



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

April 18, 2024

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Helen Stratton
Water Resources Specialist Assistant II **STATE CLEARINGHOUSE**
2270 Trumble Road
Perris, CA 92570
strattonh@emwd.org

Subject: Draft Mitigated Negative Declaration, Mission Canyon II Pump Station and Pipeline Project, State Clearinghouse No. 2024030824, Eastern Municipal Water District, Riverside County

Dear Helen Stratton:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Eastern Municipal Water District (EMWD), as the Project Applicant/Proponent, for the Mission Canyon II Pump Station and Pipeline 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, 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 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 (CEQA) 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.

¹ 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

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

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, *et seq.*, of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. CDFW is providing the following comments as they relate to the Project’s consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION AND SUMMARY

Description: The Eastern Municipal Water District (EMWD; Lead Agency), as the Project Applicant, is proposing the Mission Canyon II Pump Station and Pipeline Project (Project). The proposed Project will consist of the construction and operation of a new pump station and associated pipelines to address hydraulic capacity issues of the existing Mission Canyon II Pump Station. The Project also includes demolition of the existing Mission Canyon II Pump Station and abandonment of an existing pipeline.

Specifically, it will include the 1) construction of a new Mission Canyon II Pump Station facility adjacent to Gibbel Road; 2) the demolition of the existing Mission Canyon II Pump Station located off Gibble Road west of Crow Road; 3) the installation of approximately 3,200 linear feet (LF) of new 12-inch pipeline in Gibbel Road south of the new pump station; 4) the replacement of the existing 4-inch pipeline along Gibbel Road to the intersection with Polly Butte Road with approximately 1,100 LF of 8-inch pipeline; 5) the abandonment of approximately 3,050 LF of an existing 6-inch discharge pipeline from the existing Mission Canyon II Pump Station to the last service uphill of Polly Butte Road; 6) the construction of 1,050 LF of 2-inch service line from the existing 6-inch pipeline along Gibbel Road to 40751 Gibbel Road; and 7) the replacement of the existing 6-inch pipeline along Polly Butte Road to the abandoned pipeline with approximately 1,100 LF of 8-inch pipeline.

Location: The Project site is located primarily along Gibbel Road, east of State Street in unincorporated Riverside County, California, in Township 5 South, Range 1 West, Sections 26, 25, 35, and 36 of the U.S. Geological Survey 7.5”, California topographic quadrangle map.

COMMENTS AND RECOMMENDATIONS

Based on the documents for review, CDFW offers the comments and recommendations below to assist the EMWD in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also be included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Western Riverside County Multiple Species Habitat Conservation Plan

Compliance with approved habitat plans, such as the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. The MND states that EMWD is not a Permittee under the Western Riverside MSHCP. The requirements of the MSHCP therefore do not directly apply to EMWD, meaning EMWD does not have to demonstrate consistency; however, the proposed Project occurs within the MSHCP area and is still subject to ensuring the provisions and policies of the MSHCP will not be negatively impacted.

EMWD is the lead agency but is not signatory to the MSHCP, therefore, in order to participate in the MSHCP they would need to act as a Participating Special Entity (PSE). If EMWD chooses to act as a PSE and obtain take through the MSHCP then all of the MSHCP policies and procedures would apply to this Project, and the MND should discuss how the Project will demonstrate consistency with the MSHCP. If the Project is not processed through the MSHCP for covered species, then the Project may be subject to the Federal Endangered Species Act (FESA) and/or CESA for threatened, endangered, and/or candidate species.

Regardless of whether take of threatened and/or endangered species is obtained through the MSHCP or through a CESA ITP, the MND needs to address how the proposed Project will affect the policies and procedures of the MSHCP.

Comment #2: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA)

Issue: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Specific Impact: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq. The MND identified that the Project would grade immediately adjacent to stream resources and install materials to stabilize the banks. The Project activities have the potential to impact fish and wildlife resources through the deposition of debris, waste or other materials that could pass into any river, stream, or lake.

Why Impact Would Occur: Project-related activities could potentially alter drainage patterns and water quality within, upstream, and downstream of the Project site, including: 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 site.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream or lake. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian

resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the EMWD include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may be affected by the proposed Project.

