



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 9, 2024

Mandy Huffman
Santa Clarita Valley Sanitation District
1955 Workman Mill Road
Whittier, California 90601
mandyhuffman@lcsd.org

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE VALENCIA WATER RECLAMATION PLANT MIDDLE SECTION RETAINING WALL GROUND IMPROVEMENT PROJECT, SCH NO. 2023110644, LOS ANGELES COUNTY, CA

Dear Mandy Huffman:

The California Department of Fish and Wildlife (CDFW) reviewed the Environmental Impact Report (EIR) from the Santa Clarita Valley Sanitation District (SCVSD) for the Valencia Water Reclamation Plant (VWRP) Middle Section Retaining Wall Ground Improvement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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 (Fish & G. Code, § 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.

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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CDFW may also act 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 law² of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: SCVSD

Objective: The primary objective of the Project is to achieve long-term protection of the middle section of the VWRP boundary along the Santa Clara River. The Project proposes to construct a structure that can withstand capital flood scour levels and earthquakes with limited impact to the VWRP area; allow uninterrupted VWRP operation with controlled impact from construction activities; and to maintain permanent improvements within the property limits of the VWRP.

The Project would include construction of an underground retaining wall to prevent scour of the existing VWRP middle section wall, upgrades to two outfall structures, and the addition of riprap along the southern portion of the VWRP wall. The wall would be an anchored cement deep soil mixing (CDSM) structure or, where constraints prevent the use of CDSM, a secant wall with anchors. The wall would extend to a depth of approximately 70 feet below ground. A three-foot thick layer of riprap would be placed between the new CDSM/secant piles and the existing wall. Once constructed, a layer of approximately 18 inches of soil would be placed above the CDSM and riprap, and the impact area would be revegetated. The proposed CDSM/secant pile underground retaining wall would cover a surface area of approximately 0.87 acre.

Discharge Outfall 001, the northern outfall structure that is used to discharge tertiary treated water into the Santa Clara River, is currently infiltrated by vegetation and roots, which has caused a pipe joint separation. Portions of Discharge Outfall 001 would be temporarily removed and replaced, and the outfall would be rehabilitated by slip lining. Discharge Outfall 002, the southern outfall structure that discharges stormwater, exhibits a similar presence of infiltrating vegetation and roots as well as soil and debris, all of which has caused pipe backflow conditions. Discharge Outfall 002 would be demolished and replaced. An area surrounding both outfall structures would be permanently cleared to allow access to the outfall structures and to reduce impacts to the new structures from infiltrating vegetation and roots. The new maintenance area

² "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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surrounding the outfalls would encompass approximately 0.57 acre. Existing riprap along the southern portion of the VWRP wall would be expanded to the north, with the addition of approximately 0.05 acre of additional riprap. In total, the Project would impact approximately 3.26 acres.

Location: The Project site is located along the western boundary of the VWRP, which is located at 28185 The Old Road in Valencia, in unincorporated Los Angeles County, California. The VWRP is bound by The Old Road to the northeast and by the Santa Clara River to the south and west. A conservation easement area is located on SCVSD's property between the existing VWRP retaining wall and the western property line.

Timeframe: Construction of the Project is anticipated to begin in February 2026 and conclude by October 2027, with demolition taking approximately 1 month, grading and excavation lasting approximately 4 months, and construction of the retaining wall and outfall lasting approximately 15 months. Work would be confined to the dry season.

Biological Setting: The Project site is immediately adjacent to the Santa Clara River. The Project site is within the County of Los Angeles designated Significant Ecological Area (SEA) 20: Santa Clara River. A general biological survey and focused rare plant survey was conducted on March 4, 2022, and findings from the surveys and literature review were compiled in a Biological Technical Report (Bio Report). The Bio Report indicates the natural communities and land cover types within and adjacent to the Project footprint include big sagebrush (*Artemisia tridentata* shrubland), blue elderberry woodland (*Sambucus nigra* ssp. *caerulea* woodland), California rose briar patches (*Rosa californica* shrubland), California sagebrush scrub (*Artemisia californica* shrubland), Fremont cottonwood-arroyo willow forest (*Populus fremontii*-*Salix lasiolepis* forest), giant reed marsh (*Arundo donax* marsh), non-native annual grasses and forbs, tamarisk thickets (*Tamarix ramossissima* thickets), sandbar willow thickets (*Salix exigua* thickets), and disturbed/developed land. Of these habitats, blue elderberry woodland, California rose briar patches, Fremont cottonwood forest, and Fremont cottonwood-arroyo willow forest meet the criteria as CDFW sensitive communities.

The Project would result in impacts to 0.16 acre of blue elderberry woodland, 0.02 acre of California rose briar patches, 0.01 acre of restored California sagebrush scrub, 0.11 acre of Fremont cottonwood-arroyo willow forest, 1.65 acre of Fremont cottonwood forest, 0.36 acre of giant reed marshes, 0.58 acre of non-native annual grasses and forbs, 0.04 acre of tamarisk thickets, 0.17 acre of disturbed vegetation, and 0.17 acre of developed land, for a total of 3.26 acres.

