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Governor's Office of Planning & Research

January 12, 2024

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STATE CLEARINGHOUSE

Mandy Huffman
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SUBJECT: VALENCIA WATER RECLAMATION PLAN MIDDLE SECTION RETAINING WALL GROUND IMPROVEMENT PROJECT (PROJECT) NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) SCH# 2023110644

Dear Mandy Huffman:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced NOP for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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 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 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 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: Los Angeles County Sanitation District (LACSD)

Objective: The objective of the Project is to construct a new ground retaining wall structure to fortify the middle section of an existing retaining wall for the Valencia Water Reclamation Plant (VWRP). Santa Clarita Valley Sanitation District has determined that

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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under current circumstances, the VWRP is in danger of damage due to erosion or earthquakes. The intention of the new retaining wall is to protect the VWRP during such events. In addition, the project includes updates to two existing outfall structures, and clearing a long-term operations and maintenance area. Construction work will occur along the VWRP boundary as well as within an existing CDFW Conservation Easement (CE) to the west.

Location: The Project site is located along the western boundary of the VWRP which is located at 28185 The Old Road in Valencia, California. The VWRP is bounded by The Old Road to the northeast and by the Santa Clara River to the south and west. A CDFW Conservation Easement is adjacent to the site to the south and west.

Biological Setting: The VWRP is a developed water treatment plant. Project activities will impact sensitive habitats on the adjacent CDFW CE, which includes riparian habitat associated with the Santa Clara River. The existing CE land contains compensatory mitigation for a prior VWRP project which impacted the Santa Clara River.

A query of the California Natural Diversity Database shows that the Project site has potential to support a variety of sensitive wildlife and plant species, including western pond turtle (*Emys marmorata*; Federal Endangered Species Act (ESA) candidate threatened; CDFW Species of Special Concern (SSC)), California glossy snake (*Arizona elegans occidentalis*; SSC), Blainville's horned lizard (*Phrynosoma blainvillii*; SSC), American badger (*Taxidea taxus*; SSC), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), Palmer's grapplinghook (California Rare Plant Rank 4.2), and California Orcutt grass (ESA listed-endangered, CESA-listed endangered).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist LACSD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

COMMENT #1: CDFW Conservation Easement Impacts

LACSD has coordinated with CDFW during various meetings to discuss potential Project impacts to the adjacent CDFW CE. As written, Project activities are not allowable uses under the CE. At CDFW's request, LACSD provided alternatives to impacting the CE in August of 2022. LACSD's analyses showed that the only feasible alternative is the proposed Project, which will impact CE lands. CDFW understands the importance of finding a repair solution for the VWRP but continues to have concerns about impacts to protected lands, especially considering that these protected lands are already being used as mitigation for a prior project. As expressed in previous meetings with LACSD, impacts to an existing CE would require additional mitigation, and CDFW advised that offsetting additional potential impacts, and considering the previous impacts that were mitigated, and the very high biological sensitivity of the area, a minimum 10:1 ratio would be appropriate for impacts within the CE. CDFW acknowledges that the Initial Study states that further analysis on this issue will be included in the DEIR. The DEIR should include detailed information about which areas of the CE will be impacted, what the impacts will be, and in the case of temporal impacts, for how long. The discussion should also include viable mitigation options at a ratio of approximately 10:1 for the impacts within the CE. Additionally, the DEIR should discuss whether the Project will have impacts on other nearby sensitive areas, such as the Newhall property.

COMMENT #2: Biological Baseline Assessment

The DEIR should provide a complete assessment of the flora and fauna within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. The DEIR should include the following information:

- a. A thorough, recent floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to

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Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants/Info>). CDFW recommends that floristic, alliance-based and/or association-based mapping and vegetation impact assessments be conducted at the Project site and neighboring vicinity, and at potential mitigation sites for the project. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

- b. A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. CDFW's California Natural Diversity Data Base (CNDDDB) in Sacramento should be consulted at <https://www.wildlife.ca.gov/Data/BIOS> to obtain current information on any previously reported sensitive species and habitat.
- c. An inventory of rare, threatened, endangered and other sensitive species on site and within the area of potential effect. CNDDDB indicates the occurrence of several special status species within the Project vicinity. Species to be addressed should include sensitive fish, wildlife, reptile, invertebrate, and amphibian species. Seasonal variations in the use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.

COMMENT #3: Biological Direct, Indirect, and Cumulative Impacts

To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR:

- a. Specific acreages of habitat types that will be impacted due to Project-related activities. Details should be provided on whether impacts will be temporary or permanent.
- b. Potential adverse impacts from lighting, noise, human activity, invasive species, and drainage. Mitigation measures proposed to alleviate such impacts in onsite undeveloped areas and onto adjacent lands should be included.
- c. Indirect project 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 NCCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
- d. Cumulative effects on biological resources. This analysis should be developed 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 communities and wildlife habitats.
- e. Because there may be impacts to a mitigation site, the discussion needs to also include an analysis of the past project and its impacts to assess how those previous impacts will be fully offset by replacement mitigation.

COMMENT #4: Mitigation and Avoidance of Project-Related Biological Impacts

The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project 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

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functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

COMMENT #5: Fire and Fuel Modification

According to the Initial Study, the Project is in a Very High Fire Risk area. The DEIR should include a discussion of fire risk and fuel modification areas, and associated impacts to biological resources. This should include a map of fuel modification buffer zones, as well as allowances for sensitive plant species, if applicable. Areas that are part of fuel modification zones should be considered impacted and should not be included in compensatory mitigation or preservation acreages.

COMMENT #6: Nesting Birds

The Initial Study states that the Project may impact trees on the Project site. CDFW recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Title 50, § 10.13, Code of Federal Regulations). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit the take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Sections 3503.5 and 3513 of the California Fish and Game Code prohibit the taking of all raptors and other migratory nongame birds and section 3503 prohibits take of the nests and eggs of all birds. Proposed project activities, including but not limited to staging and disturbances to native and nonnative vegetation, structures, and substrates, should occur outside of the avian breeding season which generally runs from February 1- September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

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: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

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

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Questions regarding this letter or further coordination should be directed to Brigid Moran at Brigid.Moran@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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REFERENCES

California Environmental Quality Act (CEQA). 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.

California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2).