



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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November 29, 2023

Michael Coleman

Santa Clara Valley Water District

5750 Almaden Expressway

San Jose, CA 95118-3686

mcoleman@valleywater.org

Subject: Pipeline Maintenance Program, Notice of Preparation of a Subsequent Environmental Impact Report, SCH No. 2023100671, Santa Clara County, San Benito County and Merced County

Dear Michael Coleman:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Subsequent Environmental Impact Report (SEIR) from the Santa Clara Valley Water District (Valley Water) for the Pipeline Maintenance Program (Project or PMP) pursuant the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; hereafter CEQA; Cal. Code Regs., § 15000 et seq.; hereafter CEQA Guidelines).

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 Fish and Game Code. In an email from you on November 1, 2023, CDFW received an extension to the deadline to provide comments from November 22 to November 29; and a subsequent extension (email dated November 29) to December 1.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all 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.

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

PROJECT DESCRIPTION SUMMARY

Proponent: Valley Water

Objective: The overall purpose of the proposed Project is to continue to maintain Valley Water's facilities and infrastructure that are required to meet Valley Water's obligation to deliver safe and reliable service as a water purveyor and serve as an updated policy guide for pipeline maintenance. The proposed Project serves to update and modernize the existing Pipeline Maintenance Program, which was evaluated under an Environmental Impact Report certified in 2007, and its associated Pipeline Maintenance Manual.

The objectives of the proposed Project include defining standard practices and procedures for pipeline maintenance activities and inspections, as well as streamlining environmental documentation and local, State and federal permitting processes.

Location: The Project primarily encompasses Santa Clara County as well as limited portions of San Benito and Merced counties.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Valley Water in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that a Subsequent Environmental Impact Report is appropriate for the Project.

I. Project Description

COMMENT #1: The CEQA Guidelines (§§15124 and 15378) require that the SEIR incorporate a full project description that contains sufficient information to evaluate and review the Project's environmental impact.

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Issue: Without a clear and concise description of the Project and potential foreseeable phases of the Project, it is challenging for CDFW to provide sufficient review of the NOP, assess all potential impacts of the Project, and provide adequate mitigation measures to offset the impacts. Temporary or permanent impacts from Project staging and the pipeline water releases could cause accelerated scour, increased turbidity, increased contaminants, change in water temperature, change in dissolved oxygen, change in stream flow, disturbance or mortality of terrestrial and semi-aquatic species, loss of aquatic and terrestrial habitat, and disturbance to nesting birds and roosting bats.

Recommendation 1: The Draft SEIR should include a detailed description of each type or category of Project activities, including approximate number of projects per year, construction schedule, equipment, crew sizes, and operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, schedule and amounts of water released during dewatering of pipes, and other features, in order for CDFW to evaluate and assess impacts that may occur from Project activities.

Recommendation 2: The PMP is currently a covered program under the Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan (Habitat Plan), implemented by the Santa Clara Valley Habitat Agency. The Habitat Plan is currently undergoing a major amendment, expected to be finalized by 2025, to expand its coverage area as well as add covered wildlife species. However, the existing Habitat Plan, as well as the future amendment, is limited to coverage within Santa Clara County. As a co-Permittee of the Habitat Plan, Valley Water should clarify in the Draft SEIR which Project activities will continue to be covered under the Habitat Plan and amendment. The Draft SEIR should discuss any additional geographic and wildlife species coverage of the PMP under the future Habitat Plan amendment, including any expected additional pipelines or segments and associated activities to be covered under the Habitat Plan. The Draft SEIR should also describe any expected additional impacts to land cover types under the Habitat Plan and any expected changes to Habitat Plan conditions to be followed or additional conditions needing to be developed to protect biological resources (see also Comment #3, Page 9 below).

COMMENT #2: The NOP states that Valley Water plans to obtain a Routine Maintenance Agreement (RMA) to cover all PMP activities that have the potential to impact “CDFW-jurisdictional aquatic features” rather than continue to obtain individual Lake and Streambed Alteration Agreements for each PMP activity.

Issue: CDFW will require additional information on Project activities, location, frequency, and timing of each activity to determine if an RMA for the entire PMP area would be appropriate. The NOP states that the RMA would be effective for a minimum of 5 years and “renewed on a regular basis in coordination with CDFW”; however, this

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statement needs correction and clarification. Furthermore, the NOP does not indicate the effective timeframe for PMP implementation.

