



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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Governor's Office of Planning & Research

April 19, 2024

Apr 19 2024

STATE CLEARINGHOUSE

Amy Anderson
Santa Clarita Valley Water Agency
25601 Summit Circle
Santa Clarita, CA 91350
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SUBJECT: SAND CANYON SEWER RELOCATION PROJECT MITIGATED NEGATIVE DECLARATION SCH# 2024030871, LOS ANGELES COUNTY, CA

Dear Amy Anderson:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Santa Clarita Valley Water Agency (SCVWA) for the Sand Canyon Sewer Relocation Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, 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, 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

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.

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 2 of 11

example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: SCVWA

Objective: The objective of the Project is to relocate the existing sewer line from within the flow path of the Santa Clara River into the adjacent overbank, by constructing approximately 3,500 linear feet of new sewer pipeline on the north side of the Santa Clara River. An existing sewer line extends east from Vista Canyon Boulevard at the State Route 14 undercrossing within the Santa Clara River, crosses under the Sand Canyon Road bridge, and ends approximately 600 feet east of the bridge. Primary Project activities include removal of existing pavement, grading, trenching, pipe laying, and repaving.

Location: The Project site is located in the eastern portion of Santa Clarita south of State Route 14, directly north of the Santa Clara River near where it crosses Sand Canyon Road. The new sewer line will begin on an overbank adjacent to the north of the Santa Clara River and south of State Route 14, and travel generally east to Sand Canyon Road. It will then redirect north along Sand Canyon Road, then terminate east in two locations near existing commercial uses. The site is surrounded by open space, mainly the Santa Clara River, and both residential and commercial uses.

Timeframe: Construction is anticipated to begin in early 2025 and will occur over the course of approximately four months.

Biological Setting: The Project site is located within the Santa Clara River watershed, which originates in the northern slopes of the San Gabriel Mountains in Los Angeles County, goes through Ventura County, and eventually flows into the Pacific Ocean. Per the Biological Resources Assessment (BRA), the Project site likely acts as a significant east-west movement corridor for large wildlife such as mule deer and coyotes.

Seventeen vegetation communities and three land cover types are identified in the BRA: Fremont cottonwood forest and woodland, tamarisk thickets, big sagebrush scrub, brittle bush scrub, California buckwheat scrub, California sagebrush-California buckwheat scrub, chamise chaparral, mulefat thickets, rubber rabbitbrush scrub, sandbar willow thickets, scale broom scrub, thick-leaved yerba santa scrub, clustered tarweed fields, giant reed breaks, upland mustards, water speedwell patches, wild oats and annual brome grasslands, developed areas, disturbed land, and riverwash. Acreages for all these vegetation communities are not provided, but the MND states that temporary and permanent impacts to sensitive plant communities will be limited to the Fremont

Amy Anderson, Project Manager
 Santa Clarita Valley Water Agency
 April 19, 2024
 Page 3 of 11

cottonwood forest and woodland community (0.18 acre of temporary impacts and 0.07 acre of permanent impacts). The Project will result in the removal of up to 19 trees.

Slender mariposa lily (*Calochortus clavatus* var. *clavatus*; California Rare Plant Rank (CRPR) 1B.2) has a high potential to occur on site. Sensitive plant species with moderate potential to occur on site include: San Fernando Valley spineflower (*Chorizanthe parryi* var. *fernandina*; CESA listed-endangered CRPR 4.2), Parry's spineflower (*Chorizanthe parryi* var. *parryi*; CRPR 1B.2), and slender-horned spineflower (*Dodecahema leptoceras*; CESA listed-endangered, Federal Endangered Species Act (ESA) listed-endangered, CRPR 1B.2).

Sensitive wildlife with moderate to high potential to occur on site include: Crotch's bumble bee (*Bombus crotchii*; CESA candidate-endangered), Santa Ana sucker (*Catostomus santaanae*; ESA listed-threatened), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*; CESA listed-endangered, Fully Protected, ESA listed-endangered), arroyo chub (*Gila orcutti*; CDFW Species of Special Concern (SSC)), arroyo toad (*Anaxyrus californicus*; SSC, ESA listed-endangered), western spadefoot (*Spea hammondi*; SSC), California legless lizard (*Anniella* spp.; SSC), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), coast horned lizard (*Phrynosoma blainvillii*; SSC), Cooper's hawk (*Accipiter cooperii*, Watch List (WL)), California horned lark (*Eremophila alpestris actia*, WL), and San Diego black-tailed jackrabbit (*Lepus californicus bennettii*; SSC).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist SCVWA 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: Sensitive Plants

Issue: There may be impacts for sensitive plants on site, some of which are CESA-listed, that are not adequately mitigated.

Specific impact: MM BIO-5 states that if special-status plants are detected and would be impacted by project construction, a Special-Status Plant Mitigation and Monitoring Plan shall be developed. This plan may include harvesting seeds or salvaging and transporting individuals and will include an approximately five-year monitoring period. Without specific details of this plan, CDFW cannot determine whether avoidance and minimization measures are appropriate for CESA-listed and other sensitive plants that may occur on site.

