



February 7, 2024

Ms. Jessica Martinez-McKinney

City of Santa Cruz

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Santa Cruz, CA 95060

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Subject: Climate Resilient Santa Cruz: Graham Hill Water Treatment Plant Facility Improvements Project, Draft Environmental Impact Report, SCH No. 2022060566, City of Santa Cruz, Santa Cruz County

Dear Ms. Martinez-McKinney:

The California Department of Fish and Wildlife (CDFW) has received and reviewed the draft Environmental Impact Report (EIR) prepared by the City of Santa Cruz (City) for the Climate Resilient Santa Cruz: Graham Hill Water Treatment Plant Facility Improvements Project (Project), located in Santa Cruz County (County), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW submits these comments on the draft EIR to inform the City, as the CEQA Lead Agency, of potentially significant impacts to biological resources associated with the Project.

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 these comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it

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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may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project 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 Native Plant Protection Act (NPPA) (Fish & G. Code, § 1900 et seq.), related authorization as provided by the Fish and Game Code will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA or NPPA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. "Take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (Fish & G. Code, § 86). If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any such project modifications and mitigation measures must be incorporated into the EIR's analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a mandatory finding of significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes, streams, rivers, or associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject

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to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the Project planning process.

PROJECT DESCRIPTION SUMMARY

Proponent: The City of Santa Cruz in coordination with Santa Cruz County.

Objective: The Project consists of the construction and improvements to the Graham Hill Water Treatment Plant Facility (GHWTP) that addresses the aging infrastructure and to provide drinking water to residents of the City of Santa Cruz and surrounding areas. The Project is located on 17.1 acres of GHWTP parcel that includes four sublocations: 1) GHWTP Parcel: 12.4-acre of City-owned parcel located at 715 Graham

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Hill Road, Santa Cruz, CA 95060 on Assessor's Parcel Number (APN) 060-141-05. This area is the site of the existing GHWTP 2) Utility Corridor: 0.2-acre, 550-linear-foot utility corridor between the GHWTP parcel and the San Lorenzo River via Ocean Street Extension and a 15-foot right-of-way on APN 060-151-05. This area contains the existing underground 18- to 24-inch storm drain line, dedicated to the GHWTP, that discharges directly to the San Lorenzo River 3) Graham Hill Road Right-of-Way: 2.3 acres, 1,620 linear feet of the Graham Hill Road public right-of-way north of Mosswood Court and south of Lyle Way. This area contains a segment of the County's existing 12-inch gravity sewer in Graham Hill Road and other existing utilities. 4) 2.2-acre alternate sanitary sewer lateral replacement area from the southwest corner of the GHWTP parcel at Ocean Street Extension and along Ocean Street Extension for approximately 4,500 linear feet to the City Public Works Department maintained sanitary sewer connection at Graham Hill Road. This area contains a segment of the City's existing 4-inch sewer lateral located in Ocean Street Extension.

The Project consists of two staging areas: 1) Mount Hermon Road: 5.1-acre staging area for the proposed Project located at the northern intersection of Graham Hill Road and Mount Hermon Road, in Felton, CA at APN 071-201-43; 2) Ocean Street Extension: 1.9-acre staging area for the Project located at 1941 Ocean Street Extension at APN 008-031-16.

The Project includes new and upgraded water treatment and related processes including: 1) replacement of the existing pretreatment process with high-rate clarification; 2) the addition of new treatment processes including ozonation, biological filtration, future granular activated carbon adsorption, post-chlorination, and future ultraviolet; 3) improvements to the solids handling system; and 4) chemical feed system upgrades. The Project would include new buildings such as an upgraded operations and filter building, new maintenance building, new ozone building, new solids dewatering building, and new chemical storage and feed building. There would be infrastructure and site improvements including sewer improvements to support the new solids handling system, stormwater management improvements to update the existing stormwater collection system, vehicular access improvements, and electrical, lighting, heating, ventilation, and other improvements.

Timeframe: Construction of the GHWTP would be in four phases over a four-year period beginning in 2025 through 2029.

ENVIRONMENTAL SETTING AND LOCATION

The Project consists of the 17.1-acre GHWTP parcel, which is the site of the existing GHWTP, a utility corridor between the GHWTP parcel and the San Lorenzo River, a segment of the Graham Hill Road right-of-way between Mosswood Court and just south of Lyle Way, and an alternative sanitary sewer lateral replacement area from the

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GHWTP parcel along Ocean Street Extension to the City Public Works Department maintained sanitary sewer connection at Graham Hill Road. The City-owned GHWTP parcel is located in the upper portion of a large west-facing slope adjacent to the San Lorenzo River. The primary creeks located within the Project alignment include Laguna Creek, Reggiardo, Newell Creek, Majors Creek, Zayante Creek, Felton Diversion, and Liddel Spring. The GHWTP parcel is developed and largely covered in impervious surfaces in the developed portions of the parcel with undeveloped and vegetated land area around the northern, western, and southwestern edges of the parcel. There are many different types of habitats within the Project including black cottonwood forest and woodland, California bay forest and woodland, California sycamore woodland, coast live oak woodland and forest, Douglas-fir forest and woodland, ponderosa pine forest and woodland, and redwood forest and woodland.

