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**GAVIN NEWSOM, Governor**  
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Governor's Office of Planning & Research

**Apr 19 2022**

## STATE CLEARINGHOUSE

April 19, 2022

Dai Hoang  
Development Services Department  
City of Chula Vista  
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**Subject: Proposed Otay Pipeline 2 Segment A6 Replacement (Project), Draft Mitigated Negative Declaration (MND), SCH #2022030549**

Dear Mr. Hoang:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a proposed MND from the City of Chula Vista (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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. The Project details referenced here are based on information provided in the MND and its associated documents, as well as through prior meetings and correspondence between CDFW and Project proponents.

### 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 also administers the Natural Community Conservation Planning (NCCP) program. The City participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan. Per the draft MND, the City has determined that the Project conforms with the Chula Vista MSCP Subarea Plan, as well as the City of San Diego's MSCP Subarea Plan. Because the Project is located within the Otay Ranch Preserve, a Habitat Loss and Incidental Take (HLIT) Permit is also required.

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<sup>1</sup> 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

**CEQA Lead Agency:** City of Chula Vista

**Project Applicant:** City of San Diego

**Objective:** The proposed Project involves replacement in place of approximately 4,000 linear feet of the Otay Pipeline 2 Segment A6 (pipeline) using mostly open-trench construction methods. To avoid impacts to Salt Creek, a jack-and-bore method of horizontal boring would be used during pipeline replacement for that section. The Project would replace the current, degraded pipe with a larger circumference steel pipe to provide a redundant water supply line for current and anticipated future water flows from the Otay Water Treatment Plant to users in the City of San Diego. Upon completion of the pipeline replacement, a 10-foot-wide decomposed granite road would be established above the new pipeline and connect to existing external access roads for long-term maintenance access to the site.

**Location:** The Project is a City of San Diego utilities project located within the jurisdiction of the City of Chula Vista. The Project traverses the Otay Ranch Preserve and is bordered to the east by the Otay Water Treatment Plant and to the west by the Salt Creek/Village 10 parcel boundary. All construction activities would occur within a 100-foot-wide corridor (approximately 10 acres total) owned in fee by the City of San Diego. In addition, the easternmost portion of the Project site is mapped within the City of San Diego's Multi-Habitat Planning Area (MHPA) under the City of San Diego MSCP Subarea Plan.

**Biological Setting:** Per the Biological Resources Technical Report (BTR; Appendix B of the MND), the proposed Project site traverses undeveloped open space characterized by sloping ridgelines and several tributaries, including Salt Creek. The site consists primarily of intact and disturbed upland habitats (Diegan coastal sage scrub [7.11 acres] and non-native grassland [0.58 acre]) and a small area of freshwater marsh habitat and non-vegetated channels. Six special status plant species were observed on the Project site during surveys<sup>2</sup>: Palmer's grappleshook (*Harpagonella palmeri*; CRPR 4.2), San Diego barrel cactus (*Ferocactus viridescens*; CRPR 2B.1, CV NE and SD MSCP), San Diego County viguiera (*Bahiopsis laciniata*; CRPR 4.3), San Diego marsh-elder (*Iva hayesiana*; CRPR 2B.2), south coast saltscale (*Atriplex pacifica*; CRPR 1B.2), and southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*; CRPR 4.2). Two additional special status plant species were determined to have a high potential to occur on site: Otay tarplant (*Deinandra conjugens*; FT/SE, CRPR 1B.1, CV NE and SD MSCP) and variegated dudleya (*Dudleya variegata*; CRPR 1B.2, CV NE and SD MSCP).

Ten special status animal species were observed or detected on or adjacent to the Project site: monarch butterfly (*Danaus plexippus*), Quino checkerspot butterfly (*Euphydryas editha quino*; [assumed present] FE, CV MSCP), coastal cactus wren (*Campylorhynchus brunneicapillus sandiegensis*; BCC, SSC, CV and SD MSCP), coastal California gnatcatcher (*Polioptila californica californica*; FT, SSC, CV and SD MSCP), least Bell's vireo (*Vireo bellii pusillus*; FE, SE, CV and SD MSCP), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*; WL, CV and SD MSCP), yellow-breasted chat

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<sup>2</sup> Federally endangered (FE), federally threatened (FT), federal bird of conservation concern (BCC), state endangered (SE), state threatened (ST), CDFW Special of Species Concern (SSC), CDFW Watch List (WL), CDFW Fully Protected (FP), California Rare Plant Rank (CRPR), City of Chula Vista MSCP Covered Species (CV MSCP), City of Chula Vista MSCP Narrow Endemic (CV NE), City of San Diego MSCP Covered Species (SD MSCP), City of San Diego MSCP Narrow Endemic (SD NE).

