State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

Via Electronic Mail Only

February 4, 2022

Shilpa Gupta
City of Los Angeles
1149 S. Broadway, Suite 600
Los Angeles, CA 90015
Shilpa.Gupta@lacity.org

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Silver Lake Reservoir Complex Master Plan Project, SCH #2022010055, City of Los Angeles, Los Angeles County

Dear Shilpa Gupta:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of Draft Environmental Impact Report (DEIR) from the City of Los Angeles (City) for the Silver Lake Reservoir Complex Master Plan Project (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 proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project would redesign 116 acres of the 127-acre Silver Lake Reservoir Complex (Project area), which includes the existing out of service Silver Lake Reservoir and Ivanhoe Reservoir. The Project envisions a new park as a hybrid infrastructure that blends urban wilderness with human uses. The Project's themes are to provide a place for nature, wellness, community, children play, education, and water access. The Project would consist of seven park zones connected by a 2.5-mile tree-lined promenade. The seven park zones would consist of the following:

1) Ivanhoe Overlook: habitat terraces, wetland habitat islands in the Ivanhoe Reservoir, observation platforms, shade pavilion, sloped walk to water, and embankment enhancements;
2) Eucalyptus Grove: habitat terraces, overlook, seating terraces, and restored upland habitat;
3) Habitat Islands: wetland habitat islands in the Silver Lake Reservoir, fish introduction.
4) East and West Narrows: promenade, embankment enhancements, seating terraces, adult fitness circuit, and overlook;
5) South Valley: picnic area, expanded recreation center, new multi-purpose room, outdoor plaza and seating, basketball court, soccer field, and an expanded and renovated dog park;
6) Meadow: lawns, seating terraces, habitat terraces, kayak launch, walking paths, ornamental gardens, picnic grove, informal play, promenade, observation platforms, floating dock, and restrooms; and
7) Knoll: restored upland habitat, picnic grove, ornamental gardens, play area, environmental education center, and walking paths.

Location: The Project is located at the Silver Lake Reservoir Complex at 2300 Silver Lake Boulevard Los Angeles, CA 90039. The Project is in the Silver Lake neighborhood, which consists primarily of residential uses with some commercial areas, and some existing public access in and around the Silver Lake Reservoir Complex that allow park uses.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

Specific Comments

1) Impacts of Recreation on Wildlife. The Project proposes to restore, create, and maximize habitat for wildlife (woodlands, scrublands, and wetlands), as well as provide public access and recreation opportunities throughout the Project area. The Project area currently provides nesting and breeding habitat for birds and raptors (see Comment #3). The Project area may support more wildlife after the Project is complete. CDFW supports the Project's goal to maximize habitat for wildlife, particularly wetland and aquatic habitat, which is

extremely rare within the City. However, CDFW is concerned that the Project's proposal to increase public access and create recreation opportunities that currently do not exist may result in disturbances to habitat and wildlife. The Project proposes new footpaths, trails, terraces, play areas, picnic areas, floating docks, and opportunities for fishing and kayaking. These opportunities could result in the following:

- Increased numbers of people and dogs;
- Increased area of influence;
- Increased noise levels;
- Increased lighting;
- Increased trash or pet waste;
- Increased wildlife injury and mortality through harassment and entanglement (e.g., fishing line, encroachment, approach);
- Introduction of unnatural food sources via trash and trash receptacles;
- Habitat encroachment and disturbance; and,
- Loss of habitat due to erosion from non-official footpaths.