CDFW recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~striketrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program":

Mitigation Measure XX: Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.

The notification to CDFW should provide the following information:

- 1. A stream delineation including the bed, bank and channel;**
- 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);**
- 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and**
- 4. A hydrological evaluation of the 100-year storm event to**

provide information on how water and sediment is conveyed through the Project site.

If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, to describe proposed enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.

Comment #3: Impacts to CESA Listed Species and Species of Special Concern

Issue: The Project identified the special-status plant species Chaparral sand-verbena (*Abronia villosa* var. *aurita*), and no special-status wildlife species onsite during the various biological surveys. However, several special-status plant species and special-status wildlife species were described as having high to moderate potential to occur within the Project site.

CDFW is concerned that the proposed mitigation may not provide enough specificity to sufficiently avoid or minimize impacts to species protected under CESA as well as California Species of Special Concern (SSC).

Specific Impact: Based on the information presented in the MND and supporting Appendix B, as well as data from the California Natural Diversity Database, the Project site has the potential to support Jaeger's milk-vetch (*Astragalus pachypus* var. *jaegeri*), Crotch's bumble bee (*Bombus crotchii*), Parry's spineflower (*Chorizanthe parryi* var. *parryi*), white-bracted spineflower (*Chorizanthe xanti* var. *leucotheca*), Mojave tarplant (*Deinandra mohavensis*), slender-horned spineflower (*Dodecahema leptoceras*), northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), San Diego desert woodrat (*Neotoma lepida intermedia*), red-diamond rattlesnake (*Crotalus ruber*), orange-throated whiptail (*Aspidoscelis hyperythra*), Southern California legless lizard (*Anniella stebbinsi*) within the Project site.

The MND does include avoidance or mitigation measures to prevent direct impacts to sensitive plant species; however, it does not include measures to prevent direct or indirect impacts to wildlife species from occurring during ground disturbance and vegetation clearing activities. Direct impacts to CESA species and/or SSCs could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Indirect impacts could result

from temporary or permanent loss of suitable habitat.

Why Impacts Would Occur: Biological construction monitoring alone may be ineffective for detecting SSC and CESA listed species. This may result in trampling or crushing of these sensitive species. Demolition and paving after false negative conclusions may trap wildlife hiding under refugia and burrows. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Crotch's bumble bee could be affected by damage to suitable habitat, including grassland and scrub habitats and the permanent conversion of occupied habitat to project infrastructure or changes to micro/local hydrology. Indirect effects on Crotch's bumble bee during construction would include the accumulation of fugitive dust resulting in degradation of habitat for these invertebrates. In addition, changes to local runoff would have negative effects on the health and vigor of plants that make up suitable habitat.

The Project proposes MM BIO-06 to mitigate for the Project's impact to Crotch's bumble bee. However, CDFW is concerned that MM BIO-06 will not mitigate the Project's impact on Crotch's bumble bee below a level of significance. MM-BIO 06 would allow for the potential relocation of an active colony without an ITP, any additional monitoring to ensure that the potential colony relocation was successful, and does not provide performance criteria or action(s) to meet those performance criteria (CEQA Guidelines, § 15126.4).

Evidence Impacts Would Be Significant: CEQA provides protection not only for state and federally listed species, but for any species including but not limited to California Species of Special Concern which can be shown to meet the criteria for State listing. These Species of Special Concern meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the EMWD (CEQA Guidelines, § 15065).

In addition, The California Fish and Game Commission accepted a petition to list Crotch 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. Crotch bumble bee is granted full protection of a threatened species under CESA. Take of any endangered, threatened, 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, Crotch bumble bee has a State ranking of S1/S2. This means that the Crotch bumble bee is considered critically imperiled or imperiled and is extremely rare (often five or fewer populations). Crotch bumble bee is also listed as an invertebrate of conservation

priority under the Terrestrial and Vernal Pool Invertebrates of Conservation Policy (CDFW 2017). The Project's impact on Crotch bumble bee has yet to be mitigated. Accordingly, the Project continues to have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1 and 2: To address the above issues and help the Project applicant avoid unlawfully take of CESA listed species and SSC, CDFW requests the EMWD include the following mitigation measures in the MND per below, and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM BIO-XX: Scientific Collecting Permit/MOU – The EMWD /qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate SSC wildlife, and to avoid harm or mortality in connection with Project construction and activities.

