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Governor's Office of Planning & Research

**Feb 16 2024**

February 16, 2024

**STATE CLEARINGHOUSE**

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**SUBJECT: GARVEY RESERVOIR REHABILITATION PROJECT (PROJECT); NOTICE OF PREPARATION (NOP); SCH #2024010394**

Dear Michelle Morrison:

The California Department of Fish and Wildlife (CDFW) has received a Notice of Preparation of a Draft Environmental Impact Report (DEIR) from the Metropolitan Water District of Southern California (MWD) pursuant to 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.

**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 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.

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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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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 & Code, § 2050 et seq.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code §1900 et. sea.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

## **Project Description Summary**

**Proponent:** MWD

**Objective:** The Project proposes several upgrades and rehabilitation components to the existing 142-acre Garvey Reservoir (reservoir):

### Reservoir Cover and Liner

The existing reservoir floating cover is approximately 1,900,000 square feet in size with a series of weights and floats on top of the cover. The Project proposes to replace the liner of the cover. Prior to start of work in the reservoir, water would be drained through the junction structure into the middle feeder. Water below the intake at the inlet/outlet (I/O) tower would be pumped out and drained through existing v-ditches to the stormwater drainage system. Water discharged to the stormwater drainage system would be dechlorinated prior to discharge. The reservoir drainage system underneath the liner (i.e., underlying geo-textile cushion, underdrain, circulation piping) would be inspected and repairs or upgrades would occur, if necessary. The existing leak detection and monitoring system would also be upgraded, and the Inlet/Outlet (I/O) tower float assembly would be redesigned. Following inspection of the drainage system, a new floating cover would be installed. Start-up testing procedures (i.e., cover inflation, chlorination, instrument testing) would occur prior to resuming operations.

### I/O Tower Rehabilitation and Junction Structure

The reservoir’s I/O tower currently exists at the east end of the reservoir. The Project would provide seismic upgrades to the I/O tower and access bridge to increase seismic resistance against earthquakes. Lighting fixtures along the bridge and equipment within the I/O tower would also be upgraded and bulbs would be replaced with LED lights. In addition to replacement of light fixtures and seismic upgrades, five valves in the junction structure would be replaced after the reservoir has been emptied and refilled.

### Standby Generator and Facility Electrical System

The existing generator is in the eastern portion of the Project area at ground level between the administration building, water quality laboratory, and the sodium hypochlorite tank farm. The concrete block building housing the generator would be demolished, and a new generator would be installed under an open-air canopy structure or a new enclosed

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building. In addition to replacement of the standby generator, work on the facility electrical system work would occur underground between the administration building, water quality laboratory, and the sodium hypochlorite tank farm.

#### Surge Tank Telemetry

An existing 1,000-gallon surge tank is located at the top of the reservoir embankment, immediately south of the reservoir. Telemetry equipment would be improved with new direct cables. Pressure switches and automated tank controls would also be replaced.

#### Administration Building and Water Quality Laboratory Rehabilitation

The administration building and water quality laboratory are in the former chlorination building in the eastern portion of the Project area. The Project proposes upgrades and rehabilitation of the interior of the water quality laboratory. Rehabilitation activities would include design of a new interior plan layout, relocation of the emergency eye wash station, modifications to the existing restroom, and reconstruction of a retaining wall on the south side of the building.

#### Miscellaneous Site Upgrades

Smaller site components may be repaired or rehabilitated as part of the Project. Miscellaneous upgrades may include repaving existing reservoir roads, replacement of chain link fencing and gates, drainage improvements, replacement of security cameras, and upgrades to the ammonia feed system. Tree trimming, tree and vegetation removal, and landscaping would also occur as part of the Project.

#### Pump Station

In addition to upgrades and rehabilitation of the existing reservoir, the Project proposes to construct a new pump station adjacent to South Orange Avenue. The new pump station would be approximately 150 feet south of the junction structure and would house multiple pumps and valves for operational flexibility. The pump station would be approximately 500 square feet in size and would be partially recessed about 10 feet into the hillside adjacent to South Orange Avenue.