Recreation and increased human activities can have the following effects on wildlife:

- Non-consumptive recreation can lead to detrimental changes in animal behavior, reproduction, growth, and immune system function (Lucas 2020).
- Blue tit (*Cyanistes caeruleus*) nestlings near recreation facilities develop slower and fledge with low body mass and poor body condition (Remacha et al. 2016).
- Belding's savannah sparrow (*Passerculus sandwichensis beldingi*) is sensitive to pedestrian and vehicle traffic. An approaching distance of 3 meters and 2.8 meters during the pre-nesting and nesting season, respectively, alert Belding's savannah sparrows to take flight (Fernandez-Juricic et al. 2009).
- Being approached by a person may trigger a change in the behavior or physiological processes in a bird (e.g., flight responses or increased heart rate). Although these responses tend to be short in duration, they can have longer term effects as is the case of breeding birds being flushed from nests leaving eggs or chicks vulnerable to predation (Steven et al. 2011).
- Relatively 'low' impact activities such as walking or hiking can still have negative effects on birds (Steven et al. 2011).
- Increased noise may alter or mask the auditory signals required for information exchange in birds (Hillman et al. 2015).

The Project could result in energetic costs to wildlife, nest abandonment, reduced reproductive success, and reduced fitness. For example, Figure 5-2 in the Chapter 5 of the Master Plan depicts the 2.5-mile promenade going through the eucalyptus grove where red-tailed hawks (*Buteo jamaicensis*) have been documented to nest.

As such, CDFW recommends the City thoroughly analyze how the Project through increases in human activity, lighting, noise, and other anthropogenic effects may impact habitat, wildlife use of the Project area, and wildlife behavior (e.g., foraging, nesting). The assessment should include a study measuring and comparing pre- and post-Project activity types (e.g., fishing, kayaking), visitor use frequency, assess points, area of influence, level of lighting, ambient noise levels, trail routes, and trail width. The DEIR should discuss how

the Project would avoid and/or mitigate for the effects/impacts of recreation on habitat and wildlife. The DEIR should explain how proposed Project designs (e.g., fences, trail alignment, operation hours, lighting, access restriction, restriction of certain activities) would effectively avoid and/or mitigate for those effects/impacts. If the Project would have significant impacts on wildlife as a result of increased recreation, CDFW recommends the City provide measures to mitigate for those impacts below a level of significance. Mitigation may include avoiding known breeding and nursery sites for sensitive and special status species by restricting or modifying trails (e.g., dimensions, number of trails, spatial arrangement), access points, activity types (e.g., dog walking), and structures. CDFW also recommends appropriate setbacks from known breeding and nursery sites. An appropriate setback should consider the species (e.g., alert and flight initiation distances) and type and intensity of recreational use proposed.

2) Potential Impacts on Monarch Butterfly. According to the NOP and the Biological Resources Report for the Silver Lake Reservoir Complex Master Plan (GPA Consulting 2019), approximately 14 acres of eucalyptus woodland is located in the Project area. Eucalyptus trees could provide habitat for overwintering monarch butterfly (*Danaus plexippus* population 1 – California overwintering population; monarch).

   a) Protection Status: The western migratory monarch population that overwinters along the California coast has declined by more than 99 percent from an estimated four million butterflies just twenty years ago (CDFW 2022a; Marcum and Darst 2021). Habitat loss and fragmentation, including grove senescence, are among the primary threats to the population (Thogmartin et al. 2017). Given the precipitous decline, the monarch is currently slated to be listed in 2024 under the Endangered Species Act (CDFW 2022a). The monarch is included on CDFW's Terrestrial and Vernal Pool Invertebrates of Conservation Priority list and identified as a Species of Greatest Conservation Need in California's State Wildlife Action Plan (CDFW 2017; CDFW 2015). The monarch meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Impacts on monarchs may require a mandatory finding of significance because the Project may threaten to eliminate an animal community and/or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065).

   b) Surveys. CDFW recommends the City retain a qualified biologist to assess the Project area for monarchs and overwintering habitat. A qualified biologist should survey the eucalyptus groves and other trees within the Project area that are suitable for overwintering monarchs. A qualified biologist should conduct multiple surveys for overwintering monarchs where potential overwintering habitat has been identified. Monitoring should be done as frequently as possible during the overwintering season (typically September 15 through March 1[1]) to capture changing distributions through the season and in response to storm events.