If EMWD must relocate CESA- or ESA-listed species, they should obtain appropriate take authorization from CDFW and/or USFWS.

MM BIO-XX: No more than one month from the initiation of any Project-related ground-disturbing activities, the qualified biologist should conduct pre-construction surveys for sensitive species known to occur, or with the potential to occur onsite. Project related activities include construction, equipment and vehicle access, parking, and staging. The surveys should include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the project site and surrounding areas is achieved. In addition, resumes/and or statements of qualifications shall be provided to the EMWD by the applicant identifying one or more qualified Biological Monitors that will be assigned to the project to monitor construction activities. Monitors shall be responsible for ensuring that impacts to special-status species, native vegetation, wildlife habitat, jurisdictional waters, and sensitive or unique biological resources are avoided to the extent possible.

MM BIO-XX: Daily biological monitoring should be conducted during any activities involving vegetation clearing or modification of natural habitat. Surveys for SSC should be conducted prior to the initiation of each day of vegetation removal activities in suitable habitat. Where applicable, wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat within the open space on site or in suitable

habitat adjacent to the project area (either way, at least 200 feet from the grading limits). Special status wildlife should be captured only by a qualified biologist with proper handling permits. Only a USFWS approved biologist should be authorized to capture and relocate ESA-listed species.

If any special-status or listed species are/have been observed on or in proximity to the Project site, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings.

MM BIO-06: Focused Crotch Bumble Bee Surveys. Focused Crotch bumble bee surveys shall be conducted within the Component 1 and 6 Project Areas and the northern staging area per the Survey Considerations for CESA Candidate Bumble Bee Species (CDFW 2023d). Foraging bumble bee surveys shall be conducted during this species' flight season (i.e., typically between May to September) to determine the presence or absence of this species within the Project Area. If this species is detected foraging within or adjacent to the Project Area, nesting surveys shall be conducted to identify active colonies. ~~If an active colony is observed within the Project Area (to the furthest extent of the Project Area but outside any private property), the nest shall be relocated to suitable habitat outside of the Project Area. If an active nest is observed within the Project Area, the nest shall be monitored by a qualified biologist in accordance with Mitigation Measure BIO-4.~~ **If Crotch's bumble bee are determined to be present within the Impact Site and it is determined the species will be impacted by Project implementation, appropriate mitigation will be determined in consultation with CDFW. In addition, the Project Applicant shall adhere to the following:**

- **If Crotch's bumble bee is present, the qualified biologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, a minimum 15-meter no disturbance buffer zones should be established around nests to avoid disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified biologist, in coordination with CDFW, should expand the buffer zone as necessary to prevent disturbance or take.**
- **Project does not have the authority to take a candidate species and obtain incidental take authorization from CDFW. If "take" or adverse impacts to Crotch bumble bee cannot be avoided either during Project activities or over the life of the Project, the Project proponent shall obtain appropriate take authorization from CDFW pursuant to Fish and Game Code section 2081 subdivision (b).**

- **Any floral resource associated with Crotch bumble bee that will be removed or damaged by the Project should be replaced at no less than 1:1. Floral resources should be replaced as close to their original location as is feasible. If active Crotch bumble bee nests have been identified and floral resources cannot be replaced within 200 meters of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 1.5 kilometers from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. These floral resources should be maintained in perpetuity and should be replanted and managed as needed to ensure the habitat is preserved.**

Comment #4: Nesting Bird

Issue: The Project may have a significant impact on nesting birds, including Species of Special Concern and fully protected species, that are subject to Fish and Game Code section 3513 and the Migratory Bird Treaty Act of 1918.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from the removal of vegetation onsite.

Why impacts would occur: Project activities could result in temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). In addition to construction activities, residential development and increased human presence in the Project site could contribute to nesting bird impacts.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably,

therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in Take of nesting birds. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence impacts would be significant: It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16

U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the EMWD include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program.

