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Nov 08 2021

STATE CLEARINGHOUSE

November 8, 2021

Gail Getz
Environmental Planning Manager
County of San Diego, Department of Public Works
5510 Overland Avenue, Suite 410
San Diego, CA 92123-1239
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Subject: 13th Street Bridge Project (PROJECT); Mitigated Negative Declaration (MND); SCH #2021100070

Dear Ms. Getz:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the County of San Diego (County), Department of Public Works (DPW) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

CDFW ROLE

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

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

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

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PROJECT DESCRIPTION SUMMARY

Proponent: County of San Diego, Department of Public Works

Objective: The objective of the Project is to replace an existing culvert crossing with a bridge that will provide adequate conveyance of water up to and including a 100-year storm event over Santa Maria Creek. The existing 250-foot-long corrugated steel culvert does not have sufficient capacity to convey the creek water during storm events; flooding at this crossing makes the roadway impassable for motor vehicles and pedestrians during portions of the rainy season. The proposed bridge will help alleviate flooding and improve roadway safety for the public. The bridge would be 480-foot-long and 42-foot-wide cast-in place concrete box girder structure with two 12-foot-wide travel lanes, 3-foot-wide shoulders on each side, an 8-foot-wide multi-use pathway, and three bridge barriers with a total of four feet. The bridge would be elevated by approximately 10 feet above ground, with three singular column bents and two abutments over Santa Maria Creek. After construction, the bridge is expected to provide a net benefit to habitat in the surrounding area, as it would allow water to move under the road during rain events, and installation of storm drain systems would minimize erosion and sedimentation downstream of the bridge.

Primary construction activities include installing Environmentally Sensitive Area (ESA) fencing and silt fencing, erosion control, and temporary K-rails; clearing, grubbing, and preparing soils; constructing temporary access roads; slope grading, road demolition and excavation work; relocating (undergrounding) utilities, dewatering, installing new roadway infrastructure; relocating/reconstructing drainage structures; and restoring temporary impact areas (e.g., revegetation). The storm drain systems are proposed directly to the north and south of the bridge to capture runoff and direct it towards the creek. Permeable pavement areas would be incorporated into the project as Green Street features to facilitate meeting water quality requirements and for storm-water management. An existing bioretention basin located south of the bridge that currently treats stormwater from the library and associated parking lot would be redesigned to also accommodate runoff associated with increased impervious areas from the proposed project.

Location: The 10.1 acre/1,650-feet long Project is located where the 13th Street/Maple Street roadway crosses over Santa Maria Creek, within the unincorporated community of Ramona, San Diego County. The Project area lies between Walnut Street to the north and Main Street (SR 67) to south, with 13th Street/Maple Street as a connecting dirt roadway, with gravel at the Santa Maria Creek culvert crossing. Residential properties are present west along 14th Street and Brazos Street and commercial properties are present east along 12th Street, Main Street, and Maple Street. Industrial properties are present along 13th Street, 14th Street, Walnut Street, and Maple Street. An equipment storage yard is located to the northeast corner of Maple Street and Walnut Street. Other surrounding area properties include the Ramona Public Library, a self-storage facility, retail gasoline filling stations, retail shopping plazas, office buildings, and a lumber yard. Santa Maria Creek runs east to west through the Project area and is located adjacent to (south of) Walnut Street, in the northern portion of the site. The approximate center coordinates of the Project are: (World Geodetic System 1984 [WGS84]) Latitude 33.042357° and Longitude -116.875223°.