The Bio Report determined 22 special-status wildlife species have a moderate to high potential to occur in the Project area. Species potentially affected by the Project include Santa Ana sucker (*Catostomus santaanae*; Endangered Species Act (ESA)-listed threatened, California Species of Special Concern (SSC)), arroyo chub (*Gila orcuttii*; SSC), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*; ESA-

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listed endangered, CESA-listed endangered, State fully protected), San Diegan legless lizard (*Anniella stebbinisi*; SSC), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), coast horned lizard (*Phrynosoma blainvillii*; SSC), two-striped garter snake (*Thamnophis hammondi*; SSC), southwestern pond turtle (*Actinemys pallida*; SSC, ESA-proposed threatened), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*; CESA-listed endangered, ESA-listed threatened), southwestern willow flycatcher (*Empidonax traillii extimus*; CESA-listed endangered, ESA-listed endangered), least Bell's vireo (*Vireo bellii pusillus*; CESA-listed endangered, ESA-listed endangered), American badger (*Taxidea taxus*; SSC), and Crotch's bumble bee (*Bombus crotchii*; CESA candidate).

During the rare plant survey, no rare plants were detected, but the Bio Report indicates suitable habitat exists at the Project site for 14 special-status plant species, including Nevin's barberry (*Berberis nevinii*; ESA-listed endangered, CESA-listed endangered), San Fernando Valley spineflower (*Chorizanthe parryi* var. *Fernandina*; CESA-listed endangered), and California orcutt grass (*Orcuttia californica*; ESA-listed endangered, CESA-listed endangered). Additionally, the Project site overlaps U.S. Fish and Wildlife Service (USFWS)-designated critical habitat for arroyo toad, least Bell's vireo, and southwestern willow flycatcher.

Measures are incorporated in the EIR to mitigate for Project impacts towards rare plants, nesting and special-status birds, special-status mammals including bats, special-status herpetofauna including southwestern pond turtle, Crotch's bumble bee, habitat including previously restored habitat, and SEA resources.

Project History: The VWRP was constructed in the 1960's. In the 1990's, the VWRP Stage Four Expansion Retaining Wall Project was constructed. In accordance with CDFW Stream or Lake Alteration Agreement Notification No. 5-644-91, a Conservation Easement was recorded in 1993 over the portion of SCVSD's property between the VWRP and the Santa Clara River. The Conservation Easement was intended to partially mitigate impacts resulting from that project and protect existing fish and wildlife resources in perpetuity. The Project overlaps portions of the Conservation Easement.

In 2018, SCVSD completed construction of the VWRP Retaining Wall Extension Project, situated northwest of the proposed Project. In accordance with CDFW Streambed Alteration Agreement No. 1600-2016-0004-R5, permanent impacts associated with the VWRP Retaining Wall Extension Project were mitigated through the purchase of mitigation credits from a CDFW-approved mitigation bank, and temporary impacts were mitigated through revegetation. The northern portion of the Project footprint overlaps habitat installed as part of mitigation, which includes California sagebrush scrub and planted Fremont cottonwood trees.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist SCVSD 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: Crotch's Bumble Bee

Issue: The Project has the potential to impact habitat for and result in take of Crotch's bumble bee. The measures in the EIR regarding Crotch's bumble bee can be improved to provide more effective and efficient protection.

Specific impact: Project activities involving ground and vegetation disturbance could result in potential significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality. Construction delays caused by work stoppages due to Crotch's bumble bee presence can extend the Project into additional breeding seasons, leading to increased disturbance to Crotch's bumble bee.

Why impact would occur: Crotch's bumble bee inhabits open grassland and scrub habitats. They are generalist foragers and can be found throughout most of southwestern California in areas that have suitable nesting habitat and floral resources. Bumble bees live in colonies composed of a queen, workers, and, near the end of the season, reproductive members of the colony. Colonies are annual, with new nests initiated by solitary queens in the spring. Crotch's bumble bees primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). New queens produced at the end of the annual colony cycle mate before entering diapause, which is a form of hibernation. Overwintering sites utilized by these solitary mated queens include soft, disturbed soil (Goulson, 2010), or under leaf litter or other debris (Williams et al. 2014). The highest detection probability is during the Colony Active Period of April through August, but Crotch's bumble bee could be on the Project site at any time of year.

Mitigation Measure *BIO-10: Crotch's Bumble Bee*, as it is currently written, requires focused surveys for Crotch's bumble bee. If Crotch's bumble bee is detected within 500 feet of the Project site during the surveys, the measure requires a qualified entomologist to identify the locations of all nests within and adjacent to the Project site and establish a minimum 15-meter no disturbance buffer around each nest. The measure only requires consultation with CDFW in the event impacts to a nest are unavoidable, to determine if take authorization is required. Finally, the measure requires the relocation of Crotch's bumble bee nests once a take authorization is acquired. If Crotch's bumble bee is present within or near the Project site, Project activities could result in take. Crotch's bumble bee nests are difficult to locate, as are individual bees hibernating

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underground, so avoidance of take may not be possible if Crotch's bumble bee is within the Project impact area. SCVSD should not obligate itself to relocating Crotch's bumble bee nests given how difficult and unsuccessful relocation activities are.