MM BIO-9: Pre-Construction Nesting Bird Surveys: To avoid disturbance of nesting birds, including special-status species and birds protected by the MBTA and CFGC Section 3503, **3503.5, and 3513**, Project activities shall occur outside of the breeding season for nesting birds (generally February 1 through August 31), ~~if feasible to the extent feasible~~.

If construction, **including ground disturbance, construction activities, removal and/or trimming of vegetation**, occurs during the breeding season, then a pre-construction nesting bird survey shall be conducted no more than ~~seven~~ **three** days prior to the initiation of Project activities. The nesting bird survey shall be conducted on foot inside the Project Area and include a 500-foot buffer ~~for raptors and special-status species~~ a 100-foot ~~buffer for all other species~~. The survey shall be conducted by a biologist

familiar with avian species known to inhabit Southern California. **The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to EMWD. The Project Applicant shall adhere to the following:**

- 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.**

If the qualified biologist determines that no active migratory bird or raptor nests occur, the activities shall be allowed to proceed without any further requirements. ~~If nests are found, an avoidance buffer of up to 500 feet for raptors and special-status species and up to 100 feet for non-raptors~~ **avoidance buffers shall be implemented as determined by a qualified biologist and approved by EMWD, based on their best professional judgement and experience** (dependent upon the species, the proposed work activity, and existing disturbances associated with land use outside of the workspace) shall be determined and demarcated by the biologist with construction fencing, flagging, or other means to mark the boundary. **The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned.** ~~Intrusion into the buffer may be conducted if it is determined by the biologist that there is no risk of harm to the nest and work is monitored by the biologist. If the risk of nest abandonment is observed, all construction activities within the buffer shall~~

~~cease until the nest is no longer active as determined by the biologist.~~ **The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to EMWD for mitigation monitoring compliance record keeping.**

Mitigation and Monitoring Reporting Plan

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines,

§ 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the EMWD in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation, monitoring, and/or reporting program (Pub.

Resources Code, § 21081.6; CEQA Guidelines, § 15097). The EMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the EMWD with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment 1).

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 filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES


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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND for the Mission Canyon II Pump Station and Pipeline Project, State Clearinghouse No. 2024030824 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the Eastern Municipal Water District address CDFW's comments and concerns prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn

Environmental Program Manager

ec: **California Department of Fish and Wildlife**
Carly Beck, Senior Environmental Scientist Supervisor
Carly.Beck@wildlife.ca.gov

U.S. Fish and Wildlife Service
Karin Cleary-Rose
Karin_Cleary-Rose@fws.gov

Western Riverside County Regional Conservation Authority
Tricia Campbell
tcampbell@rctc.org

Western Riverside County Regional Conservation Authority
Aaron Gabbe
agabbe@rctc.org

Santa Ana Regional Water Quality Control Board

Helen Stratton
Eastern Municipal Water District
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Claudia Tenorio
Claudia.Tenorio@waterboards.ca.gov

Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov.

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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
 3602 Inland Empire Boulevard, Suite C-220
 Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

Biological Resources (BIO)			
	Mitigation Measure (MM)	Timing	Responsible Party
Lake and Streambed Alteration Agreement	<p>MM BIO XX-Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.</p> <p>The notification to CDFW should provide the following information:</p> <ol style="list-style-type: none"> 1. A stream delineation including the bed, bank and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	<p>2009);</p> <ol style="list-style-type: none"> 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. <p>If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, to describe proposed enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.</p>		
<p>Species of Special Concern</p>	<p>MM BIO-XX: Scientific Collecting Permit/MOU – The EMWD /qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate SSC wildlife, and to avoid harm or mortality in connection with Project construction and activities.</p> <p>If EMWD must relocate CESA- or ESA-listed species, they should obtain appropriate take authorization from CDFW and/or USFWS.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