Biological Setting: Per the 13th Street Bridge Project Biological Assessment prepared by AECOM (2020), the Project area consists mainly of urban/developed land (37.58 acres) and gently sloped non-native grasslands (NNG) (20.82 acres) that converge toward Santa Maria Creek. The creek is a natural and channelized ephemeral stream that is fed year-round by urban runoff and precipitation/stormwater runoff during the wet season. The section of the creek where the bridge would be constructed has a flat, sandy bottom composed of riverwash. Dense southern

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cottonwood-willow riparian forest (7.67 acres) occurs along the banks of the creek and is dominated by southern cottonwood (*Populus fremontii*), mule-fat (*Baccharis salicifolia*), and several species of willow such as black willow (*Salix gooddingii*) and arroyo willow (*Salix lasiolepis*). Within the Project area there is also *Eucalyptus* sp. woodland (0.44 acre) and alkali seep (0.12 acre). The manufactured stormwater basin that lies southeast of 13th Street/Maple Street and south of Santa Maria Creek is characterized as disturbed wetland (0.12 acre) with patches of southern willow scrub (0.11 acre) neighboring the basin. In the upland habitat there are small portions of Diegan coastal sage scrub (0.06 acre) and non-native grassland. Habitat within the Project area is subject to ongoing disturbances, such as frequent noise, lighting, litter, and occasional human visitation. 2020 plant surveys at the site resulted in 48 native and 21 non-native species. One rare California plant species, southern tarplant (*Centromadia parryi* ssp. *australis*, California Rare Plant Rank 1B.1 species) was detected during plant surveys, with 27 individuals located in the permanent impact areas and 25 individuals located in the temporary impact areas of the Project (AECOM 2020).

Per the 2020 Biological Assessment, a total of 81 wildlife species were detected in the Project area including 21 invertebrate, one amphibian, four reptile, 49 bird, and six mammal species. In alignment with the County of San Diego Guidelines sensitive species list, several sensitive species were observed in the Project area. Least Bell's vireo (*Vireo bellii pusillus*; Endangered Species Act-listed Endangered, CESA-listed Endangered) was observed in the area utilizing the habitat for breeding and nesting activities. Turkey vulture (*Cathartes aura*), a County Group 1 species, and great blue heron (*Ardea herodias)*, a County Group 2 species, were also observed but are only expected to forage in the Project area because there is no nesting habitat present for these species. Other County-listed sensitive species that are expected to forage and breed within the area including orange-throated whiptail (*Aspidoscelis hyperythra,* CDFW Watch List (WL)), Cooper's hawk (*Accipiter cooperii,* CDFW WL), yellow warbler (*Setophaga petechia,* CDFW Species of Special Concern (SSC)), and western bluebird (*Sialia mexicana*) (County of San Diego 2010).

Other species found in the Project area include Pacific tree frog (*Pseudacris regilla*), western fence lizard (*Sceloporus occidentalis*), side-blotched lizard (*Uta stansburiana*), mallard (*Anas platyrhynchos*), red-tailed hawk (*Buteo jamaicensis*), rough-legged hawk (*Buteo lagopus*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), Anna's hummingbird (*Calypte anna*), Nuttall's woodpecker (*Picoides nuttallii*), black phoebe (*Sayornis nigricans*), ash-throated flycatcher (*Myiarchus cinerascens*), western kingbird (*Tyrannus verticalis*), western scrub-jay (*Aphelocoma californica*), American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), cliff swallow (*Petrochelidon pyrrhonota*), bushtit (*Psaltriparus minimus*), northern mockingbird (*Mimus polyglottos*), common yellowthroat (*Geothlypis trichas*), spotted towhee (*Pipilo maculatus*), song sparrow (*Melospiza melodia*), brown-headed cowbird (*Molothrus ater),* house finch (*Carpodacus* mexicanus), lesser goldfinch (*Carduelis psaltria*), house sparrow (*Passer domesticus*), desert cottontail (*Sylvilagus audubonii*), California ground squirrel (*Spermophilus beecheyi*), and long-tailed weasel (*Mustela frenata*) (AECOM 2020, CNDBB 2021).