Evidence impact would be significant: Recently, the California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

CDFW considers impacts to species that are candidates for CESA listing to be significant under CEQA. Accordingly, the Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Mitigation Measure BIO-10 - SCVSD shall revise Mitigation Measure BIO-10: Crotch's Bumble Bee to incorporate the underlined language and omit language in strikethrough:

A qualified entomologist, approved by CDFW, shall conduct a focused survey in suitable habitat (e.g., Fremont cottonwood forest, blue elderberry woodland, California rose briars, and non-native grasses and forbs), in accordance with the ~~California Bumble Bee Atlas Point Surveys~~⁶ Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species³ protocol to determine presence/absence of the species. Surveys shall be conducted within one year prior to vegetation removal activities and a minimum of three surveys shall be conducted during peak flying season (April-August), when the species is most likely to be detected above ground. If surveys verify absence, no further action is required.

If surveys determine that Crotch's bumble bees are currently utilizing the study area, within 500 feet of the project site, coordination with CDFW shall occur to develop appropriate avoidance and minimization measures and determine if take authorization may be required. Appropriate take authorization may include an Incidental Take Permit, among other options. Appropriate take authorization shall be obtained prior to Project initiation. ~~a qualified entomologist shall identify the location of all nests within and adjacent to the project site. A 15-meter no disturbance buffer zone shall be established around any identified nest(s) to reduce the risk of disturbance or incidental take. A qualified entomologist shall expand the buffer zone as necessary to prevent disturbance or take. If impacts to a nest from proposed construction is unavoidable, consultation~~

³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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~~with the CDFW shall occur to determine if take authorization may be necessary. If take authorization is granted, the qualified entomologist will relocate the nest to a suitable location, through coordination with the CDFW. Various considerations shall be made to further reduce impacts during the relocation, such as 1) delaying relocation until the queen has the opportunity to emerge and 2) relocating within the home range of the nest.~~

Mitigation Measure #2: Revegetation - The revegetation planting shall include locally native nectar resources that can be expected to be blooming at any given time during the Colony Active Season (February 1 - October 31). A diverse assemblage of herbs, forbs, vines, and sub-shrubs, as well as annual and perennial plant species, shall be planted in the revegetated areas. Nectar- and pollen-producing plants that may be used by the Crotch's bumble bee include, but are not limited to, the genera *Asclepias*, *Chaenactis*, *Lupinus*, *Phacelia*, and *Salvia* in the families Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Hydrophyllaceae, Plantaginaceae, Onograceae, Papaveraceae, Polygonaceae, and Boraginaceae. Nectar resources shall be weed and pest free (e.g., Argentine ants), pathogen-free, and have not been treated with pesticides.

Recommendation #1: Nest Sites Notification - If Crotch's bumble bee nest or overwintering sites are discovered or can be documented, CDFW recommends SCVSD contact CDFW at wildlifemgt@wildlife.ca.gov, as well as the CDFW staff contact listed at the end of this letter.

COMMENT # 2: CESA-Listed Birds

Issue: The Project has the potential to impact CESA-listed birds. The measures in the EIR regarding least Bell's vireo (vireo), southwestern willow flycatcher (flycatcher), and yellow-billed cuckoo (cuckoo) can be revised to provide enhanced protection.

Specific impact: Project activities such as vegetation removal, ground disturbance, or installation of sound walls occurring during the breeding season of vireo, flycatcher and cuckoo could result in injury or mortality to adult birds, chicks, or eggs, and adversely affect breeding behavior. Elevated noise and ground disturbance could result in birds abandoning their nesting territory.

Why impact would occur: The Santa Clara River adjacent to the Project site contains characteristic vireo, flycatcher, and cuckoo habitat. Presence of these species may occur during their designated breeding season; vireo (March 15 through September 15), flycatcher (late April through mid-August), and cuckoo (early June through late August). Previous presence/absence vireo surveys conducted in the stretch of river adjacent to the Project site confirmed presence of vireo (Bloom Biological, Inc. 2015, Environmental Science Associates 2016, Compliance Biology Inc. 2022).