Why impact would occur: Slender mariposa lily has a high potential to occur on site. Generally, CDFW does not support translocation efforts for rare plants, and specifically, transplanting mariposa lily bulbs has a high failure rate and is unlikely to result in

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 4 of 11

successful plant growth long term. CDFW is aware of numerous mariposa lily transplantation efforts over the past 15 years and has not received demonstrated success of this methodology. Disturbing soil near existing mariposa lilies to plant more individuals can overburden the soil and encourage wildlife such as rats to find and consume the bulbs. Short term monitoring of bulbs does not truly represent long-term outcome of the plant due to nutrients stored in the bulb.

Several CESA-listed plant species have moderate potential to occur on site. MM BIO-4 states that where feasible, sensitive plants will be avoided. However, there is potential for the take of CESA-listed species due to vegetation removal. Permits for take of listed species are not discussed in the environmental document.

Evidence impact would be significant: CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9).

Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most plants that are ranked 1B have declined significantly over the last century. The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened in California (CNPS 2023). Impacts to CRPR 1B plant species and their habitats meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380).

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #1: Sensitive Plant Mitigation: CDFW recommends avoidance and minimization of impacts to sensitive plants on site, and strongly recommends against transplantation as a mitigation method for mariposa lilies. If SCVWA chooses to move forward with seed/bulb salvage, any replanting effort should be moved away from areas with existing mariposa lilies to preserve remaining plants. If bulbs are planted, monitoring should be conducted for a minimum of 10 years and should show a steady or positive trend. Any mitigation and monitoring plan developed should describe, in detail, a contingency plan in the event a transplanting effort is unsuccessful, and the pursuit of a contingency should be added to MM BIO-5.

Recommendation #2: CESA-listed Plants: If the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 5 of 11

a CESA Permit. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.

Mitigation Measure #1: Special-Status Plant Mitigation and Monitoring Plan: The Special-Status Plant Mitigation and Monitoring Plan shall be submitted to CDFW for review and approval prior to removal of any vegetation on site. This plan will include specific details regarding species impacted, mitigation methods and location, biological justification for these methods, success criteria, and contingency plans. Additionally, subsequent annual monitoring reports shall be submitted to CDFW for review. CDFW shall be consulted to determine whether success criteria have been met before monitoring is ended.

COMMENT #2: Impacts to Nesting Birds

Issue: The Project may impact nesting birds on site.

Specific impact: Direct impacts to nesting birds on site could occur as a result of Project activities, including grading, ground disturbance, and vegetation clearing.

Why impact would occur: Per the BRA, there is suitable habitat on site for nesting birds. Mitigation Measure (MM) BIO-9 states that if construction must occur within the avian nesting season, a nesting bird pre-construction survey will be conducted within seven days prior to initiation of ground disturbance and/or vegetation removal. This timeline is too long, as it leaves enough time for a nest to become established between the time a survey is completed and when vegetation removal begins. Additionally, MM BIO-9 states that if nests are found, avoidance buffers of 25 to 50 feet for passerines and up to 300 feet for raptors will be established. These buffer distances could allow impacts close enough to nests that birds may be disturbed and abandon nests.

Evidence impact may be significant: Evidence impact would be significant: Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #2: Nesting Birds: CDFW recommends that MM BIO-9 be modified as follows: (suggestions in ~~strike through~~ and **bold**)

Project-related activities shall occur outside of the bird breeding season (generally February 1 to August 31) to the extent practicable. If construction must occur within the bird breeding season, then no more than ~~seven~~ **three** days prior to initiation of ground disturbance and/or vegetation removal, a nesting bird pre-construction survey shall be conducted by a qualified biologist within the disturbance footprint plus a 100-foot buffer

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 6 of 11

(300-feet for raptors), where feasible. If the proposed project is phased or construction activities stop for more than one week, a subsequent pre-construction nesting bird survey shall be required prior to each phase of construction during the nesting season.

Pre-construction nesting bird surveys shall be conducted during the time of day when birds are active and shall factor in sufficient time to perform this survey adequately and completely. A report of the nesting bird survey results, if applicable, shall be submitted to SCV Water for review and approval prior to ground and/or vegetation disturbance activities.

If nests are found, their locations shall be flagged. An appropriate avoidance buffer ~~ranging in size from 25 to 50 feet for passerines~~ **of 100-300 feet for birds** and up to ~~300~~ **500** feet for raptors, depending upon the species and the proposed work activity, shall be determined, and demarcated by a qualified biologist with bright orange construction fencing or other suitable flagging. Active nests shall be monitored at a minimum of once per week until it has been determined the nest is no longer being used by either the young or adults. No ground or vegetation disturbance shall occur within this buffer until the qualified biologist confirms the breeding/nesting is completed and all the young have fledged. If project activities must occur within the buffer, they shall be conducted at the discretion of the qualified biologist. The nesting bird buffer zones may also be extended at the discretion of the qualified biologist based on field observations of nesting bird behavior. If no nesting birds are observed during pre-construction surveys, no further actions would be necessary.