Recommendation 1: To determine which Project activities may be appropriate under an RMA, the Draft SEIR should include a detailed description of each maintenance, inspection and repair Project, including location, frequency and timing, as well as any stand-alone capital projects. Please be advised that non-recurring (one-time) construction or development projects may not be appropriate under an RMA and are likely most appropriate to be covered under a Standard LSA Agreement. CDFW will coordinate with Valley Water further and provide additional guidance on the RMA and LSA permitting process (see also Mitigation Measure #2, Page 9 below).

Recommendation 2: The Draft SEIR should be clear on the term of implementation of the PMP. In relation to coverage of the Project under Fish and Game Code section 1602, under a typical RMA, the maximum term is 5 years with the possibility of a one-time 5-year extension. CDFW can also discuss with Valley Water whether a long-term RMA for the Project may be appropriate. If so, the term of a long-term RMA can exceed 5 years (for example, 10 years) with a possibility of a one-time 5-year extension. CDFW therefore recommends Valley Water clarify the proposed Project timeline.

II. Environmental Setting

COMMENT #1: The Project location covers a large geographic area within Santa Clara County and small portions of San Benito and Merced counties, where various special-status species, nesting birds, and rare plants may occur.

Issue: Special-status species, nesting birds, and rare plants may occur within the Project area and without appropriate mitigation measures, the Project could potentially have a significant impact on these species. Special-status species that may be present within the Project area, include, but is not limited to, those listed below:

- White-tailed kite (*Elanus leucurus*) – State Fully Protected
- Tricolored blackbird (*Agelaius tricolor*) – State Threatened
- Western burrowing owl (*Athene cunicularia*) – State Species of Special Concern
- Western pond turtle (*Emmys marmorata*) – State Species of Special Concern
- Central California Coast steelhead (*Oncorhynchus mykiss*) – Federally Threatened
- Central Valley fall-run Chinook salmon (*Oncorhynchus tshawytscha*) – State Species of Special Concern
- California red-legged frog (*Rana draytonii*) – Federally Threatened and State Species of Special Concern

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- California tiger salamander (*Ambystoma californiense*) – State Threatened, Federally Threatened
- Pallid bat (*Antrozous pallidus*) – State Species of Special Concern
- Townsend’s big eared bat (*Corynorhinus townsendii*) – State Species of Special Concern
- Yellow rail (*Coturnicops noveboracensis*) – State Species of Special Concern
- California black rail (*Laterallus jamaicensis coturniculus*) – State Threatened, State Fully Protected
- California Ridgway’s rail (*Rallus longirostris obsoletus*) – State Endangered, State Fully Protected
- Coast horned lizard (*Phrynosoma blainvillii*) – State Species of Special Concern
- American badger (*Taxidea taxus*) – State Species of Special Concern
- California legless lizard (*Aniella* ssp.) – State Species of Special Concern
- San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) – State Species of Special Concern
- Monterey Hitch (*Lavinia exilicauda harengus*) – State Species of Special Concern
- Least Bell’s vireo (*Vireo bellii pusillus*) – State Endangered, Federally Endangered
- Northern Harrier (*Circus hudsonius*) – State Species of Special Concern
- Foothill yellow-legged frog Central Coast DPS (*Rana boylei*) – State Endangered, Federally Endangered
- Crotch’s bumble bee (*Bombus crotchii*) – State Candidate as Endangered
- Tule elk (*Cervus canadensis nannodes*)
- Alkali milk-vetch (*Astragalus tener* var. *tener*) – California Rare Plant Rank 1B.2
- Congdon’s tarplant (*Centromadia parryi* ssp. *congdonii*) – California Rare Plant Rank 1B.2
- Arcuate bush-mallow (*Malacothamnus arcuatus*) – California Rare Plant Rank 1B.2
- Santa Clara Valley dudleya (*Dudleya abramsii* ssp. *setchellii*) – Federally Endangered
- Smooth lessingia (*Lessingia micradenia* var. *glabrata*) – California Rare Plant Rank 1B.2
- San Francisco collinsia (*Collinsia multicolor*) – California Rare Plant Rank 1B.2
- Hall’s bush mallow (*Malacothamnus hallii*) – California Rare Plant Rank 1B.2

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- Fragrant fritillary (*Fritillaria liliacea*) – California Rare Plant Rank 1B.2
- Big scale balsamroot (*Balsamorhiza macrolepis*) – California Rare Plant Rank 1B.2
- Loma Preita hoita (*Hoita strobilina*) – California Rare Plant Rank 1B.1
- Most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*) – California Rare Plant Rank 1B.2
- Metcalf canyon jewel-flower (*Streptanthus albidus* ssp. *albidus*) – Federally Endangered