Mitigation Measure *BIO-5: Special-Status Bird Surveys* requires protocol-level presence/absence surveys for vireo, flycatcher, and cuckoo prior to the start of

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construction. If surveys confirm presence of any of the three species, and it is not feasible to avoid the nesting season, the measure indicates steps will be taken to reduce construction noise at an active nest or occupied habitat. Noise levels will be monitored to ensure that they do not exceed 10 decibels above pre-construction ambient noise levels. The measure goes on to state that if sound attenuation is not possible, the breeding season will be avoided. Considering the requirement to work only during the dry season, avoidance of the breeding season may not be feasible for some portions of the Project. To avoid adverse impacts to CESA-listed birds, SCVSD should assume presence of these species and aim to work outside of the nesting season. Removing all vegetation outside of the nesting season would lessen the potential for direct take of vireo, flycatcher, cuckoo, or their nests, and the birds will be unlikely to nest within the disturbance footprint once they do arrive for the season.

Evidence impact would be significant: Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, take under the ESA is more broadly defined than take under CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

CDFW considers impacts to CESA-listed species to be significant under CEQA. Accordingly, the Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #3: Mitigation Measure BIO-5 - SCVSD shall revise Mitigation Measure BIO-5 Special-Status Bird Surveys to incorporate language underlined and omit language in strikethrough:

Prior to the start of construction, focused surveys for the three listed bird species with potential to occur within the project area (least Bell's vireo, southwestern willow flycatcher and/or yellow-billed cuckoo) shall be conducted to determine presence/absence of the species within the study area. These shall be conducted in accordance with the Least Bell's Vireo Survey Guidelines, A Natural History Summary and Survey Protocol for the Southwestern Willow Flycatcher and A Natural History Summary and Survey Protocol for the Western Distinct Population Segment of the Yellow-billed Cuckoo. If surveys verify absence of all species, no further action is required.

If surveys determine that these species are present within 500 feet of the project site, SCVSD shall coordinate with CDFW and USFWS prior to Project initiation to develop an Avoidance Plan that includes conservation measures required to ensure vireo,

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flycatcher, and cuckoo are not adversely affected by Project activities. Such measures may include, but not be limited to, pre-construction nest surveys, screening materials to separate the Project site from adjacent habitat, and noise reduction/attenuation techniques to reduce Project-related noise to a maximum hourly average of 60 A-weighted decibels (dBA) or existing ambient levels, whichever is greater, at the edge of adjacent habitat, and avoidance of the nesting bird season (Mitigation Measure BIO-3) is not feasible, steps shall be taken to reduce effects to nesting activity by actively reducing construction noise (to no more than 10 decibels (dBA) above pre-construction ambient noise levels) at an active nest or occupied habitat. If construction must take place within 500 feet of an active nest of either the least Bell's vireo, southwestern willow flycatcher, or yellow-billed cuckoo, a qualified biologist will monitor noise levels to ensure that they do not exceed 10 dBA above pre-construction ambient noise levels. If this is not feasible, installation of temporary construction noise barriers may be installed to reduce noise levels to an acceptable level. If the blocking of noise using sound barriers is not feasible, work activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded. Avoidance measures requiring installation (sound walls, for example) shall be in place prior to March 15 and shall remain operational until September 15, of each year.

SCVSD shall coordinate with CDFW to obtain CESA take authorization for vireo, flycatcher, and cuckoo. Appropriate take authorization may include an Incidental Take Permit or a Consistency Determination in certain circumstances, among other options. Coordination with CDFW shall begin as soon as possible to discuss the appropriate take authorization for the Project. SCVSD shall obtain take authorization prior to Project initiation.

COMMENT # 3: Habitat Loss and Degradation

Issue: Despite Mitigation Measure *BIO-6: Habitat Replacement*, the Project may result in a substantial adverse effect on riparian habitats or other sensitive natural communities identified by CDFW. Furthermore, the Project could result in a substantial adverse effect on the habitat conservation value of lands set aside as mitigation for impacts from previous projects.

Specific impact: Project activities would result in direct impact to 3.26 acres, including removal of riparian habitats and other sensitive natural habitats. Additionally, disturbance from Project activities could make the adjacent habitats less suitable for wildlife during construction.

Why impact would occur: The EIR acknowledges that the Project would result in permanent and temporary impacts to CDFW sensitive natural communities, including blue elderberry woodland, California rose briar patches, Fremont cottonwood-arroyo willow forest, Fremont cottonwood forest, and red willow forest. The EIR also indicates that a portion of those impacts would occur within the Conservation Easement. The EIR

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states that implementation of Mitigation Measure *BIO-6: Habitat Replacement* would reduce such impacts to a less than significant level.

For temporary impacts to aquatic resources, critical habitat, habitat occupied by an ESA-listed species, CDFW sensitive natural communities, or areas covered by a conservation easement, BIO-6 requires habitat replacement at a 1:1 ratio. For permanent impacts, BIO-6 requires mitigation at a 4:1 replacement-to-impact ratio for aquatic resources, critical habitat, habitat occupied by an ESA-listed species, or CDFW sensitive natural communities. For permanent impacts within the Conservation Easement, the mitigation ratio is 2:1 for impacts to disturbed habitat, giant reed marshes, non-native annual grasses and forbs, and tamarisk, and 4:1 for all other natural communities and land cover types (excluding developed land cover). BIO-6 also includes requirements for 4:1 mitigation for permanent impacts to SEA Category 1 and 2:1 for SEA Category 3.