Additional Comments

1. **Lake and Streambed Alteration Agreement (LSAA):** CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. According to the MND, this Project will have an impact to the Santa Clara River. We acknowledge that the MND states that the Project is anticipated to require a LSAA from CDFW. A Notification package for a LSAA may be obtained by accessing CDFW's web site at <http://www.wildlife.ca.gov/Conservation/LSA>.

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

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 7 of 11

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.)

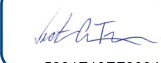
CONCLUSION

CDFW appreciates the opportunity to comment on the type of CEQA document to assist SCVWA in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that SCVWA 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 Brigid Moran, Environmental Scientist, at (858) 354-3527 or Brigid.Moran@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Victoria Tang
Environmental Program Manager
South Coast Region

ec: California Department of Fish and Wildlife
Victoria Tang
Jennifer Turner
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Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 8 of 11

United States Fish and Wildlife Service
Jonathan Snyder – Jonathan_d_Snyder@fws.gov

REFERENCES

- California Environmental Quality Act (CEQA). California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.
- California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2).
- (CNPS) California Native Plant Society. 2023. CNPS Rare Plant Ranks. Available at: <https://www.cnps.org/rare-plants/california-rare-plant-ranks>

Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
REC-1: Sensitive Plant Mitigation	CDFW recommends avoidance and minimization of impacts to sensitive plants on site, and strongly recommends against transplantation as a mitigation method for mariposa lilies. If SCVWA chooses to move forward with seed/bulb salvage, any replanting effort should be moved away from areas with existing mariposa lilies to preserve remaining plants. If bulbs are planted, monitoring should be conducted for a minimum of 10 years and should show a steady or positive trend. Any mitigation and monitoring plan developed should describe, in detail, a contingency plan in the event a transplanting effort is unsuccessful, and the pursuit of a contingency should be added to MM BIO-5.	Prior to, during, and after Project activities	SCVWA
REC-2: CESA-listed plants	If the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. Biological mitigation monitoring and reporting	Prior to Project activities	SCVWA

Amy Anderson, Project Manager
 Santa Clarita Valley Water Agency
 April 19, 2024
 Page 10 of 11

	proposals should be of sufficient detail and resolution to satisfy the requirements of a CESA ITP.		
MM-1: Special-status Plant Mitigation and Monitoring Plan	The Special-Status Plant Mitigation and Monitoring Plan shall be submitted to CDFW for review and approval prior to removal of any vegetation on site. This plan will include specific details regarding species impacted, mitigation methods and location, biological justification for these methods, success criteria, and contingency plans. Additionally, subsequent annual monitoring reports shall be submitted to CDFW for review. CDFW shall be consulted to determine whether success criteria have been met before monitoring is ended.	Prior to and after Project activities	SCVWA
MM-2: Nesting Birds	<p>Project-related activities shall occur outside of the bird breeding season (generally February 1 to August 31) to the extent practicable. If construction must occur within the bird breeding season, then no more than seven three days prior to initiation of ground disturbance and/or vegetation removal, a nesting bird pre-construction survey shall be conducted by a qualified biologist within the disturbance footprint plus a 100-foot buffer (300-feet for raptors), where feasible. If the proposed project is phased or construction activities stop for more than one week, a subsequent pre-construction nesting bird survey shall be required prior to each phase of construction during the nesting season.</p> <p>Pre-construction nesting bird surveys shall be conducted during the time of day when birds are active and shall factor in sufficient time to perform this survey adequately and completely. A report of the nesting bird survey results, if applicable, shall be submitted to SCV Water for review and</p>	Prior to and during Project Activities	SCVWA

Amy Anderson, Project Manager
Santa Clarita Valley Water Agency
April 19, 2024
Page 11 of 11

	<p>approval prior to ground and/or vegetation disturbance activities.</p> <p>If nests are found, their locations shall be flagged. An appropriate avoidance buffer ranging in size from 25 to 50 feet for passerines of 100-300 feet for birds and up to 300 500 feet for raptors, depending upon the species and the proposed work activity, shall be determined and demarcated by a qualified biologist with bright orange construction fencing or other suitable flagging. Active nests shall be monitored at a minimum of once per week until it has been determined the nest is no longer being used by either the young or adults. No ground or vegetation disturbance shall occur within this buffer until the qualified biologist confirms the breeding/nesting is completed and all the young have fledged. If project activities must occur within the buffer, they shall be conducted at the discretion of the qualified biologist. The nesting bird buffer zones may also be extended at the discretion of the qualified biologist based on field observations of nesting bird behavior. If no nesting birds are observed during pre-construction surveys, no further actions would be necessary.</p>		
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