Project construction activities would occur in three phases over the course of approximately six years. The first phase would involve work on the reservoir cover and liner and the I/O tower. The second phase would involve work on the junction structure. Project activities related to facility electrical system, standby generator, surge tank telemetry, administration building, water quality laboratory, and miscellaneous sites upgrades would occur during both phases. The third phase would consist of constructing the pump station and upgrading the ammonia feed system. The construction staging area would be in an existing concrete area northwest of the reservoir and a construction trailer area is proposed south of the reservoir. Operations and maintenance activities would remain the same upon completion of the Project. Construction activities would occur primarily during daytime hours with occasional nighttime construction activities for specific Project activities (i.e., cover inflation within the reservoir and reservoir start up activities).

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**Location:** The Project area is approximately 142 acres located at 1061 South Orange Avenue in the City of Monterey Park, California. The Project area is surrounded by Garvey Ranch Park and Monterey Park City Yard to the north, Kempton Avenue to the west, South Orange Avenue to the east, and Ackley Street to the south.

**Biological Setting:** The Project area is situated in a residential neighborhood, with Hillcrest Elementary School to the east and Garvey Ranch Park to the north, and the boundary is entirely fenced off from surrounding properties. The reservoir lies in the center of the Project area with a variety of water infrastructure components and accessory structures throughout the Project area. The area consists primarily of developed land (i.e., paved roads, concrete areas, infrastructure) with relatively steep hillslopes directly adjacent to the reservoir. Two detention basins are in the southwest portion of the Project and receive flow from a rainwater collection system and surface runoff from adjacent uplands. Flow from the basins is conveyed into the underground stormwater system.

A general field survey was conducted on July 22, 2021, and findings were provided in the Initial Study. An aquatic resources delineation was also conducted on November 23, 2021, and findings were compiled in a *Jurisdictional Delineation Report*.

Vegetation in the Project area is regularly maintained by MWD and consists of non-native annual grasses (e.g., *Avena* sp., *Bromus* sp.) and sea fig (*Carpobrotus chilensis*) on the hillslopes. Eucalyptus (*Eucalyptus* sp.), elm (*Ulmus* sp.), Mexican fan palm (*Washingtonia robusta*), and pine (*Pinus* sp.) are present in the eastern, southern, and northern portions of the Project area. Additionally, there are highly fragmented patches of coastal sage scrub (CSS) on the south side of the Project area, which consist primarily of California buckwheat (*Eriogonum fasciculatum*) and sage (*Salvia* sp.). During the field survey, wildlife species observed include, but is not limited to, western fence lizard (*Sceloporus occidentalis*), common side blotched lizard (*Uta stansburiana*), California ground squirrel (*Spermophilus beecheyi*), red-tailed hawk (*Buteo jamaicensis*), and northern mockingbird (*Mimus polyglottos*). No special-status wildlife species were observed during the field survey.

Critical habitat for coastal California gnatcatcher (gnatcatcher; *Poliophtila californica*; Endangered Species Act (ESA)-threatened; California Species of Special Concern) is located approximately 1.8 miles southeast of the Project site. Given the vegetation present in the Project area and the proposed Project activities, sensitive species that are of concern to CDFW include gnatcatcher and monarch butterfly (monarchs; *Danaus plexippus*; ESA-candidate species).

## Comments and Recommendations

CDFW offers the recommendations below to assist MWD in adequately identifying 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;

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CEQA Guidelines, §§15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