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(*Icteria virens*; SSC), western bluebird (*Sialia mexicana*; CV and SD MSCP), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; SSC), and southern mule deer (*Odocoileus hemionus fuliginata*; CV and SD MSCP). Six additional sensitive species were determined to have a high potential to occur on site: Bell's sparrow (*Artemisospiza belli belli*; SSC), Cooper's hawk (*Accipiter cooperii*; WL, CV and SD MSCP), northern harrier (*Circus cyaneus hudsonius*; SSC, CV and SD MSCP), orange-throated whiptail (*Aspidoscelis hyperythra*; WL, CV and SD MSCP), red diamond rattlesnake (*Crotalus ruber*; SSC), and Blainville's horned lizard (*Phrynosoma blainvilli*; SSC, CV and SD MSCP).

Per the draft MND, construction-related impacts to sensitive habitats during in-place pipeline replacement would be considered temporary (6.13 acres coastal sage scrub and 0.35-acre non-native grassland) and mitigated on site through in-kind restoration. Creation of the internal access road would be considered a permanent impact and mitigated off site at the appropriate ratios through in-kind restoration (0.75-acre coastal sage scrub at 3:1 and 0.06-acre non-native grassland at 2:1) at Wolf Canyon, located in another part of the Otay Ranch Preserve. The Project has been designed to avoid impacts to on-site jurisdictional aquatic resources, including Salt Creek and four non-vegetated channels.

Mitigation measures proposed to lessen potential direct and indirect impacts to sensitive species below a level of significance include breeding season avoidance for avian species, creation and implementation of a Salvage and Translocation Plan for cacti, preconstruction surveys and installation of temporary environmental fencing/flagging for avoidance of sensitive resources, biological monitoring, and implementation of the Narrow Endemic and Quino mitigation policies per the Chula Vista MSCP (Subarea Plan; Sections 5.2.3.2 and 5.2.8.1, respectively).

**Timeframe:** Construction is expected to last one year.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City 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.

1. Internal access roads: Per the draft MND, upon completion of the pipeline replacement a 10-foot-wide internal access road would be graded to connect existing external access roads to the five air vacuum and five blow-off valves for long-term maintenance access. According to the figures (Appendix A of the MND), the new access road would not cross Salt Creek or any of the unvegetated channels along the pipeline's extent and thus would be broken into segments. The proposed access road is considered a direct, permanent impact. Creation of new roads into native habitats can also result in indirect impacts by providing pathways for invasive species dispersal and increased access to open space habitats. Given that the Project is located within the Otay Ranch Preserve, CDFW is concerned with reducing project-related impacts to sensitive biological resources to the maximum extent feasible. Therefore, we suggest considering whether it is possible to reduce impacts related to the new access roads by eliminating any segments currently proposed that do not lead to an air vacuum or fire blow-off valve. In doing so, the Project could also potentially lessen permanent impacts to Quino habitat (estimated at 1.09 acre of permanent impacts to significant Quino habitat per the Revegetation Plan [Appendix F of the BTR]).