   c) Analysis and Disclosure. The DEIR should evaluate the Project's potential impact and cumulative impact on monarchs. The DEIR should assess impacts on monarchs as a result of the following: loss and reduction of overwintering habitat; loss or reduction of

[1] The overwintering period is the estimated timeframe when monarchs are likely present. The overwintering period could vary by location and should be determined in coordination with a qualified biologist.

nectar plants; altering overwintering habitat climatic conditions such as such as temperature, humidity, and wind; and use of pesticides to maintain the Project's proposed lawns, landscaping, and ornamental gardens. The DEIR should assess potential impacts on monarchs during Project construction and activities. In addition, the DEIR should assess potential impacts on monarchs under proposed Project conditions. New trails and overlooks could result increased anthropogenic disturbances that may alter overwintering habitat climatic conditions for monarchs (see Comment #1).

d) Mitigation. If the Project would have impacts on monarchs, the DEIR should include measures to first avoid and minimize impacts on monarchs and overwintering habitat. If the Project would result in loss of overwintering habitat, CDFW recommends the City provide compensatory mitigation so that there is no net loss of overwintering habitat. CDFW also recommends the City explore Project design alternatives (e.g., alignment of trails/promenade) that would avoid, reduce, or restrict disturbances to overwintering habitat (see Comment #1 and General Comment #5).

Mitigation for monarchs should be developed in consultation with a qualified biologist. CDFW recommends the City also consult the following resources to develop appropriate measures to mitigate for the Project's potential impacts on monarchs.

- Western Monarch Butterfly Conservation Plan (WAFWA 2019);
- Overwintering Site Management and Protection (Western Monarch Count 2022);
- Protecting California's Butterfly Groves (Xerces Society 2017);
- Managing Monarch Habitat in the West (Xerces Society 2021a);
- Pollinator-Friendly Native Plant Lists (Xerces Society 2021b);
- Monarch Butterfly Nectar Plant Lists for Conservation Plantings (Xerces Society 2018);
- Tropical Milkweed (Wheeler 2018); and,
- CDFW's Monarch Butterfly webpage (CDFW 2022a).

3) Nesting Birds. According to the Biological Resources Report for the Silver Lake Reservoir Complex Master Plan (GPA Consulting 2019), the Project area provides an important year-round resource for wildlife, especially for birds. The Project area provides nesting and breeding habitat for birds including great blue heron (*Ardea Herodias*), great horned owl (*Bubo virginianus*), northern mockingbird (*Mimus polyglottos*), and red-tailed hawk (*Buteo jamaicensis*).

a) Protection Status. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

b) Analysis and Disclosure. The Biological Resources Report for the Silver Lake Reservoir Complex Master Plan relies on bird surveys conducted in 2004, 2015, and 2018. In preparation of the DEIR, CDFW recommends the City retain a qualified biologist to conduct a recent nesting bird survey within the Project area (see General Comment #3f).

The DEIR should disclose species of nesting birds and raptors on site and location of nests based on a more recent survey in addition to survey results from 2004, 2015, and 2018. The DEIR should discuss the Project's potential impact on nesting birds and raptors. A discussion of potential impacts should include impacts that may occur during Project construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal. In addition, the DEIR should discuss impacts that may occur under proposed Project conditions (see Comment #1). The DEIR should disclose whether the Project would remove any trees that have been documented to support nesting birds and raptors.

c) Avoidance. CDFW recommends that the DEIR include measures to fully avoid impacts on nesting birds and raptors. To the extent feasible, no Project-related construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal should occur during the avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs. CDFW recommends that the City protect trees where great blue herons, red-tailed hawks, and owls nest.

d) Minimizing Potential Impacts. If impacts on nesting birds and raptors cannot be avoided, CDFW recommends the DEIR include measures to minimize impacts on nesting birds and raptors. Prior to starting ground-disturbing activities and vegetation removal, CDFW recommends a qualified biologist conduct nesting bird and raptor surveys to identify nests. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW recommends a minimum 300-foot no-disturbance buffer around active bird nests. For raptors, the no-disturbance buffer should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Project personnel, including all contractors working on site, should be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. Reductions in the buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors determined by a qualified biologist.