Biological Protocol Surveys for ESA-listed animal species: Least Bell's vireo, which is also a CESA-listed species, has been observed within the proposed action limits of disturbance and occurred just outside of the limits of disturbance as recently as 2018 (Sage Wildlife Biology 2018). In 2012, ICF International consultants performed protocol surveys in the Project area and found no least Bell's vireo individuals during the eight focused surveys. In 2012, the biologist noted "southern cottonwood-willow riparian forest habitat within the survey area represents low-quality habitat for least Bell's vireo. Although this habitat contains a shrubby mid-story, it lacks regularly flowing open water preferred by least Bell's vireo for foraging." (ICF International 2012). In 2018, Sage Wildlife Biology conducted eight focused surveys and found one nesting pair of least Bell's

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vireo using riparian habitat on both sides (east and west) of 13th Street along the Santa Maria Creek corridor from April to June (Sage Wildlife Biology 2018).

San Diego fairy shrimp (*Branchinecta sandiegonensis*, ESA listed Endangered) were historically observed in the Project area in 2008, so wet and dry season protocol surveys were conducted in 2012-2013 and 2018, by ICF International and AECOM. In 2012-2013, ICF International surveyed twenty-five basins in the Project area for wet season surveys. The detention basin (#1) that lies southeast in the Project area was created as part of the Ramona Library project and held water the longest of any of the basins within the study area. It contained a variety of upland and wetland plants, including Mediterranean barley (*Hordeum murianum* ssp. *glaucum*), birdfoot trefoil (*Lotus corniculatus*), grass poly (*Lythrum hyssopifolia*), and tall flatsedge (*Cyperus eragrostis*). The majority of the basins exist on a graded, gravel lot with slight depressions and were sparsely vegetated with the invasive weed stinkwort (*Dittrichia graveolens*). The remaining basins were road ruts on the dirt shoulders of 13th, Walnut, and Maple streets and were either unvegetated or sparsely vegetated with upland grasses. However, one northeastern dirt rut basin was also sparsely vegetated with southern tarplant (CNPS rare plant rank 1B.2) (CNPS, 2021). No vernal pool indicator plant species or fairy shrimp species were detected from any of the basins during the 2012-2013 wet season. In September 2013, soil from 18 of the basins were sampled and no fairy shrimp carcasses or cysts were detected (Helm Biological Consulting 2012, ICF International 2013).

In 2018, AECOM performed wet and dry season protocol surveys of basins to detect San Diego fairy shrimp and Riverside fairy shrimp in the Project area. Federally endangered branchiopods, including San Diego fairy shrimp and Riverside fairy shrimp, were not detected during wet season surveys (January through March 2018; AECOM 2018) or dry season surveys indicating that there is no evidence that the Project area contained these species in 2018. The detention basin, which held the most water volume, contained copepods, Baja California chorus frog (*Pseudacris hypochondriaca*) tadpoles, and a few patches of botanical wetland indicator species including water pygmy weed (*Crassula aquatica*), grass poly (*Lythrum hyssopifolia*), and pale spike rush (*Eleocharis macrostachya*). Scattered in various basins they found water beetles of an undetermined species, flat sedge (*Cyperus* sp.*)* and curly dock (*Rumex crispus*), which indicate the presence of ponded water. All basins appeared to be man-made or were highly disturbed by previous activities in the area. In 2018, AECOM noted that low-quality suitable habitat for fairy shrimp is still present in the Project area; however, no direct effects to these species are expected to occur because fairy shrimp are not known to occur within the Project direct disturbance limits (AECOM 2018, Helm Biological Consulting 2018).

Wildlife Corridors: The Project area is not part of any designated wildlife corridors identified in regional conservation programs such as the Multiple Species Conservation Program (MSCP). The area is part of the Pacific Flyway, a major migration route for birds that travel north and south and the creek likely provides stop-over habitat for migrant species. At a local scale, the creek and its associated riparian vegetation provide an east-west wildlife linkage, with nearly continuously cover connecting the forest in the east to the Ramona Grasslands in the west. Per the Biological Assessment, page 27, “in addition to avian species, terrestrial species likely to use this corridor include bobcat (*Lynx rufus*), coyote (*Canis latrans*), and raccoon (*Procyon lotor*)”.

