities and/or vegetation removal that may impact gnatcatcher.	Prior to any Project-related ground disturbing activities and vegetation removal	JPA
MM-BIO-8- Impacts on Rare, Threatened, and Endangered Plants &	The Project shall fully avoid impacts on rare, endangered, and threatened plants and habitat as well as Sensitive Natural Communities to the maximum extent possible. JPA, in consultation with a qualified biologist, shall prepare an Avoidance and Relocation Plan. JPA shall submit the Avoidance and Relocation Plan to CDFW for review. JPA shall resolve all CDFW concerns	Prior to any ground-disturbing activities and vegetation removal	JPA

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Sensitive Natural Communities – Avoid Impacts	and comments prior to finalizing the Avoidance and Relocation Plan. No ground-disturbing activities or vegetation removal shall occur until the Avoidance and Relocation Plan is implemented.		
MM-BIO-9- Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural Communities – Take Authorization	For impacts on CESA-listed and/or ESA-listed species, JPA shall consult with CDFW and/or USFWS and obtain appropriate take authorization. JPA shall obtain appropriate take authorization from CDFW and/or USFWS prior to any ground-disturbing activities and vegetation removal.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-10- Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural Communities – Compensatory Mitigation	For impacts on CESA-listed species, JPA shall provide compensatory mitigation at no less than 5:1, or as required in an Incidental Take Permit issued by CDFW.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-11- Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural	For impacts on CRPR 1 or 2 species, JPA shall provide compensatory mitigation at no less than 3:1. For impacts on CRPR 4 species, JPA shall provide compensatory mitigation at no less than 2:1. Compensatory mitigation shall be provided for the total number of plants and total acreage of habitat supporting those plants impacted.	Prior to any ground-disturbing activities and vegetation removal	JPA

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<p>Communities – Compensatory Mitigation</p>			
<p>MM-BIO-12- Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural Communities – Compensatory Mitigation</p>	<p>For impacts on S2 ranked natural community alliance or association, JPA shall provide compensatory mitigation at no less than 3:1. For impacts on S3 ranked community alliance or association, JPA shall provide compensatory mitigation at no less than 2:1. Mitigation shall replace the natural community association or alliance that was impacted. Areas that may be impacted by permanent fuel modification shall be included as part of the total acreage that would need to be compensated.</p>	<p>Prior to any ground-disturbing activities and vegetation removal</p>	<p>JPA</p>
<p>MM-BIO-13- Impacts on Rare, Threatened, and Endangered Plants & Sensitive Natural Communities – Compensatory Mitigation</p>	<p>Mitigation lands shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, recorded, or otherwise executed prior to any ground-disturbing activities and vegetation removal.</p>	<p>Prior to any ground-disturbing activities and vegetation removal</p>	<p>JPA</p>
<p>MM-BIO-14- Impacts on Rare, Threatened, and Endangered</p>	<p>For compensatory mitigation at a mitigation bank, JPA shall purchase credits prior to any ground-disturbing activities and vegetation removal.</p>	<p>Prior to any ground-disturbing activities and</p>	<p>JPA</p>

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Plants & Sensitive Natural Communities – Compensatory Mitigation		vegetation removal	
<p>MM-BIO-15- Impacts on Streams and Associated Natural Communities- Lake and Streambed Alteration Notification</p>	<p>JPA shall notify CDFW pursuant to Fish and Game Code section 1602 for construction and activities occurring near or impacting streams and associated natural communities. JPA shall notify CDFW prior to any ground-disturbing activities and vegetation removal, including staging, near streams. The notification to CDFW shall provide the following information:</p> <ol style="list-style-type: none"> 1) A stream delineation in accordance with the U.S. Fish and Wildlife Service wetland definition adopted by CDFW; 2) Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names shall be provided based on vegetation association and/or alliance per the Manual of California Vegetation; 3) A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation shall be discussed; and, 4) A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation shall assess a sufficient range of storm events (e.g., 100, 50, 25, 10, 5, and 2-year frequency storm events) to evaluate water and sediment transport under pre-Project and post-Project conditions. 	<p>Prior to any ground-disturbing activities and vegetation removal</p>	<p>JPA</p>

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MM-BIO-16- Impacts on Streams and Associated Natural Communities- Lake and Streambed Alteration Agreement	<p>If the Project would impact streams and associated natural communities, JPA shall obtain an LSA Agreement prior to any ground-disturbing activities and vegetation removal, including staging, near streams.</p>	<p>Prior to any ground-disturbing activities and vegetation removal</p>	<p>JPA</p>
MM-BIO-17- Impacts on Streams and Associated Natural Communities- Compensatory Mitigation	<p>JPA shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement.</p>	<p>Prior to any ground-disturbing activities and vegetation removal</p>	<p>JPA</p>
MM-BIO-18- Impacts on Oak Woodlands & Southern California Black Walnut Woodlands – Compensatory Mitigation	<p>For impacts on oak woodlands or walnut woodlands, JPA shall offset the loss by no less than 3:1 of the total acreage of woodlands lost. This shall include woodlands that would be subject to permanent fuel modification requirements. JPA shall restore functioning and self-sustaining woodlands of similar composition, structure, and function to woodlands impacted. Mitigation shall include restoration of structurally diverse understory vegetation species (i.e., grass, forb, shrub, subshrub, vine) occurring in the impacted natural communities. Acorns and/or seedlings shall originate from plants/trees of the same species (i.e., genus, species, subspecies, and variety) as the species impacted.</p>	<p>Prior to removing any oak or walnut trees or the understory vegetation</p>	<p>JPA</p>
MM-BIO-19- Impacts on Oak Woodlands & Southern California Black	<p>Prior to removing any oak or walnut trees or the understory vegetation, JPA shall prepare a Woodland Restoration Plan. The Woodland Restoration Plan shall prescribe the following:</p> <ol style="list-style-type: none"> 1) Species-specific planting methods; 2) Planting schedule; 	<p>Prior to removing any oak or walnut trees or the</p>	<p>JPA</p>