4) Bats. According to Appendix D in the Biological Resources Report for the Silver Lake Reservoir Complex Master Plan, the following species of bats may occur in the Project area: pallid bat (*Antrozous pallidus*); western mastiff bat (*Eumops perotis californicus*); hoary bat (*Lasiurus cinereus*); and big free-tailed bat (*Nyctinomops macrotis*). These four species of bats are designated as California Species of Special Concern (SSC).

a) Protection Status. 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). In addition, some bats are considered SSC. 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 endangered, rare, or threatened species (CEQA Guidelines, § 15380). Take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

b) Survey. In preparation of the DEIR, CDFW recommends the City retain a qualified bat specialist identify potential daytime, nighttime, wintering, and hibernation roost sites and conduct bat surveys within these areas (plus a 100-foot buffer as access allows) to

identify roosting bats and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats.

c) Analysis and Disclosure. The DEIR should discuss the Project's potential impact on bats and habitat supporting roosting bats. A discussion of potential impacts should include impacts that may occur during Project construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal. In addition, a discussion should include impacts that may occur under proposed Project conditions (see Comment #1).

d) Avoidance and Minimization. If the Project would impact bats, CDFW recommends the DEIR include measures to avoid/minimize impacts on bats, roosts, and maternity roosts. The DEIR should incorporate mitigation measures in accordance with California Bat Mitigation Measures (Johnston et al. 2004).

5) Stream Delineation and Impact Assessment. CDFW recommends the DEIR include a stream delineation and analysis of impacts on any river, stream, or lake[2]. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW (Cowardin et al. 1979). 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. The DEIR should disclose the linear feet and acres of streams and associated plant communities impacted by the Project. Impacts may include channelizing or diverting streams, impairing a watercourse, erosion, and removing and degrading vegetation through habitat modification (e.g., loss of water source, encroachment, and edge effects leading to introduction of non-native plants). In addition, the DEIR should discuss whether the Project would require water diversion or dewatering during Project construction and for the Project's lifetime.

a) Mitigation. If the Project would impact streams, the City should provide measures to mitigate the Project's potential impacts on streams and associated plant communities. Mitigation may include avoiding impacts by establishing effective unobstructed vegetated buffers and setbacks adjoining streams and associated plant communities. If the City proposes buffers and setbacks as mitigation, the DEIR should include justification for the effectiveness of chosen buffer and setback distances to avoid impacts on the stream and associated plant communities. If avoidance is not feasible, the City should provide compensatory mitigation for impacts on streams and associated plant communities at no less than 2:1. The City should provide higher mitigation for impacts on sensitive plant communities (see General Comment #3a) and presence of rare, sensitive, or special status flora and fauna.

b) Fish and Game Code section 1602. CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources

[2] "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.

which includes rivers, streams, or lakes and associated natural communities. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW[3]. Accordingly, if the Project would impact streams, the DEIR should include a measure whereby the City would notify CDFW pursuant to Fish and Game Code section 1602 prior to starting activities that may impact streams. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2022b).

6) Use of Rodenticides. The Project proposes a planting design that incorporates ornamental gardens and lawns. Ornamental gardens and lawns may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. Assembly Bill 1788 prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife such as mountain lions, bobcats, foxes, and coyotes (California Legislative Information 2020). CDFW recommends the DEIR include a discussion as to the Project's use of herbicides, pesticides, and second-generation anticoagulant rodenticides to maintain the Project's grounds in perpetuity. The DEIR should discuss when and where these chemicals would be used and what impacts those chemicals may have on habitat and wildlife. CDFW recommends the City prohibit the use of any second-generation anticoagulant rodenticides during Project implementation and for maintenance of the Silver Lake Reservoir Complex in perpetuity.