The Initial Study (IS)/MND proposes to avoid and minimize potentially significant impacts to biological resources through implementation of pre-construction nesting surveys, avoidance fencing, construction monitoring, and noise attenuation. Permanent and temporary direct impacts to sensitive habitat, vegetation communities, and jurisdictional wetlands or waters will be mitigated on-site consistent with the ratios in the County’s Guidelines and through coordination with the

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resource agencies. The following impacts are identified in the IS/MND: 0.80 acre of impacts to least Bell's vireo habitat, 0.11 acre of impacts to disturbed wetland, 0.80 acre of impacts to southern cottonwood-willow riparian forest, 0.05 acre of impacts to Diegan coastal sage scrub, 4.38 acres of impacts to non-native grassland, 0.03 acre of impacts to non-wetland waters of the U.S. and State/unvegetated streambed, 0.24 acre of impacts to wetland waters of the U.S. and State/vegetated streambed, and 0.36 acre of impacts to CDFW streambanks and associated riparian canopy.

Timeframe: The Project is expected to span 12 months. To the extent feasible, construction will be initiated, and vegetation will be removed outside of, the least Bell's vireo breeding season (March 15 through September 15) in order to avoid direct impacts to this species. The sequencing and schedule of work is as follows: installation of orange construction fencing and implementation of BMPs (i.e., silt fencing and other standard site preparation), clearing and grubbing, grading, road demolition and excavation, shoulder widening, installing bridge components, and pathway components.

COMMENTS AND RECOMMENDATIONS

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

I. Project Description and Related Impact Shortcoming

COMMENT #1: Impacts to least Bell's vireo

Issue #1: The Lead Agency failed to coordinate with CDFW for potential impacts to least Bell's vireo.

Issue #2: Mitigation Measure BIO-4 (MM BIO-4) does not adequately avoid or minimize impacts to least Bell's vireo breeding pairs and nests that may occur in the Project area.

Specific impact:

Issue #1: Although the California Department of Transportation (Caltrans) and the County coordinated with the United States Fish and Wildlife Service (USFWS) for potential impacts to least Bell's vireo, Caltrans and the County failed to coordinate with CDFW for impacts to least Bell's vireo. Vireo is CESA-listed; therefore, if impacts to vireo cannot be avoided, CDFW recommends the Lead Agency submit an application for an Incidental Take Permit (ITP).

The United States Fish and Wildlife issued a Biological Opinion to Caltrans for this project on March 25, 2021. The USFWS determination for least Bell's vireo is May Effect, Not Likely to Adversely Affect. There is occupied habitat present within the area, but impacts are expected to be minimal relative to the available habitat (USFWS 2021).

Mitigation Measure BIO-3 (MM BIO-3) suggests that USFWS will be notified after least Bell's surveys; however, the Mitigation Measure fails to indicate that CDFW will be notified, or any coordination will occur with CDFW before or after the survey results.

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Issue #2: The Mitigation Measure BIO-4 indicates that "If vegetation clearance and grubbing activities are proposed to start during the breeding season, a qualified biologist will conduct a pre-activity survey to identify any nesting birds within 500 feet of the project area within seven days prior to initiating these activities" (County of San Diego 2020).

Least Bell's vireo has been documented within the Project area and is known to utilize the habitat for breeding and nesting activities. During the seven-day timeframe, new least Bell's vireo individuals or nests may appear within the Project area. Removal of vegetation may result in the accidental destruction of nests or nest abandonment if individuals and/or their nests are within the Project area.

Why impact would occur: Least bell's vireo is protected under Fish and Game Code section 3503 and is CESA-listed. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. Sage Wildlife Biology's 2018 protocol surveys for least Bell's vireo indicated that a nesting pair were observed on the Project site utilizing riparian habitat on both sides (east and west) of 13th Street along the Santa Maria Creek corridor from April to June. This pair built two nests; the first was outside the limits of disturbance and failed. The second nest was located within the temporary impact area and was successful with at least one fledgling (Sage Wildlife Biology 2018). Therefore, if least Bell's vireo individuals and/or their nests that are occupying the habitat, Project activities may cause incidental take of least bell's vireo or other sensitive nesting birds through direct mortality or disturbance of breeding and nesting activities.