The proposed Project includes activities such as release of water from pipelines into creeks and streams which may cause negative environmental impacts such as change in natural water flow and increased erosion. The proposed Project may also include maintenance activities and capital pipeline projects that may result in impacts to terrestrial species and their habitats. Without appropriate avoidance measures for special status species, potentially significant impacts associated with Project activities may include reduced reproductive success; reduced health and vigor; nest abandonment; loss of nest trees, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young); burrow/den collapse; crushing as a result of burrow collapse; inadvertent entrapment or entrainment; impingement; strandings; habitat loss; introduction of non-native species; turbidity; introduction of debris and/or deleterious materials into stream habitats; and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

Recommended Potentially Feasible Mitigation Measures

CDFW recommends that the Draft SEIR include the following mitigation measures to reduce impacts to less-than-significant levels:

Mitigation Measure #1: Habitat Assessment

A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for special-status species. For species in which habitat corridors are crucial, the habitat assessment should include review of habitat available within the specific Project location and adjacent habitats. If the Project may result in fragmentation of habitat, Project design(s) should be altered to prevent this fragmentation. If fragmentation cannot be avoided, structures should be designed to allow wildlife movement.

Mitigation Measure #2: Special-Status Plant Surveys

The Project area should be surveyed for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), by a

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qualified biologist following protocol-level surveys. Protocol-level surveys, which are intended to maximize detectability, may include identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants, and survey report requirements, available at: <https://wildlife.ca.gov/Conservation/Plants>.

Mitigation Measure #3: Special-Status Wildlife Species Surveys and Bird Nest Surveys

The Project area should be surveyed for special-status wildlife species by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, focused surveys for special-status wildlife species presence, nests, or indicators of presence (e.g., bat guano and acoustic surveys) should be conducted. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

If Project activities are to take place during the avian nesting season, CDFW recommends protocol-level surveys following established methodologies (e.g., point counts, area searches, etc.) be conducted within the Project area by a qualified biologist throughout the nesting season. These surveys should cover a sufficient area where suitable nesting habitat is present as well as an appropriate buffer surrounding nesting habitat. Surveys should be conducted prior to the start of any work that could result in loss of habitat or disturbance to nesting birds. As part of protocol-level surveys, pre-construction surveys should include a minimum of two surveys for active nests with the first survey conducted no more than 7 days prior to the start of Project activities, and the second survey conducted 48 hours prior to the start of Project activities.

Mitigation Measure #4: Impact Analysis

The Draft SEIR should include complete descriptions of permanent and temporary impacts to both aquatic and terrestrial species and their habitats associated with change in freshwater flow, ground disturbance, noise, lighting, reflection, air pollution, traffic, and/or human presence. The Draft SEIR should also include appropriate and effective mitigation measures to completely avoid impacts to special-status species and other native plant and wildlife species and natural communities. If complete avoidance is not feasible, the Draft SEIR should include minimization measures, and compensatory mitigation to offset all potential impacts.

Mitigation Measure #5: Special-Status Plant Avoidance

Special-status plant species should be avoided through delineation and establishment of a no-disturbance buffer of at least 50 feet from the outer edge of the plant population or specific habitat type required by special-status plant species.

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Mitigation Measure #6: Special-Status Wildlife Species and Nesting Bird Avoidance

If special-status wildlife species such as small mammals, amphibians or reptiles are found, work activities should stop, and the individual should be allowed to leave the site through its own volition. If Species of Special Concern wildlife species or active bird nests are found within or adjacent to the Project site, the qualified biologist should establish a no-disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. For nesting birds, the qualified biologist should increase the buffer if the birds are showing signs of unusual or distressed behavior such as defensive flights/vocalizations, standing up from a brooding position, or flying away from the nest. Buffers should be maintained until the eggs have hatched and young have fledged and are completely independent of the nest or roost site.

Mitigation Measure #7: State-listed Species Take Authorization

If State-listed species are identified during surveys and full avoidance of take is not feasible, Valley Water should consult with CDFW and obtain take authorization through issuance of an Incidental Take Permit (ITP).

Mitigation Measure #8: Federally listed Species Consultation

CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS) if the Project will impact federally listed species. Consultation with the USFWS and NMFS in order to comply with the federal Endangered Species Act is advised well in advance of Project implementation.