<p>Species of Special Concern</p>	<p>MM BIO-XX: No more than one month from the initiation of any Project-related ground-disturbing activities, the qualified biologist should conduct pre-construction surveys for sensitive species known to occur, or with the potential to occur onsite. Project related activities include construction, equipment and vehicle access, parking, and staging. The surveys should include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the project site and surrounding areas is achieved. In addition, resumes/and or statements of qualifications shall be provided to the EMWD by the applicant identifying one or more qualified Biological Monitors that will be assigned to the project to monitor construction activities. Monitors shall be responsible for ensuring that impacts to special-status species, native vegetation, wildlife habitat, jurisdictional waters, and sensitive or unique biological resources are avoided to the extent possible.</p>		
<p>Species of Special Concern</p>	<p>MM BIO-XX: Daily biological monitoring should be conducted during any activities involving vegetation clearing or modification of natural habitat. Surveys for SSC should be conducted prior to the initiation of each day of vegetation removal activities in suitable habitat. Where applicable, wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat within the open space on site or in suitable habitat adjacent to the project area (either way, at least 200 feet from the grading limits). Special status wildlife should be captured only by a qualified biologist with proper handling permits. Only a USFWS approved biologist should be authorized to capture and relocate ESA-listed species.</p> <p>If any special-status or listed species are/have been</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>observed on or in proximity to the Project site, Permittee shall submit California Natural Diversity Data Base (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings.</p>		
<p>Crotch's Bumble Bee</p>	<p>MM BIO-06: Focused Crotch Bumble Bee Surveys. Focused Crotch bumble bee surveys shall be conducted within the Component 1 and 6 Project Areas and the northern staging area per the Survey Considerations for CESA Candidate Bumble Bee Species (CDFW 2023d). Foraging bumble bee surveys shall be conducted during this species' flight season (i.e., typically between May to September) to determine the presence or absence of this species within the Project Area. If this species is detected foraging within or adjacent to the Project Area, nesting surveys shall be conducted to identify active colonies. If Crotch's bumble bee are determined to be present within the Impact Site and it is determined the species will be impacted by Project implementation, appropriate mitigation will be determined in consultation with CDFW. In addition, the Project Applicant shall adhere to the following:</p> <ul style="list-style-type: none"> • If Crotch's bumble bee is present, the qualified biologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, a minimum 15-meter no disturbance buffer zones should be established around nests to avoid disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified biologist, in coordination with CDFW, should expand the buffer zone as necessary to prevent disturbance or take. • Project does not have the authority to take a candidate species and obtain incidental take authorization from CDFW. If "take" or adverse impacts to Crotch bumble 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>bee cannot be avoided either during Project activities or over the life of the Project, the Project proponent shall obtain appropriate take authorization from CDFW pursuant to Fish and Game Code section 2081 subdivision (b).</p> <p>Any floral resource associated with Crotch bumble bee that will be removed or damaged by the Project should be replaced at no less than 1:1. Floral resources should be replaced as close to their original location as is feasible. If active Crotch bumble bee nests have been identified and floral resources cannot be replaced within 200 meters of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 1.5 kilometers from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. These floral resources should be maintained in perpetuity and should be replanted and managed as needed to ensure the habitat is preserved.</p>		
<p>Nesting Birds</p>	<p>MM BIO-9: Pre-Construction Nesting Bird Surveys: To avoid disturbance of nesting birds, including special-status species and birds protected by the MBTA and CFGC Section 3503, 3503.5, and 3513, Project activities shall occur outside of the breeding season for nesting birds (generally February 1 through August 31), to the extent feasible.</p> <p>If construction, including ground disturbance, construction activities, removal and/or trimming of vegetation, occurs during the breeding season, then a pre-construction nesting bird survey shall be conducted no more than three days prior to the initiation of Project activities. The nesting bird survey shall be conducted on foot inside the Project Area and include a 500-foot buffer. The survey shall be conducted by a biologist familiar with avian species known to inhabit</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

Southern California. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to EMWD. The Project Applicant shall adhere to the following:

1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.
2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.

If the qualified biologist determines that no active migratory bird or raptor nests occur, the activities shall be allowed to proceed without any further requirements. If nests are found, avoidance buffers shall be implemented as determined by a qualified biologist and approved by EMWD, based on their best professional judgement and experience (dependent upon the species, the proposed work activity, and existing disturbances associated with land use outside of the

	<p>workspace) shall be determined and demarcated by the biologist with construction fencing, flagging, or other means to mark the boundary. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to EMWD for mitigation monitoring compliance record keeping.</p>		
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