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of the least Bell's vireo as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 *et seq.*) and CESA (Fish & G. Code, § 2050 *et seq.*) qualifies it as an endangered, rare, or threatened species under CEQA.

Regarding CESA-listed species, take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an ITP or a consistency determination in certain circumstances, among other options (Fish and Game Code §§ 2080.1, 2081, subds. (b), (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation, monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation, monitoring, and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

Recommended Potentially Feasible Mitigation Measure(s) and Recommendations

Recommendation #1: CDFW recommends that the Project proponent coordinate with CDFW and submit an ITP application as soon as possible and prior to Project activities if impacts to least Bell's vireo cannot be avoided.

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Mitigation Measure #1: CDFW recommends that the MM BIO-3 Compliance Action be amended as follows (changes underlined):

"Prior to initiating project work, three pre-construction surveys will be conducted within all suitable least Bell's vireo (LBVI) habitat in or within 500 feet of the project footprint, within 30 days prior to initiation of vegetation removal activities, to verify that no more than one least Bell's vireo pair will be harmed as a result of the project. A map showing the distribution of least Bell's vireo relative to the project footprint and an estimate of the number of least Bell's vireo that will be impacted by the project or confirm in writing that the number of pairs that will be impacted by the project remains correct. The Carlsbad Fish and Wildlife (CFWO) and CDFW will be notified of the area of least Bell's vireo habitat cleared within 30 days of completing removal of least Bell's vireo habitat."

Mitigation Measure #2: CDFW recommends that the avian nest surveys be conducted no more than three days prior to initiating or restarting construction activities including vegetation clearing and grubbing within 500 feet of the Project Area (changes underlined).

The MM BIO-4 Compliance Action would be amended as follows (changes underlined):

"The clearing and grubbing of native habitats for the project will be conducted between September 16 and February 14 to avoid the combined least Bell's vireo (March 15-August 31) and avian species (February 15-September 15) breeding season (or sooner than September 16 if the biologist demonstrates to the satisfaction of the CFWO that all nesting is complete). If work is proposed to start during the breeding season, a pre-activity nesting bird survey will be conducted by a qualified biologist within ~~7~~ three days prior to starting work to identify any nesting birds within 500 feet of the project area. If work stops for more than ~~7~~ three days, the pre-activity survey will be repeated before restarting work during the breeding season. If there are no nesting birds (includes nest building or other breeding/nesting behavior) within this area, vegetation trimming, and other project activities will be allowed to proceed. If migratory songbirds are identified, the Department recommends the following minimum no-disturbance buffers be implemented: 100 feet around non-listed active passerine (perching birds and songbirds) nests, 300 feet around any listed passerine nests (e.g., California gnatcatcher and least Bell's vireo), and 500 feet around active non-listed raptor nests. The buffers may be reduced, if appropriate, depending on site-specific conditions such as ambient levels of human activity, presence of visually shielding vegetation between the nest and construction activities, or possibly other factors. Buffers should be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

COMMENT #2: Light Pollution Impacts During and Post-Project Activities

Issue: The potential for lighting during construction and post construction may have a negative impact on biological resources. The IS/MND states that "Species present in adjacent habitats during construction may be temporarily subjected to increased noise, light, and vibration. These indirect effects would occur in areas both within and outside of the direct disturbance limits (Action Area and associated 500-foot buffer). Such indirect effects would be minimized and avoided to the extent feasible through the implementation of Best Management Practices (BMPs) and impact avoidance and minimization features."

Specific Impact: The proposed Project construction and post-construction activities may increase noise and/or night-time lighting pollution impacts in a wildlife linkage area to levels

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likely to affect the behavior of the animal species identified in the 13th Street Bridge Project Biological Assessment. Per the Biological Assessment, Santa Maria Creek is part of the Pacific Flyway Migratory Route that migratory avian species are likely to utilize. In addition, on a local scale, the creek and its associated riparian vegetation provide an east-west wildlife linkage, with nearly continuously riparian cover connecting the forest in the east to the Ramona Grasslands in the west. Terrestrial species likely to use this corridor include bobcat (*Lynx rufus*), coyote (*Canis latrans*), and raccoon (*Procyon lotor*) (AECOM 2020).