COMMENT #2: The Project occurs within Santa Clara County and activities may affect aquatic features and associated riparian habitat or other sensitive natural communities.

Issue: The Project includes activities subject to CDFW's Lake and Streambed Alteration authority, pursuant to Fish and Game Code § 1600 et seq. Project activities could result in temporary and/or permanent impacts to aquatic features, riparian habitat, and other sensitive natural communities through dewatering of pipes which may result in substantial diversion or obstruction of natural stream flows. The Project may also include activities that result in a substantial change or use of material from the bed, bank, or channel of streams.

Recommended Potentially Feasible Mitigation Measures

Mitigation Measure #1: Habitat Assessment

A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity supports freshwater marsh, wetland, and/or riparian communities. This survey should include, but

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not be limited to sensitive habitats associated with rivers, creeks or streams, ponds and drainages.

Mitigation Measure #2: Notification of Lake and Streambed Alteration

Fish and Game Code §1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, as well as those that are perennial in nature. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information, please see <https://www.wildlife.ca.gov/Conservation/LSA>. For additional information on notification requirements in CDFW's Region 3 (Santa Clara County), please contact our staff in the LSA Program by electronic mail at R3LSA@wildlife.ca.gov. For additional information on notification requirements in CDFW's Region 4 (San Benito and Merced counties), please contact our staff in the LSA Program at (559) 243-4593, or by electronic mail at R4LSA@wildlife.ca.gov.

COMMENT #3: Potential impacts to Crotch's bumble bee

Issue: Project activities, such as vegetation removal or ground disturbing activities could result in permanent and/or temporary loss of floral resources for Crotch's bumble bee and other native pollinator species, loss of bumble bee nesting habitat, crushing, or filling of active bumble bee colonies and hibernating cavities, and reduced reproductive success. Bumble bees are critically important because they pollinate a wide range of plants over the lifecycles of their colonies, which typically live longer than most native solitary bee species. Unauthorized take of Crotch's bumble bee pursuant to CESA is a violation of California Fish and Game Code section 2080 et seq.

Recommendation: Crotch's bumble bee is being considered as a Covered Species under the Habitat Plan amendment. As a co-permittee of the Habitat Plan, Valley Water could therefore receive take authorization for Crotch's bumble bee under CESA for the Project. Given that the amendment is only expected to be finalized by 2025, the Draft SEIR should clarify if Project activities expected to result in take of Crotch's bumble bee would be initiated prior to finalization of the Habitat Plan amendment. If Project activities may commence prior to coverage under the Habitat Plan, or Project activities fall outside of Habitat Plan coverage, the Draft SEIR should include measures to avoid take of Crotch's bumble bee or specify that, Valley Water will obtain an ITP prior to commencement of any Project-related construction activities that cannot avoid take.

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Recommended Potentially Feasible Mitigation Measures

CDFW recommends that the Draft SEIR include the following mitigation measures to reduce impacts to less-than-significant levels:

Mitigation Measure #1: A habitat assessment should be conducted within areas of all Project components by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee. The habitat assessment should include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment should be conducted during the peak bloom period for floral resources on which Crotch's bumble bee feed. Further guidance on habitat surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (<https://wildlife.ca.gov/Conservation/CESA>).

The results of the assessment should be discussed in the Draft SEIR, and mitigation measures should be developed and included in the Draft SEIR to avoid or minimize impacts of the proposed Project to the Crotch's bumble bee and/or the species' habitats.

Mitigation Measure #2: Survey Plan Surveys should be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bee. The survey plan should be submitted to CDFW for review and approval. If CESA candidate bumble bees will be captured or handled, surveyors should obtain any necessary handling permits such as a 2081(a) Memorandum of Understanding from CDFW. Surveys should be conducted during the colony active period or gyne flight season (generally, April 1 to October 31). The survey should occur at least two hours after sunrise (greater than 60°F and less than 90°F with no rain) or two hours before sunset and the survey area should include all suitable habitat within each of the Project component areas and a surrounding 100-foot buffer area. The survey duration should be appropriate to the size of the Project site and buffer area based on the metric of a minimum of one personhour of searching per three acres of suitable habitat; this will be an approximately 0.5-hour survey for an average sized Project site. Bumble bees move nests sites each year, therefore, surveys should be conducted each year that Project work activities will occur. Further guidance on presence surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (<https://wildlife.ca.gov/Conservation/CESA>)

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COMMENT #4: Potential impacts to California tiger salamander

Issue: California tiger salamander (CTS) breed and develop in vernal and seasonal pools and stock ponds in grassland, woodland, and scrub habitat types. They require upland refuges (i.e., small mammal burrows) when not breeding. Because both upland burrow refugia and breeding wetland habitat features suitable for use by CTS are likely present within and/or adjacent to the Project construction footprint.