7) Wildlife Friendly Fencing. CDFW supports the use of wildlife-friendly fences for the Project. Wildlife-friendly fences should replace chain-link fencing to the maximum extent feasible because chain-link fencing could result in wildlife injury or mortality due to impalement and entanglement. Wildlife-friendly fences should be used and strategically placed in areas of high biological resources value to protect biological resources and habitat. For information wildlife-friendly fences, CDFW recommends A Landowner's Guide to Wildlife Friendly Fences (MFWP 2012).

8) Use of Native Plants and Trees. CDFW supports the use of native plants for the Project. CDFW strongly recommends avoiding non-native, invasive plants for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council (Cal-IPC 2022). CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project area. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and

[3] CDFW's issuance of a 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 environmental document of the local jurisdiction (lead agency) for the project. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the environmental document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

9) Prohibit the Use of Drones. To protect wildlife and habitat when the Project is fully built-out, CDFW recommends the City prohibit the use of drones in the Silver Lake Reservoir Complex. Drones disrupt wildlife and could affect bird breeding and nesting behavior, potentially resulting in loss of fertile eggs and nestlings. CDFW recommends the City install educational materials and signage prohibiting the use of drones and educating the public about the impacts drones can have on wildlife and habitats.

General Comments

1) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).

2) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document "shall describe feasible measures which could mitigate for impacts below a significant level under CEQA."

   a) Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency "shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures" (Pub. Resources Code, § 21081.6). CDFW recommends the City provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

   b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened,

rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to an SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information:

a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the Vegetation Classification and Mapping Program - Natural Communities webpage (CDFW 2022c);

b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Adjoining habitat areas should be included where the Project's construction and activities could lead to direct or indirect impacts off site;

c) Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project area and within adjacent areas. The Manual of California Vegetation (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2009). Adjoining habitat areas should be included in this assessment where the Project's construction and activities could lead to direct or indirect impacts off site;

d) A complete and recent assessment of the biological resources associated with each habitat type in the Project area and within adjacent areas. CDFW's California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022d). An assessment should include a minimum nine-quadrangle search of the CNDDB to determine a list of species potentially present in the Project area. A lack of records in the CNDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];

e) A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project area and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's Survey

and Monitoring Protocols and Guidelines for established survey protocol for select species (CDFW 2022d). Acceptable species-specific survey procedures may be developed in consultation with CDFW and USFWS; and,

f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.

4) Biological Direct, Indirect, and Cumulative Impacts. The DEIR should provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources with specific measures to offset such impacts. The DEIR should address the following:

a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR;

b) A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted [CEQA Guidelines, § 15126.2(a)];

c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;

d) A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat (if any) supported by the groundwater. Measures to mitigate such impacts should be included;

e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,

f) A cumulative effects analysis as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and natural communities. If the City determines that the Project would not have a cumulative impact, the DEIR should indicate why the cumulative impact is not significant. The City's determination should be supported by facts and analyses [CEQA Guidelines,

§ 15130(a)(2)].

5) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR:

   a) A complete discussion of the purpose and need for, and description of the proposed Project;

   b) Pursuant to CEQA Guidelines section 15126.6(a), an environmental document "shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project." CEQA Guidelines section 15126.6(f)(2) states if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion; and,

   c) A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends the City select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends the City consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

      Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR "shall" include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

   d) Where the Project may impact aquatic and riparian resources, CDFW recommends the City select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level and cause the watercourse to alter its course of flow.

6) Data. CEQA requires that information developed in environmental impact reports be incorporated into a database 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 by completing and submitting CNDDB Field Survey Forms (CDFW 2022e). To submit information on special status native plant populations and sensitive natural communities, the Combined

Rapid Assessment and Releve Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022f). The City should ensure data collected for the preparation of the DEIR be properly submitted, with all data fields applicable filled out.

7) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. 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 plants and animals and their habitats.

8) Compensatory Mitigation. The DEIR should include compensatory mitigation measures for the Project's significant direct and indirect impacts to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, 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.

9) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.

10) CESA. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if a project and any project-related activity during the life of a 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 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 unless the project's CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP.

11) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies. The Wetlands Resources policy the Commission "…seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California" (CFGC 2020). Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

    a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

    b) The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

Conclusion

We appreciate the opportunity to comment on the NOP for the Silver Lake Reservoir Complex Master Plan Project to assist the City of Los Angeles in preparing the Project's environmental document and identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:
5991E19EF8094C3...
Victoria Tang signing for

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW
Erinn Wilson-Olgin, Los Alamitos – Erinn.Wilson-Olgin@wildlife.ca.gov
Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva, Los Alamitos – Felicia.Silva@wildlife.ca.gov
Julisa Portugal, Los Alamitos – Julisa.Portugal@wildlife.ca.gov
Frederic (Fritz) Rieman, Los Alamitos – Frederic.Rieman@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov
State Clearinghouse, Office of Planning and Research – State.Clearinghouse@opr.ca.gov

References:

[CFGC] California Fish and Game Commission. 2020. Policies. Retention of Wetland Acreage and Habitat Values. Accessed: https://fgc.ca.gov/About/Policies/Miscellaneous.
[CDFWa] California Department of Fish and Wildlife. 2022. Monarch butterflies. Available from: https://wildlife.ca.gov/Conservation/Invertebrates/Monarch-Butterfly
[CDFWb] California Department of Fish and Wildlife. 2022. Lake and Streambed Alteration Program. Available from: https://wildlife.ca.gov/Conservation/LSA.
[CDFWc] California Department of Fish and Wildlife. 2022. Natural Communities. Available from: https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities.
[CDFWd] California Department of Fish and Wildlife. 2022. California Natural Diversity Database. Available from: https://wildlife.ca.gov/Data/CNDDB/Maps-and-Data#43018408-cnddb-in-bios
[CDFWe] California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDB. Available from: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data
[CDFWf] California Department of Fish and Wildlife. 2022. Natural Communities — Submitting Information. Available from: https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit
[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural

Communities. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959)

[CDFW] California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline

[CDFW] California Department of Fish and Wildlife. 2015. State Wildlife Action Plan: A Conservation Legacy for Californians. Available from: https://wildlife.ca.gov/SWAP/Final

[Cal-IPC] California Invasive Plant Council. 2022. The Cal-IPC Inventory. Available from: https://www.cal-ipc.org/plants/inventory/

California Legislative Information. 2020. AB-1788 Pesticides: use of second-generation anticoagulant rodenticides. Available from: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1788

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish and Wildlife Service. FWS/OBS-79/31. Washington, DC.

Crone, E. E., Pelton, E. M., Brown, L. M., Thomas, C. C., & Schultz, C. B. (2019). Why are monarch butterflies declining in the West? Understanding the importance of multiple correlated drivers. *Ecological Applications*, *29*(7), 1–13. https://doi.org/10.1002/eap.1975

Fernandez-Juricic, E., Zahn, E.F., Parker, T., Stankowich, T. (2009). California's endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*): Tolerance of Pedestrian Disturbance. Avian Conservation and Ecology 4(2):1.

Fisher, A., Saniee, K., van der Heide, C., Griffiths, J., Meade, D., & Villablanca, F. (2018). Climatic niche model for overwintering monarch butterflies in a topographically complex region of California. *Insects*, *9*(4). https://doi.org/10.3390/insects9040167

GPA Consulting. 2019. Task II: Research & Analysis Biological Resources Report. Silver Lake Reservoir Complex Master Plan Project. Available from: https://eng2.lacity.org/sites/g/files/wph726/f/SLRCMP%20-%20BIOLOGICAL%20RESOURCES%20Report.pdf

Hillman, M.D., Karpanty, S.M., Faser, J.D., Derose-Wilson, A. (2015). Effects of Aircraft and Recreation on Colonial Waterbird Nesting Behavior. The Journal of Wildlife Management 79(7): 1192-1198.