Why impact would occur: Artificial light pollution resulting from construction activities and post-construction may negatively impact nesting-bird success by altering their timing of laying eggs. Street lamps and other artificial lighting may cause birds to perceive days as longer than they are and cue nesting timing that is not consistent with their natural history and behavior. Typical nesting behaviors are timed to meet peak conditions for food availability; therefore, disruption of this process could result in nest abandonment and/or reduced reproductive success for nesting species within the project area.

Evidence impact would occur: Avian species, including least Bell's vireo, and other wildlife species were identified as species likely to occur and/or nest in the Project area. Although mitigation measures are proposed to avoid the breeding and nesting bird season; artificial light used prior to, during, or after the breeding season can still negatively impact nesting birds by altering their nesting behavior. Lighting can also affect wildlife species utilizing the wildlife corridor.

Recommended Potentially Feasible Mitigation Measure(s) and Recommendation

Recommendation #2: CDFW recommends that the proponent provides further explanation of how avoidance and minimization features will be implemented for light pollution impacts both during and after construction.

Mitigation Measure #3: Avoidance and minimization measures for Project associated artificial lighting.

To reduce impacts to less than significant: CDFW recommends that during construction, all artificial lighting will be anti-glare and shall be aimed towards the road and away from natural areas. In addition, construction activities should only occur during the daytime to avoid nighttime work.

If any Project-related artificial lighting is installed on the bridge, the lighting shall be shielded, and directed downwards and away from the adjacent habitat areas.

Implementation of these measure will minimize light pollution that may impact avian species breeding and nesting in the area, as well as other species that inhabit the area or utilize the Santa Maria Creek wildlife corridor area.

COMMENT #3: Impacts to Bats

Issue: The MND fails to mention any bat specific surveys conducted within the Project area.

Specific impact: Townsend's big-eared bat (*Corynorhinus townsendii pallescens*), a California SSC and County Group 2 species, and other bat species, have the potential to roost in the culvert and forage in the riparian forest on-site, which would be modified as part of the

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proposed Project. If there were a maternity roost in the culvert, impacts to that roost site would be significant. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, mobilization, and grading), and vibrations caused by heavy equipment. Demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites.

Why impacts would occur: Demolition of infrastructure, such as a culvert, occupied by bats would result in direct take of the species. Modifications to roost sites can have significant impacts on bat usability of a roost and can impact bat fitness and survivability (Johnston et al. 2004). Extra noise and vibration can lead to the disturbance of roosting bats which may have a negative impact on the animals. Human disturbance can also lead to a change in humidity, temperatures, or the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost. Although temporary, such disturbance can lead to the abandonment of a maternity roost (Johnston et al. 2004). Although free-standing bat houses may be successful as mitigation for roost sites, sometimes the bats fail to use the free-standing bat boxes (Johnston et al. 2004).

Evidence impacts would be significant: There is a known California Natural Diversity Database (CNDDB) occurrence of Townsend's big-eared bat overlapping the eastern boundary of the Project site (CNNDB 2021). The 2020 Biological Assessment prepared by AECOM does not mention any bat species detected on-site (AECOM 2020).

Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Pallid bat and western mastiff bat, including additional bat species, considered California SSC and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines § 15065).

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #3: CDFW recommends that a biologist with expertise and experience with bats shall be retained as a Designated Bat Biologist. The Designated Bat Biologist shall have at least three years of experience in conducting bat habitat assessments, day roosting surveys, and acoustic monitoring, and have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity).

CDFW recommends the Designated Bat Biologist conduct bat surveys within the Biological Study Area (plus a 100-foot buffer as access allows) to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts, especially within trees surrounding Santa Maria Creek. CDFW recommends using acoustic recognition technology to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall.

A discussion of survey results, including negative findings, should be provided in the final environmental document. Depending on survey results (e.g., SSC observed, roosts are detected, etc.), the MND should discuss potentially significant effects of the proposed Project

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on the bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125).