Recommendation: CTS is a Covered Species under the Habitat Plan. As a co-permittee of the Habitat Plan, Valley Water could therefore receive take authorization for CTS under CESA for Project sites located in for Santa Clara County. However, since Project activities and presence of CTS may fall outside of Habitat Plan coverage, the Draft SEIR should include measures to avoid take of CTS or indicate that Valley Water will obtain an ITP prior to commencement of any Project-related construction activities in San Benito or Merced that cannot avoid take of CTS.

Recommended Potentially Feasible Mitigation Measures

CDFW recommends that the Draft SEIR include the following mitigation measures to reduce impacts to less than significant levels:

Mitigation Measure #1: Prior to ground-disturbing activities, a qualified wildlife biologist should assess the Project site and vicinity (i.e., up to 1.3 miles which is the observed CTS dispersal distance) that contains potentially suitable habitat, to evaluate potential for CTS presence. CDFW recommends site assessments follow the USFWS’s “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (2003).

Mitigation Measure #2: The qualified biologist should determine the impacts of Project-related activities to all CTS upland and breeding habitat within and/or adjacent to the construction footprint. CDFW advises avoidance for CTS include a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows. If burrow avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP is necessary prior to any ground-disturbing activities in order to comply with CESA. In addition, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP. For information regarding ITPs, please see the following link: <https://www.wildlife.ca.gov/Conservation/CESA>. Included in the ITP would be measures required to avoid and/or minimize direct take of CTS on the Project site, as well as measures to fully mitigate the impact of the take.

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COMMENT #5: Potential impacts to Tule elk

Issue: Tule elk are California's largest land mammal and an important wildlife resource whose population growth in recent decades has been of great interest to the public. Prior to non-indigenous settlement, it is estimated the elk population in California was more than 500,000 animals. Non-indigenous settlement decimated California's elk populations. By 1872, only a few tule elk remained in the San Joaquin Valley. Conservation organizations and hunters were able to restore elk to the California landscape. Elk population growth since 1970 has been significant and California now supports approximately 5,700 tule elk (CDFW 2018). Tule elk are known to utilize some Project sites and adjacent areas. Potential impacts to tule elk as a result of the Project includes temporary loss of habitat, mortality resulting from vehicle collisions, and entanglement with fences and other structures.

Recommendation: CDFW recommends the Draft SEIR include robust and feasible avoidance, minimization, and mitigation measures to reduce impacts to tule elk to less-than-significant.

III. Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects

COMMENT #1: Valley Water is a water district that implements and plans various projects within Santa Clara County, as well as portions of San Benito and Merced counties for the PMP.

Issue: Although activities proposed under the Project may occur within sections of streams and vary in location year to year, the Project may have considerable cumulative impacts within a stream or watershed. The PMP has been implemented for 16 years and the proposed Project plans to implement repair and maintenance activities and other projects for the foreseeable future. The Project, along with other future larger-scale projects such as flood protection projects, dam retrofit projects, etc. could further impact a variety of habitat types and species. Implementing both small and large-scale construction, repair and maintenance projects will or may result in impacts such as noise, groundwork, sediment, and deleterious material entering the stream, erosion, and other loss or modification of habitat that could significantly impact native species and their habitats.

Recommendation: The Draft SEIR should identify reasonably foreseeable future projects within the Project area, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, § 15355). Although a project's impacts may be less-than-significant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative

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impact, e.g., reduction of habitat for a special-status species should be considered cumulatively considerable.

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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form 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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist Valley Water in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination in Santa Clara County should be directed to Alexandra Anstett, Environmental Scientist, at (707) 815-6427 or by email at Alexandra.Anstett@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 339-0334 or by email at Brenda.Blinn@wildlife.ca.gov. Questions in San Benito or Merced counties should be directed to Jim Vang, Senior Environmental Scientist (Specialist), at (559) 580-3203 or by email at Jim.Vang@wildlife.ca.gov.

Sincerely,

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ec: Office of Planning and Research, State Clearinghouse, Sacramento

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