The EIR does not include the methodology use by SCVSD to arrive at these mitigation ratios. It is not disclosed in the EIR all factors that were considered to determine that mitigation at the prescribed ratios would adequately offset the loss of habitat value resulting from the Project, and therefore reduce impacts to a less than significant level.

The mitigation ratio for temporary impacts does not appear to take into consideration temporal loss. Habitat will be absent on the Project site for a minimum of 2 years, after which it will take many years of growth for impacted habitats to approach their pre-Project condition and carrying capacity. Ratios for temporary impacts should take into consideration the delay between Project impacts and full replacement of functions.

In determining appropriate mitigation ratios for permanent impacts, factors that should be considered in addition to temporal loss include a comparison of the functional loss at the impact site versus the expected functional gain at the mitigation site, the location of the mitigation site relative to the Project site, whether the proposed mitigation is out-of-kind compared to the impacted habitat, whether the proposed mitigation would impact high value existing habitat to convert it to the desired mitigation habitat, and the risk and uncertainty inherent in habitat mitigation.

For impacts within the Conservation Easement, mitigation for the impacts to existing habitat should be calculated separately from mitigation for the reduction in conservation value of the easement itself. That is, the appropriate mitigation ratio for impacts to each type of habitat should be determined, and then a multiplier should be applied to that resulting number. The EIR does not include requirements for mitigation lands to be preserved or managed in perpetuity. Without adequate replacement of biological functions and values through impact revegetation and compensatory mitigation, and protection of those lands in perpetuity, the Project would continue to have a significant impact on special-status fish and wildlife, and sensitive habitats.

Temperate freshwater wetlands are threatened globally by urbanization, agriculture, hydrologic modification, and other land use practices and continued reductions in

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wetland area and function is likely to continue over the coming decades (Brinson and Malvarez 2002). An estimated 93 to 98 percent of California's riparian habitat has been converted to other land uses. California continues to lose wetland acreage and value, despite both state and national regulations and "no net loss" wetland policies (National Research Council 2001).

Wetland creation and the restoration and enhancement of existing wetlands are a common means of mitigating wetland loss. However, on average, the quality of created, restored, and enhanced wetlands achieved through mitigation is lower than that of intact reference wetlands (Ambrose, Callaway and Lee 2006). This suggests that projects conducted in wetlands, as currently permitted, are contributing to a net loss of wetland functions and values. Along with the risk of mitigation underperformance or failure, the temporal loss of wetland function from the time of impact to the time a mitigation site is fully functional is also a factor in potentially diminishing the value of compensatory restored wetlands (Zedler 2004). When compensatory mitigation sites themselves are impacted by subsequent projects, that effect is compounded.

Evidence impact would be significant: CDFW considers adverse impacts to a conservation easement area to be significant. Without adequate compensatory mitigation, the Project would continue to have a substantial adverse effect on riparian habitats and other sensitive natural communities identified by CDFW. Impacts to sensitive plant communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #2: Mitigation Ratios - CDFW recommends SCVSD reevaluate the habitat impacts and proposed mitigation and provide justification in the EIR for the replacement-to-impact ratios.

Mitigation Measure #4: Mitigation Lands – Prior to approval of the restoration plan required in Mitigation Measure BIO-6, the Project proponent shall provide CDFW with documentation demonstrating the suitability of the proposed property as mitigation land. Requested documentation may include, but is not limited to, a biological report, preliminary title report, mineral risk assessment report, and Phase I Environmental Site Assessment report. A wildlife conservation easement shall be recorded on compensatory mitigation lands to protect existing fish and wildlife resources in perpetuity. The grantee named on the conservation easement instrument shall be an entity that meets the requirements identified in Section 815 of the California Civil Code. Mitigation lands shall be perpetually managed, maintained, and monitored by a designated land manager. Funding for the perpetual management, maintenance, and monitoring of the site shall be provided through the establishment of an endowment.

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COMMENT # 4: Fish and Other Aquatic Species

Issue: The Project could result in adverse effects to special-status fish and other aquatic species.

Specific impact: Construction activities such as grading, excavation, use of heavy machinery, and riprap installation, if conducted in flowing or standing water, may result in impaired water quality, and injury or mortality towards special-status fish and other aquatic species.

Why impact would occur: The impact analysis regarding special-status fish acknowledges the potential for arroyo chub, Santa Ana sucker, and unarmored threespine stickleback to occur in the Santa Ana River. The document explains that construction will not result in decreased flows or reduced water quality downstream, that velocities in the Outfall 001 channel are not suitable for the three fish species, and that the riprap installation would not remove suitable fish habitat because it would not encroach on the flowing channel of the Santa Clara River.