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2. Project status under MSCP: The draft MND and associated documents are inconsistent when considering what type of project it is pursuant to the MSCP Subarea Plan. For example, Section 3.3.1.2 of the BTR states that while it is not considered a Planned or Future Facility under the Subarea Plan, it is subject to the plan's facilities siting criteria. In other documents it is referred to as a "Covered Project" (draft MND) or an "existing legal use" (HLIT Ordinance Findings; Appendix B of the BTR). CDFW recommends that the final MND clarify the Project's standing under the MSCP Subarea Plan.
3. Mitigation Measure, BIO-3: Variegated dudleya, a Chula Vista MSCP Narrow Endemic, is identified by the BTR as having a high potential to occur within the Project site. However, it is not included in the draft MND's sensitive plant species impact discussion nor in the mitigation measure for sensitive plant species (BIO-3). CDFW recommends that the final MND is revised to include this species in those sections (similar to Otay tarplant), and that it is also added to the preconstruction survey requirements in MM BIO-5.
4. Mitigation Measure BIO-5: Per the BTR, burrowing owl (*Athene cunicularia*; SSC, CV and SD MSCP) has a moderate potential to occur within the Project site and thus may be subject to potential direct and indirect impacts from construction-related activities. CDFW recommends adding language to BIO-5 to require monitoring by a qualified biologist during project construction specific to burrowing owls, which have been known to use open pipes for nesting and roosting (CDFG 2012). If a burrowing owl is observed utilizing open pipes or other construction-related features within the Project site, CDFW should be consulted on next steps to avoid potentially significant impacts to this species.
5. Mitigation Measure BIO-8: Per the draft MND, MM BIO-8 states that unavoidable impacts to coastal cholla (*Cylindropuntia prolifera*) patches will be mitigated by salvaging and transplanting individuals to a suitable area within the Project site and/or planting new cholla at a 1:1 ratio after Project completion. However, the draft Revegetation Plan (Appendix F of the BTR) states that mitigation for new plantings of cholla would occur at a 2:1 ratio. Due to the slow growth habit of most species of cacti, planting of new cholla is not equivalent to salvage and translocation of mature cholla. Therefore, in order to offset impacts to occupied cactus wren habitat (i.e., mature, large cholla plants) CDFW recommends that the final MND is revised to include the 2:1 ratio for new cholla plantings if salvage and translocation of mature cholla is unsuccessful.
6. Revegetation Plan: Figure 4b of the Revegetation Plan includes a temporary impact area that is not marked for revegetation. The final Revegetation Plan should clarify if this is in error or explain why the area is not planned for revegetation. In addition, CDFW recommends including a requirement that all restoration-related irrigation be turned off and removed at least two years prior to Revegetation Plan sign-off. Lastly, to avoid introducing insectivorous pests into the Preserve (such as Argentine ants (*Iridomyrmex humil*) and fire ants (*Solenopsis invicta*)), the final Plan should include the requirement that any planting stock to be brought onto the Project site is first inspected by a qualified pest inspector to ensure it is free of pest species that could invade natural areas. Any planting stock found to be infested with such pests should not be allowed on the Project site. Any infested stock should be quarantined, treated, or disposed of according to best management principles by qualified experts in a manner that precludes invasions into natural habitats.

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7. Salvage and Translocation Plan: Section 4.1.3 of the Salvage and Translocation Plan (Appendix G of the BTR) states that fencing will be installed to prevent unauthorized off-road vehicle or other traffic into the revegetation areas and translocation sites. The use of fencing is not analyzed in the draft MND or mentioned in the other associated documents. The installation of fencing within the Preserve could have potential impacts on wildlife movement through the site and should be analyzed in the final MND. Furthermore, in regard to the draft Salvage and Translocation Plan, CDFW recommends including the probability of future temporary impacts related to ongoing and future pipeline access and maintenance activities as an additional factor in determining appropriate translocation sites for San Diego barrel cactus and coastal cholla.
8. Wildlife Agency approvals: Per the draft MND, all approvals for Project-related revegetation and management plans only include approval by the City of Chula Vista. CDFW requests that the final MND clarify that the Wildlife Agencies will be provided an opportunity to review revegetation and management plans associated with the Project and provide any comments or recommendations to the City.
9. Lake and Streambed Alteration Agreement (LSAA): 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 pursuant to section 1600 et seq. of the Fish and Game Code. Per the BTR, Project-related impacts to the flow, bed, bank, and riparian habitats associated with Salt Creek would be avoided through use of a jack-and-bore horizontal drilling method for replacement of the pipeline along that segment. The segments of pipeline that span four non-vegetated channels would also be replaced in a manner to avoid impacts to streams. However, potential impacts to jurisdictional wetlands may depend on whether the top of pipe, as installed, is below scour depth and whether both enter and exit pits are outside the stream. CDFW recommends that the City assess these project features when determining if an LSAA Notification should be submitted to CDFW.

## 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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](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 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.)

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## CONCLUSION

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

Sincerely,

DocuSigned by:

  
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David A. Mayer  
Environmental Program Manager  
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cc: CDFW

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## REFERENCES

California Department of Fish and Game. *Staff Report on Burrowing Owl Mitigation*, March 7, 2012 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>).