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 biological resources.

COMMENT 1: Bat Species of Special Concern

Issue: The draft EIR states that there is low potential for pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), and western red bat (*Lasiurus blossevillii*) to occur within the Project site; however, the draft EIR does not include bat surveys prior to tree removal to avoid potentially significant impacts to these species.

Evidence the impact would be significant: CDFW designates pallid bat, Townsend's big-eared bat, and western red bat as California Species of Special Concern (SSC). A purpose of the SSC designation is to promote increased protections before the species require listing under CESA. These species are known to roost in tree bark, hollows, or foliage. Mature trees scheduled for removal could provide suitable roosting habitat. These bats are experiencing population declines in California (Brylski et al. 1998; Miner & Stokes 2005). Bats are long-lived and have a low reproductive rate (Johnston 2004); therefore, each mortality can have a protracted effect on the reproductive rate of the population. Removal of habitat could result in injury or mortality of these SSC bats, a potentially significant impact.

Recommended Mitigation Measure 1 - Roosting Bat Habitat Assessment and

Surveys: Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. A qualified bat biologist shall have: 1) at least two years of experience conducting bat surveys that resulted in detections for relevant species with verified project names, dates, and references, and 2) experience with relevant equipment used to conduct bat surveys. The habitat assessment shall be conducted a

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minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species). If suitable habitat trees are found, or bats are observed, Mitigation Measure 2 below shall be implemented.

Recommended Mitigation Measure 2 - Roosting Bat Tree Protections: If the qualified biologist identifies potential bat habitat trees, then tree trimming and tree removal shall not proceed unless the following occurs: 1) a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establishes absence of roosting bats, or 2) tree trimming and tree removal occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, and tree removal occurs using the two-step removal process. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.

In addition, a qualified biologist shall develop a bat roost habitat mitigation plan that identifies roost replacement options, including, but not limited to, bat boxes and tree planting, and submit the plan to CDFW for review and written approval, unless otherwise approved by CDFW. The bat roost habitat mitigation plan shall be implemented in the same year as the project impacts.

COMMENT 2: Tree Removal

Issue: The draft EIR states that up to 45 heritage trees as defined in Chapter 9.56 of the City Municipal Code may be removed by the Project, but the draft EIR does not include the species, diameter at breast height (dbh) or the locations of the tree planned for removal. This information is needed for CDFW to assess the impact of tree removal to fish and wildlife resources and evaluate the proposed mitigation.

Evidence the impact would be significant: Native tree species including those listed in the vegetation communities found on the Project site such as black cottonwood, California bay, California sycamore, coast live oak, Douglas-fir, ponderosa pine, and redwood have high habitat value and should be prioritized for protections. For instance, oak woodlands provide food and habitat to a variety of wildlife including birds, insects, mammals, reptiles, amphibians, and native understory plants and support some of the richest species abundance in California (Zaveleta et al. 2007, CalPIF 2002). Large mature trees (e.g., native tree that is greater than 15 inches in diameter) are of particular importance due to increased biological values such as providing nesting bird habitat and bat roost habitat. Loss of large mature native trees has the potential to result in significant impacts for these reasons.

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Recommendation: CDFW recommends the final EIR include the species, diameter and breast height, and locations of trees planned for removal. CDFW recommends the Project avoid removal of native large diameter trees or heritage trees to the greatest extent feasible. Tree limbing or other minimization measures should be considered prior to removal. Where large diameter tree removal is unavoidable, CDFW recommends Project mitigation include in-kind preservation of mature native trees and the mitigation plan should be included in the final EIR for the Project.

COMMENT 3: Nesting Bird Surveys and Protection

Issue: The draft EIR proposes to implement Standard Construction Practice #19 to avoid impacts to nesting birds. The measure does not provide a nesting bird survey radius around the work area, state that baseline data will be collected if active nests are discovered or provide the qualified biologist with stop work authorization.

Recommended Mitigation Measure 3 – Nesting Bird Surveys. If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys shall be conducted at the appropriate times of day and during appropriate nesting times.

Recommended Mitigation Measure 4 – Active Nest Protections. If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, a species appropriate buffer between the nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist shall have the authority to cease all construction work in the area until the young have fledged, and the nest is no longer active.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations 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 during Project surveys to the CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

CONCLUSION

Thank you for the opportunity to comment on the Project's draft EIR. If you have any questions regarding this letter or for further coordination with CDFW, please contact Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022060566)

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