### **Specific Comments**

1. Impacts to Gnatcatcher. Due to low quality and scattered assemblage of CSS within the Project area, the Initial Study states that there is no suitable nesting or foraging habitat for gnatcatcher. Gnatcatchers utilize a variety of habitats including chaparral, grassland, and CSS (USFWS 2019). According to the California Natural Diversity Database, gnatcatchers have been observed within a mile of the Project area (CDFW 2024a). Additionally, the Project area is located within the home range of the species and within 2 miles of critical habitat for gnatcatcher (USFWS 2022). Despite the low quality and small area size of CSS present, gnatcatcher may use the habitat on site. Moreover, the United States Fish and Wildlife Service (USFWS) Coastal California Gnatcatcher Presence/Absence Survey Protocol states that surveys should be completed if projects are located within the historic range of the species and contain sage scrub plant communities (USFWS 2019). CDFW recommends that MWD engage in scoping with the USFWS prior to circulation of the DEIR regarding permitting obligations for impacts to gnatcatcher. CDFW also recommends MWD explore Project design alternatives that would avoid, reduce, or restrict disturbances to gnatcatcher and the CSS present on site.
2. Impacts on Monarchs. Monarchs are commonly known to utilize eucalyptus trees as overwintering sites throughout Los Angeles County. Tree trimming and vegetation removal may directly impact any monarch butterflies overwintering in the Project area. Additionally, noise from construction activities may disturb overwintering roosts. Given the presence of eucalyptus trees on site, the DEIR should evaluate the Project's potential direct, indirect, and cumulative impacts on monarchs and overwintering habitat during the construction and operational phase of the Project.

CDFW recommends MWD retain a qualified biologist to assess the Project area for monarchs and overwintering habitat. The qualified biologist should survey eucalyptus and other trees within the Project area that are suitable for overwintering monarchs. The 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 11) to capture changing distributions through the season and in response to storm events. Findings should be incorporated in the DEIR for public review.

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 MWD provide compensatory mitigation so that there is no net loss of overwintering habitat. Mitigation for monarchs should be developed in consultation with USFWS. CDFW recommends MWD also consult the following resources to develop appropriate measures to mitigate the Project's potential impacts on monarchs.

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- [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 2024a);
- [Pollinator-Friendly Native Plant Lists](#) (Xerces Society 2024b); and,
- CDFW's [Monarch Butterfly](#) webpage (CDFW 2024b).

Given the candidate listing under the ESA, we also recommend MWD scope the impacts to this species and possible mitigation options with the USFWS.

3. Nesting Birds and Raptors. CDFW recommends the DEIR include a measure to fully avoid impacts to nesting birds and raptors. No construction, ground-disturbing activities (e.g., mobilizing, staging, and excavating), or vegetation removal should occur during the avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs. If impacts to 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, a qualified biologist should conduct nesting bird and raptor surveys to identify nests. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW generally recommends a minimum 100-foot no disturbance buffer around active passerine nests. For raptors, the no disturbance buffer should be expanded to 500 feet. Reductions in the nest buffer may occur in consideration of site-specific features such as ambient levels of human activity, screening vegetation, or other factors.
4. Lighting Design. The Project proposes to replace light fixtures and light bulbs as well as conduct occasional nighttime construction activities. Artificial night lighting can affect plants and wildlife through attraction and disorientation, loss of connectivity, interference with pollination and foraging, and disruption of circadian rhythms and lunar and seasonal cycles (Barrientos et al. 2023). CDFW recommends the DEIR evaluate lighting impacts, especially nighttime lighting, on wildlife species and biological resources within the Project area during the construction and operational phases.

CDFW also recommends MWD prepare a lighting plan that discusses the criteria used in selecting the types of light fixtures, a schedule detailing the hours various lights will be on, and steps taken by MWD to minimize adverse effects on wildlife species. Methods for minimizing adverse effects of artificial night lighting include lighting only where light is necessary, turning lights off when they are not in use (e.g., motion detector), only using as much light as is needed, directing the light only where it is needed, and using the lowest possible correlated color temperature for the goal of the lighting.