Mitigation Measure #4: CDFW recommends including an additional Mitigation Measure Bat Surveys and Roost Avoidance or Exclusion. To determine whether there is an active maternity roost within or near the culvert and surrounding riparian habitat of Santa Maria Creek, a Designated Bat Biologist shall conduct surveys prior to demolition of the culvert crossing or construction of the bridge. If a potential maternity roost is present, the following measures shall be implemented to reduce the potential impact on special-status bat species to a less than significant level:

a. **Maternity Roosting Season Avoidance.** All demolition activities, or bat roost exclusion, shall occur outside the general bat maternity roosting season of March through August to reduce any potentially significant impact to maternity roosting bats. Items b and c below will be required to ensure no impacts occur to roosting bats during the exclusion process.

b. **Replacement Roost Installation.** If there is a potential or known maternity roost within a structure to be demolished, a replacement roost installation shall occur outside of the maternity roosting season within the biological open space easement. At least one month prior to the exclusion of bats from the roost(s), the project applicant will procure and install two bat boxes from a reputable vendor, such as Bat Conservation and Management, to allow bats sufficient time to acclimate to a new potential roost location. The bat boxes shall be installed in an area that is close to suitable foraging habitat as determined by a biologist who specializes in bats in consultation with County staff and CDFW. Additionally, the bat boxes will be oriented to the south or southwest, and the area chosen for the bat boxes must receive sufficient sunlight (at least 6 hours daily) to allow the bat boxes to reach an optimum internal temperature (approximately 90°F) to mimic the existing bat roost. The bat boxes will be suitable to house crevice-roosting bat species, and large enough to contain a minimum of 50 bats (e.g., Four Chamber Premium Bat House or Bat Bunker Plus). The bat boxes shall be installed on a 20-foot-tall steel pole. Should the bat boxes be required, maintenance of the boxes will be included in monitoring plan to ensure long-term use/functionality. Monitoring will be conducted each month during construction and quarterly thereafter until it can be established that the bat box is being used by bats and the species of bats using the box is determined. If the boxes are unsuccessful, Adaptive Management Measures will be in place.

c. **Survey Report.** Following completion of the survey the Designated Bat Biologist will complete a survey report which records the findings.

II. Additional Comments

COMMENT #4: Lake and Streambed Alteration Agreement

Issue: The MND acknowledges that direct or indirect impacts to aquatic and riparian resources may occur, warranting a Lake and Streambed Alteration (LSA) Notification. Per the Aquatic Resources Delineation Report for the 13th Street Bridge Project, the Project will temporarily impact 0.64 acre and permanently impact 0.06 acre of streambed and associated riparian habitat which would be subject to CFGC Sections 1600–1616" (AECOM, 2020). Based on the County's Biological Guidelines, the Proponent proposes "0.24 acres of impacts to wetland

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waters of the U.S. and State/vegetated streambed, and 0.36 acres of impacts to California Department of Fish and Wildlife (CDFW) streambanks and associated riparian canopy will be mitigated on-site" (AECOM 2020).

Specific impact: Hydrologic processes and waterbodies may be impacted by the Project. Vegetation removal and ground disturbing activities (e.g., excavating, demolition, grading, and infill) may increase the amount of sediment, debris, and pollutants in the landscape, which may be transported downstream and impair waterbodies. This may impact special status species directly or indirectly through habitat modifications or habitat loss.

Why impact would occur: The Project may affect hydrological processes because of the removal of vegetation associated with the stream and the ground-disturbing activities.

Evidence impact would be significant: The Project may impact aquatic and riparian resources, which absent of specific mitigation, could result in substantial erosion or siltation on-site or downstream of the Project. As a Responsible Agency under CEQA, CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether an LSA Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW as a Responsible Agency under CEQA may consider the County of San Diego's MND for the project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the Project should fully identify the potential impacts to any stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA.