While the riprap installation area may be outside the low flow channel, in higher flow events the Santa Clara River can overlap portions of the Project site. If work were to occur in that situation, fish could be injured or killed. The Project description mentions that work would occur during the dry season, but it does not say that work would not occur if flows were occupying the Project site. If Project activities occur during a flow event, the Project may result in injury or mortality to fish from crushing and reduction in habitat quality due to increased turbidity caused by the use of heavy equipment or installation of riprap. Without adequate avoidance measures, the Project would continue to have a significant impact on special status fish.

Evidence impact would be significant: Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

CDFW considers impacts to CESA-listed species to be significant under CEQA. Accordingly, the Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #3 Aquatic Resources Revision - CDFW recommends the EIR is revised to discuss the possibility of flowing or ponded water overlapping the Project site.

Mitigation Measure #5: Dry Season Work - Project activities shall occur only in the dry season only, and only in areas that do not contain ponded or flowing water.

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COMMENT # 5: Rare Plants

Issue: The Project has the potential to impact rare plants.

Specific impact: Ground and vegetation disturbance associated with the Project could result in direct loss of rare plants and their stored seedbank.

Why impact would occur: The EIR identifies potential significant impacts to rare plants and concludes that application of the proposed mitigation measures will reduce the impacts to a less than significant level.

Mitigation Measure *BIO-1: Rare Plants* calls for preconstruction surveys for rare plant species, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*. If rare plants are found, the measure requires a suitable area around the plants (as determined by a qualified biologist) be avoided and demarcated with orange-mesh construction fencing. CDFW is concerned that, depending on the location of rare plants, avoidance may not be feasible (for example, if a rare plant is located within the retaining wall alignment).

To avoid missed detection of rare plants, SCVSD should conduct focused rare plant surveys during the upcoming 2025 growing season. If surveys are not conducted well in advance of Project activities, the Project may be delayed due to the presence of any special-status species (i.e., CESA-listed) that may require permits.

Evidence impact would be significant: Nevin's barberry, San Fernando Valley spineflower, and California orcutt grass are CESA-listed endangered plants with potential to occur on the Project site. Additionally, plants with California Native Plant Society California Rare Plant Rank (CRPR) of 1B.1, 1B.2, and 4.2 have potential to occur on the Project site. Plants with a CRPR of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B meet the definitions of CESA and are eligible for State listing. Impacts to these species or their habitats should be considered significant under CEQA, as they meet the definition of rare or endangered (CEQA Guidelines § 15380). Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation # 4: Feasibility Evaluation - CDFW recommends SCVSD reevaluate the feasibility of avoidance and no-work buffers in areas of the Project where the footprint cannot be adjusted.

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Mitigation Measure #6: Mitigation Measure BIO-1 – SCVSD shall revise Mitigation Measure BIO-1 Rare Plants to incorporate underlined language and omit language in strikethrough:

~~Preconstruction~~ Focused special-status plant surveys shall be conducted within areas containing suitable habitat throughout the project site during the appropriate blooming periods for Catalina mariposa lily, chaparral ragwort, Hubby's phacelia, Nuttall's scrub oak, Palmer's grappling hook, Peirson's morning glory, Plummer's mariposa lily, slender mariposa lily and southern California black walnut. ~~Throughout the project site.~~ Plant surveys shall be conducted in accordance with CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW March 20, 2018). If special-status plants are found to be present within or near the project impact area, a suitable area around the plants (as determined by a qualified biologist) shall be avoided and demarcated with orange-mesh construction fencing to impacts to special-status plant species. If special-status plants are found to be present within or near an area of the Project where direct impacts cannot be avoided (for example, within the alignment of the retaining wall), SCVSD shall coordinate with CDFW to determine appropriate mitigation for Project impacts.

If restoration, translocation and/or seed collection is used to mitigate impacts to special-status plants, a restoration/translocation plan shall be developed for CDFW approval prior to any disturbance to special-status plants and shall include, but shall not be limited to, the following information: identification of documented populations of the specie(s) within the project site, estimated impacts to the population on-site, proposed restoration methods (e.g., translocation, seed collection, etc.), expected timeline, success criteria, performance standards, funding source(s) and responsible parties, maintenance methods and schedule, irrigation methods and schedule, adaptive management strategies, and a minimum 5-year monitoring and reporting program.

If CESA-listed or NPPA-listed plants are found to be present within or near the Project impact area, SCVSD shall coordinate with CDFW to determine whether take authorization is required. Such authorization may include an Incidental Take Permit, among other options. Take authorization shall be obtained prior to Project initiation.

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 website](https://wildlife.ca.gov/Data/CNDDDB)⁴ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

⁴ <https://wildlife.ca.gov/Data/CNDDDB>

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In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)⁵.

SCVSD should ensure data collected for the preparation of the EIR is properly submitted.