5. Landscaping. The Project proposes landscaping throughout the Project area. CDFW recommends the DEIR provide the Project's landscaping plant palette and replacement tree species list. CDFW recommends MWD use only native species found in naturally occurring vegetation communities within or adjacent to the Project area. MWD should

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not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends MWD restrict use of any species, particularly 'moderate' or 'high' listed by the [California Invasive Plant Council](#) (Cal-IPC 2024). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure. 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 raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

## General Comments

1. Biological Baseline Assessment. The DEIR should provide an adequate biological resources assessment, including 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 upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project area. CDFW also considers impacts to 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 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)], or common habitats that have become greatly reduced because of ongoing development. The DEIR should include measures to fully avoid or otherwise offset impacts to Sensitive Natural Communities or native/naturalized communities that support regional sensitive species from Project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. In particular, plant communities, alliances, and associations with a state-wide 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 2024c).
  - 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 Project construction and activities could lead to direct or indirect impacts off site.



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- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a Project area and within the neighboring vicinity. The [Manual of California Vegetation Online](#) should also be used to inform this mapping and assessment (CNPS 2024). Adjoining habitat areas should be included in this assessment if the Project could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
  - d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a Project. California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. An assessment should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at a Project area. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the Project area. 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 rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern 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 a 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. Acceptable species-specific survey procedures may be developed in consultation with CDFW and the USFWS.
  - f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a 1-year period, and assessments for rare plants may be considered valid for a period of up to 3 years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if buildout could occur over a protracted timeframe or in phases.
2. Lake and Streambed Alteration Program. The DEIR should provide stream delineation and analysis of impacts. The delineation should be conducted pursuant to the 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. Modifications to a river, creek, or stream in one area may result in bank erosion, channel incision, or drop in water level along that stream outside of the immediate impact area. Therefore, CDFW recommends the DEIR discuss the potential impact to any stream that may be located



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within or surrounding the Project site.

- a) 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 proponent (or “entity”) must notify CDFW pursuant to Fish and Game Code Section 1600 *et seq.* CDFW’s issuance of a Lake and Streambed Alteration (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. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2024g).
3. 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).
4. Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects using 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 MWD provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear 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). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.
  - b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the

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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.

5. Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing 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 adjacent areas, should be fully evaluated in the DEIR.
  - b) A discussion of both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the 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 Project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project area. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project 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.
  - 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 vegetation communities. If MWD determines that the Project would not have a cumulative impact, the DEIR should indicate why the cumulative impact is not significant. MWD's conclusion should be supported by facts and analyses

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[CEQA Guidelines, § 15130(a)(2)] including the amount of development which has occurred within the Project area and adjacent lands, and the amount of development forecasted/expected to occur.

6. 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 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.

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7. 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 the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity 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 & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.
8. Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction 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 not adequately mitigate the loss of biological functions and values, off-site mitigation through acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, 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. Consideration may also be given to the purchase of credits from a conservation bank supporting similar habitat as that being impacted; the bank should have been approved by CDFW.
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 the 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. Wildlife Friendly Fencing. Fencing could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link

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fencing). If the Project would include temporary and/or permanent fencing, prior to preparation of the DEIR, CDFW recommends MWD provide wildlife friendly fencing designs. Fencing designs should be disclosed and evaluated in the DEIR for potential impacts on biological resources and wildlife movement. The DEIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value to protect biological resources, habitat, and wildlife movement. CDFW recommends [A Landowner's Guide to Wildlife Friendly Fences](#) for information wildlife-friendly fences (MFWP 2012).

11. Translocation/Salvage of Plants and Animal Species. Translocation and transplantation are 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.
12. 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 2024). 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 losses 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

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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).

13. Scientific Collecting Permits. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2024d). Pursuant to the California Code of Regulations, title 14, section 650, the qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.

14. Environmental Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2024e). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2024f).

15. Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects using feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Mitigation measures must be feasible, effective, implemented, and fully enforceable by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, §§ 15126.4, 15041). In preparation of an environmental document, CDFW recommends MWD prepare mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear so that a measure is fully enforceable and

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implemented successfully via a mitigation, monitoring, and reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6).

## Conclusion

We appreciate the opportunity to comment on the NOP for the Garvey Reservoir Rehabilitation Project to assist MWD in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at [Julisa.Portugal@wildlife.ca.gov](mailto:Julisa.Portugal@wildlife.ca.gov) or (562) 330-7563.

Sincerely,

DocuSigned by:



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