Recommended Potentially Feasible Mitigation Measure(s) and Recommendations

Recommendation #4: CDFW has concluded that the Project may result in alteration of streams and recommends for the Project applicant to notify us to potentially secure a LSAA prior to the initiation of Project activities. Please visit CDFW's Lake and Streambed Alteration Program webpage for information about a LSA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal.

CDFW's issuance of an LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA. Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSAA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSAA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity. Final mitigation ratios for CDFW jurisdictional streambed and associated riparian habitat will be

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determined in the prepared Lake and Streambed Alteration Agreement for the 13th Street Bridge Project.

CDFW also recommends that the provided LSA notification will address all potential Project activities associated with dewatering, installing utilities that run under the creek bed, and scouring the streambed.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the CNDDB. The CNNDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County of San Diego in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, at Alison.Kalinowski@wildlife.ca.gov.

Sincerely,

DocuSigned by:
David Mayer
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DocuSign Envelope ID: C5B60141-DC2B-44D3-8BFF-4DE322C826B0

REFERENCES

AECOM. 2018. 13th Street Bridge Project, Listed Branchiopod Species 90-Day Report of Protocol Wet-Season Surveys, Ramona, San Diego County, California. June 2018.

AECOM. 2020a. 13th Street Bridge Project Aquatic Resource Delineation Report.

AECOM. 2020b. 13th Street Bridge Project Biological Assessment.

AECOM. 2021. 13th Street Bridge Project Conceptual Mitigation Plan.

California Department of Fish and Wildlife. 2021. California Natural Diversity Database (CNDDB). Available from: https://wildlife.ca.gov/Data/CNDDB

California Department of Fish and Wildlife. 2021. Lake and Streambed Alteration Program. Accessed at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.

California Department of Fish and Wildlife. 2021. Special Animal List. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406. October 2018.

California Department of Fish and Wildlife. 2021. State and Federally Listed Endangered and Threatened Animals of California. October 2021. Available from: http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline.

California Department of Fish and Wildlife. 2021. State and Federally Listed Endangered, Threatened, and Rare Plants of California. October 2021. Available from: http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline.

California Native Plant Society (CNPS). 2021. CNPS Rare Plant Ranks. Accessed at: https://www.cnps.org/rare-plants/cnps-rare-plant-ranks.

County of San Diego. 2010. County of San Diego Guidelines of Determining Significance and Report Format and Content Requirements, Biological Resources. Fourth Revision.

County of San Diego 2021. CEQA Initial Study for 13th Street Bridge Project.

County of San Diego. 2021. Mitigated Negative Declaration for 13th Street Bridge Project.

County of San Diego. 2021. Mitigation Monitoring and Reporting Program Mitigated Negative Declaration for 13th Street Bridge Project.

California Office of Planning and Research (COPR). 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2)

Environmental Permit Information Management System (EPIMS). 2021. Available from: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS.

HELM Biological Consulting. 2012. Dry Soil Analysis for the Detection of Federally-Listed Large Brachiopods at the 13th Street Bridge Project, Ramona, San Diego County, California.

DocuSign Envelope ID: C5B60141-DC2B-44D3-8BFF-4DE322C826B0

HELM Biological Consulting. 2018. Dry Soil Analysis for the Direction of Federally-Listed Large Branchiopods at the 13th Street Bridge Project, Ramona, San Diego County, California. August 2018.

ICF International. 2013. 13th Street Bridge, Wet Season Protocol Survey for Listed Fairy Shrimp, County of San Diego Department of Public Works. August 2013.

Johnston D., Tatarian G., and Pierson E. 2004. California Bat Mitigation Techniques, Solutions and Effectiveness. Available from: http://www.wildliferesearchassoc.com/wpcontent/uploads/2017/05/California_Bat_Mitigation_CalTrans_2004-1.pdf.

Sage Wildlife Biology. 2018. Least Bell's Vireo Survey Report For the 13th Street Bridge Project Ramona, San Diego California. August 2018.

United States Fish and Wildlife Service (USFWS). 2021. Biological Opinion for the 13th Street Bridge over Santa Maria Creek, Ramona, California. March 2021.