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 EIR to assist SCVSD in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that SCVSD has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Kelly Fisher⁶, Environmental Scientist.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation Monitoring and Reporting Program (MMRP)

⁵ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

⁶ Phone: 858-354-5083; Email: kelly.fisher@wildlife.ca.gov

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EC: California Department of Fish and Wildlife
Kelly Fisher, Environmental Scientist
Steve Gibson, Senior Environmental Scientist (Supervisory)
Frederic (Fritz) Rieman, Senior Environmental Scientist (Supervisory)
Victoria Tang, Environmental Program Manager
Jennifer Turner, Senior Environmental Scientist (Supervisory)

Office of Planning and Research
State.Clearinghouse@opr.ca.gov

REFERENCES

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Mitigation Measure BIO-10 - SCVSD shall revise Mitigation Measure BIO-10: Crotch’s Bumble Bee to incorporate the <u>underlined</u> language and omit language in strikethrough:</p> <p>A qualified entomologist, approved by CDFW, shall conduct a focused survey in suitable habitat (e.g., Fremont cottonwood forest, blue elderberry woodland, California rose briars, and non-native grasses and forbs), in accordance with the California Bumble Bee Atlas Point Surveys⁶ <u>Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species</u>⁷ protocol to determine presence/absence of the species. Surveys shall be conducted within one year prior to vegetation removal activities and a minimum of three surveys shall be conducted during peak flying season (April-August), when the species is most likely to be detected above ground. If surveys verify absence, no further action is required.</p> <p>If surveys determine that Crotch’s bumble bees are currently utilizing the study area, within 500 feet of the project site, <u>coordination with CDFW shall occur to develop appropriate avoidance and minimization measures and determine if take authorization may be required. Appropriate take authorization may include an Incidental Take Permit, among other options. Appropriate take authorization shall be obtained prior to Project initiation.</u> a qualified entomologist shall identify the location of all nests within and adjacent to the project site. A 15-meter no disturbance buffer zone shall be established around any identified nest(s) to reduce the risk of disturbance or incidental</p>	<p>Prior to Project Initiation</p>	<p>SCVSD</p>

⁷ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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Mitigation Measure	Timing	Responsible Party
<p>take. A qualified entomologist shall expand the buffer zone as necessary to prevent disturbance or take. If impacts to a nest from proposed construction is unavoidable, consultation with the CDFW shall occur to determine if take authorization may be necessary. If take authorization is granted, the qualified entomologist will relocate the nest to a suitable location, through coordination with the CDFW. Various considerations shall be made to further reduce impacts during the relocation, such as 1) delaying relocation until the queen has the opportunity to emerge and 2) relocating within the home range of the nest.</p>		
<p>Mitigation Measure #2: Revegetation -The revegetation planting shall include locally native nectar resources that can be expected to be blooming at any given time during the Colony Active Season (February 1 - October 31). A diverse assemblage of herbs, forbs, vines, and sub-shrubs, as well as annual and perennial plant species, shall be planted in the revegetated areas. Nectar- and pollen-producing plants that may be used by the Crotch's bumble bee include, but are not limited to, the genera Asclepias, Chaenactis, Lupinus, Phacelia, and Salvia in the families Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Hydrophyllaceae, Plantaginaceae, Onograceae, Papaveraceae, Polygonaceae, and Boraginaceae. Nectar resources shall be weed and pest free (e.g., Argentine ants), pathogen-free, and have not been treated with pesticides.</p>	<p>At Completion of Project Activities</p>	<p>SCVSD</p>
<p>Mitigation Measure #3: Mitigation Measure BIO-5 - SCVSD shall revise Mitigation Measure BIO-5 Special-Status Bird Surveys to incorporate language <u>underlined</u> and omit language in strikethrough:</p> <p>Prior to the start of construction, focused surveys for the three listed bird species with potential to occur within the project area (least Bell's vireo, southwestern willow</p>	<p>Prior to Project Initiation</p>	<p>SCVSD</p>

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Mitigation Measure	Timing	Responsible Party
<p>flycatcher and/or yellow-billed cuckoo) shall be conducted to determine presence/absence of the species within the study area. These shall be conducted in accordance with the Least Bell’s Vireo Survey Guidelines, A Natural History Summary and Survey Protocol for the Southwestern Willow Flycatcher and A Natural History Summary and Survey Protocol for the Western Distinct Population Segment of the Yellow-billed Cuckoo. If surveys verify absence of all species, no further action is required.</p> <p>If surveys determine that these species are present within 500 feet of the project site, <u>SCVSD shall coordinate with CDFW and USFWS prior to Project initiation to develop an Avoidance Plan that includes conservation measures required to ensure vireo, flycatcher, and cuckoo are not adversely affected by Project activities. Such measures may include, but not be limited to, pre-construction nest surveys, screening materials to separate the Project site from adjacent habitat, and noise reduction/attenuation techniques to reduce Project-related noise to a maximum hourly average of 60 A-weighted decibels (dBA) or existing ambient levels, whichever is greater, at the edge of adjacent habitat.</u> and avoidance of the nesting bird season (Mitigation Measure BIO-3) is not feasible, steps shall be taken to reduce effects to nesting activity by actively reducing construction noise (to no more than 10 decibels (dBA) above pre-construction ambient noise levels) at an active nest or occupied habitat. If construction must take place within 500 feet of an active nest of either the least Bell’s vireo, southwestern willow flycatcher, or yellow-billed cuckoo, a qualified biologist will monitor noise levels to ensure that they do not exceed 10 dBA above pre-construction ambient noise levels. If this is not feasible, installation of temporary construction noise barriers may be installed to reduce noise levels to an acceptable level. If the blocking of noise using sound barriers is not feasible, work activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded. <u>Avoidance measures</u></p>		