Johnston, D., Tatarian, G., & Pierson, E. 2004. California Bat Mitigation Techniques, Solutions, and Effectiveness. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10334

Lucas, E. (2020). Recreation-related disturbance to wildlife in California – better planning for and management of recreation are vital to conserve wildlife in protected areas where recreation occurs. California Fish and Wildlife, Recreation Special Issue 2020 pp 29-51. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178943&inline

Marcum, S., & C. Darst. (2021). Western Monarch Butterfly Conservation Recommendations. Available from: https://wafwa.org/wp-content/uploads/2021/10/Western-Monarch-Sec-7-Conservation-Recs-08.31.2021.docx

[MFWP] Montana Fish, Wildlife and Parks. 2012. A Landowner's Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind. Second Edition Revised and Updated. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=134713&inline

Remacha, C., Delgado, J.A., Bulaic, M., Perez-Tris, J. (2016). Human Disturbance during Early Life Impairs Nestling Growth in Birds Inhabiting a Nature Recreation Area. PLoS ONE 11(11): e0166748. doi:10.1371/journal.pone.0166748

Steven, R., Pickering, C. and J.G. Castley. (2011). A review of the impacts of nature based recreation on birds. Journal of Environmental Management 92: 2287-2294.

Sawyer, J. O., Keeler-Wolf, T., and Evens J.M. 2009. A Manual of California Vegetation, 2nd ed. ISBN 978-0-943460-49-9.

Thogmartin, W. E., Wiederholt, R., Oberhauser, K., Drum, R. G., Diffendorfer, J. E., Altizer, S., Taylor, O. R., Pleasants, J., Semmens, D., Semmens, B., Erickson, R., Libby, K., & Lopez-Hoffman, L. (2017). Monarch butterfly population decline in north america: Identifying the threatening processes. *Royal Society Open Science*, *4*(9). https://doi.org/10.1098/rsos.170760

Weiss, S.B., Rich, P.M., Murphy, D.D., Calvert, W.H., & Ehrlich, P.R. (1991). Forest Canopy Structure at Overwintering Monarch Butterfly Sites: Measurements with Hemispherical Photography. *Conservation Biology*, *5*(2), 165–175. https://doi.org/10.1111/j.1523-1739.1991.tb00121.x

[WAFWA] Western Association of Fish and Wildlife Agencies. 2019. Western Monarch Butterfly Conservation Plan 2019-2069. Available from: https://wafwa.org/wpdm-package/western-monarch-butterfly-conservation-plan-2019-2069/?ind=1602171186650&filename=WAFWA_Monarch_Conservation_Plan.pdf&wpdmdl=13048&refresh=60f9defee81e21626988286

Western Monarch Count. 2022. Overwintering Site Management and Protection. Available from: https://www.westernmonarchcount.org/overwintering-site-management-and-protection/

Wheeler, J. 2018. Tropical Milkweed – a No-Grow. Xerces Society for Invertebrate Conservation. Available from: https://xerces.org/blog/tropical-milkweed-a-no-grow

[Xerces Society] Xerces Society for Invertebrate Conservation. 2021a. Managing Monarch Habitat in the West. Available from: https://xerces.org/monarchs/western-monarch-conservation/habitat

[Xerces Society] Xerces Society for Invertebrate Conservation. 2021b. Pollinator-Friendly Native Plant Lists. Available from: https://xerces.org/pollinator-conservation/pollinator-friendly-plant-lists

[Xerces Society] Xerces Society for Invertebrate Conservation. 2018. Monarch butterfly nectar plant lists for conservation plantings. Available from: https://xerces.org/sites/default/files/publications/18-003_02_Monarch-Nectar-Plant-Lists-FS_web%20-%20Jessa%20Kay%20Cruz.pdf

[Xerces Society] Xerces Society for Invertebrate Conservation. 2017. Protecting California's Butterfly Groves. Management Guidelines for Monarch Butterfly Overwintering Habitat. Available from: https://www.westernmonarchcount.org/wp-content/uploads/2014/11/2017-040_ProtectingCaliforniaButterflyGroves.pdf