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Walnut Woodlands - Woodland Restoration Plan	<ol style="list-style-type: none"> 3) Measures to control exotic vegetation and protection from herbivory; 4) Measurable goals and success criteria for establishing self-sustaining populations. Measurable success criteria shall be based on site/habitat conditions prior to impact and/or functional local native oak shrublands/woodlands as reference sites; 5) Contingency measures if the success criteria is not met; 6) Long-term monitoring for at least 10 years, with a minimum of seven years without supplemental irrigation; 7) Adaptive management techniques, including replacement plants if necessary; and 8) Annual reporting criteria and requirements. 	understory vegetation	
MM-BIO-20- Impacts on Oak Woodlands & Southern California Black Walnut Woodlands	For off-site mitigation, JPA shall protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to any ground-disturbing activities and vegetation removal.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-21- Impacts to Arroyo Chub and Western Pond Turtle	<p>JPA shall fully avoid all impacts to arroyo chub and western pond turtle. For this segment, no work shall occur on the stream banks adjacent to Arroyo Conejo during the winter rainy season, typically between December 1 through March 31. Additionally, no work shall occur during the combined rainy season and breeding season for:</p> <ul style="list-style-type: none"> • Arroyo chub: February 1 through August 31 • Western pond turtle: March 1 through July 15 	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-22- Species Surveys	JPA shall retain a qualified biologist(s) with experience surveying for each of the following species: coastal California gnatcatcher, arroyo chub, coastal whiptail, southern California legless lizard, and western pond turtle. The qualified biologist(s) shall conduct species-specific and season appropriate surveys where suitable	Prior to any ground-disturbing activities and	JPA

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	<p>habitat occurs in the Project site. Positive detections of SSC and suitable habitat at the detection location shall be mapped. If SSC are detected, the qualified biologist shall use visible flagging to mark the location where SSC was detected.</p> <p><u>Coastal California gnatcatcher.</u> Surveys for coastal California gnatcatcher shall follow the USFWS 1997 Coastal California Gnatcatcher Presence/Absence Survey Guidelines.</p> <p><u>Arroyo chub.</u> JPA shall perform focus surveys for arroyo chub in Arroyo Conejo. If Arroyo Conejo transitions to subsurface flow, the remainder of the stream shall be surveyed to determine if there are isolated pools potentially supporting fish. Surveys shall be conducted in areas adjacent to the pipeline alignment in the Conejo Canyons Open Space. Surveys shall also be conducted along downstream sections, including segments that are hydrologically connected to Arroyo Conejo such as North Fork Arroyo Conejo.</p> <p><u>California legless lizard and coastal whiptail.</u> JPA shall conduct focus surveys for California legless lizard and coastal whiptail. Surveys shall typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, surveys shall be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.</p> <p><u>Western Pond Turtle.</u> JPA shall conduct focus surveys for western pond turtle. Surveys shall be conducted during the time of greatest pond turtle activity, typically during the breeding season (May - July), and when pond turtles have not left the water to aestivate or</p>	<p>vegetation removal</p>	
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	overwinter in the uplands. Surveys for southern western pond turtles and potential habitat shall follow the United States Geological Survey's 2006 Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion .		
MM-BIO-23- Relocation and Avoidance Plan	JPA shall retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan shall describe all SSC that could occur within the Project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan shall include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the Project site. The qualified biologist shall submit a copy of a Wildlife Relocation and Avoidance Plan to CDFW for approval prior to any clearing, grading, or excavation work on the Project site.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-24- Worker Awareness Training	JPA, in consultation with a qualified biologist, shall prepare a worker environmental awareness training. The qualified biologist shall communicate to workers that upon encounter with an SSC (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-25- Biological Monitor	To avoid direct injury and mortality of SSC, JPA shall have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where a SSC is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution. A qualified biologist shall be on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing	During ground-disturbing activities and vegetation removal	JPA

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	activities, as well as vegetation removal, to ensure that no wildlife is harmed.		
MM-BIO-26- Scientific Collecting Permit	JPA shall retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.	Prior to any ground-disturbing activities and vegetation removal	JPA
MM-BIO-27- Injured or Dead Wildlife	If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	During ground-disturbing activities and vegetation removal	JPA