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Mitigation Measure	Timing	Responsible Party
<p><u>requiring installation (sound walls, for example) shall be in place prior to March 15 and shall remain operational until September 15, of each year.</u></p> <p><u>SCVSD shall coordinate with CDFW to obtain CESA take authorization for vireo, flycatcher, and cuckoo. Appropriate take authorization may include an Incidental Take Permit or a Consistency Determination in certain circumstances, among other options. Coordination with CDFW shall begin as soon as possible to discuss the appropriate take authorization for the Project. SCVSD shall obtain take authorization prior to Project initiation.</u></p>		
<p>Mitigation Measure #4: Conservation Easement - A wildlife conservation easement shall be recorded on compensatory mitigation lands to protect existing fish and wildlife resources in perpetuity. The grantee named on the conservation easement instrument shall be an entity that meets the requirements identified in Section 815 of the California Civil Code. Mitigation lands shall be perpetually managed, maintained, and monitored by a designated land manager. Funding for the perpetual management, maintenance, and monitoring of the site shall be provided through the establishment of an endowment.</p>	<p>Prior to Project Initiation</p>	<p>SCVSD</p>
<p>Mitigation Measure #5: Dry Season Work - Project activities shall occur only in the dry season only, and only in areas that do not contain ponded or flowing water.</p>	<p>During Project Activities</p>	<p>SCVSD</p>

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Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #6: Mitigation Measure BIO-1 – SCVSD shall revise Mitigation Measure BIO-1 Rare Plants to incorporate <u>underlined</u> language and omit language in strikethrough:</p> <p>Preconstruction <u>Focused</u> special-status plant surveys <i>shall be conducted</i> within areas containing suitable habitat throughout the project site during the appropriate blooming periods for Catalina mariposa lily, chaparral ragwort, Hubby’s phacelia, Nuttall’s scrub oak, Palmer’s grappling hook, Peirson’s morning glory, Plummer’s mariposa lily, slender mariposa lily and southern California black walnut. Throughout the project site. Plant surveys shall be conducted in accordance with CDFW’s Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW March 20, 2018). If special-status plants are found to be present within or near the project impact area, a suitable area around the plants (as determined by a qualified biologist) shall be avoided and demarcated with orange-mesh construction fencing to impacts to special-status plant species. <i><u>If special-status plants are found to be present within or near an area of the Project where direct impacts cannot be avoided (for example, within the alignment of the retaining wall), SCVSD shall coordinate with CDFW to determine appropriate mitigation for Project impacts.</u></i></p> <p>If restoration, translocation and/or seed collection is used to mitigate impacts to special-status plants, a restoration/translocation plan shall be developed for CDFW approval prior to any disturbance to special-status plants and shall include, but shall not be limited to, the following information: identification of documented populations of the specie(s) within the project site, estimated impacts to the population on-site, proposed restoration methods (e.g., translocation, seed collection, etc.), expected timeline, success criteria, performance standards, funding source(s) and responsible</p>	<p>Prior to Project Initiation</p>	<p>SCVSD</p>

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Mitigation Measure	Timing	Responsible Party
<p>parties, maintenance methods and schedule, irrigation methods and schedule, adaptive management strategies, and a minimum 5-year monitoring and reporting program.</p> <p><u><i>If CESA-listed or NPPA-listed plants are found to be present within or near the Project impact area, SCVSD shall coordinate with CDFW to determine whether take authorization is required. Such authorization may include an Incidental Take Permit, among other options. Take authorization shall be obtained prior to Project initiation.</i></u></p>		
<p>Recommendation #1: Nest Sites Notification - If Crotch’s bumble bee nest or overwintering sites are discovered or can be documented, CDFW recommends SCVSD contact CDFW at wildlifemgt@wildlife.ca.gov, as well as the CDFW staff contact listed at the end of this letter.</p>		
<p>Recommendation #2: Mitigation Ratios - CDFW recommends SCVSD reevaluate the habitat impacts and proposed mitigation and provide justification in the EIR for the replacement-to-impact ratios.</p>		
<p>Recommendation #3 Aquatic Resources Revision - CDFW recommends the EIR is revised to discuss the possibility of flowing or ponded water overlapping the Project site.</p>		

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Mitigation Measure	Timing	Responsible Party
Recommendation # 4: Feasibility Evaluation - CDFW recommends SCVSD reevaluate the feasibility of avoidance and no-work buffers in areas of the Project where the footprint cannot be adjusted.		