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September 16, 2024

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SUBJECT: INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE TAPIA WATER RECLAMATION FACILITY 003 OUTFALL REHABILITATION PROJECT, SCH NO. 202408527, LOS ANGELES COUNTY, CA

Dear Veronica Hurtado:

The California Department of Fish and Wildlife (CDFW) reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) from Las Virgenes Municipal Water District – Triunfo Joint Powers Authority (Lead Agency) for the Tapia Water Reclamation Facility (WRF) 003 Outfall Rehabilitation 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: Las Virgenes Municipal Water District-Triunfo Joint Powers Authority (the Authority)

Objective: The objective of the Project is to inspect and repair an existing 24-inch outfall pipeline, approximately 2,250 linear feet (0.43 mile), which runs from Tapia WRF to Las Virgenes Road and Malibu Canyon Road. The pipeline crosses paved road for about 0.18 miles and returns through unpaved road for the remaining 0.25 miles. The inspection for the pipeline would ensure its integrity as it would continue to convey discharge between the Tapia WRF and Malibu Creek. Additionally, the Project proposes to install five new 36-inch diameter manholes at existing bends within the pipeline alignment. One manhole would be installed along the paved road leading to the Tapia WRF, and the remaining four would be installed along the unpaved access road east of Malibu Creek Road.

The Project proposes to expand the existing unpaved access road to the north and south by a maximum width of 20 feet. Primary Project activities include trench excavation, backfill and compaction of soil above Tapia 003 outfall pipeline, installation of precast concrete manhole structures into the pipeline, and removal of existing butterfly valves and turnouts for each manhole construction. There would be a temporary work area buffer radius of 13 to 25 feet for each manhole. For the installation of the five manholes, about 200 cubic yards (cy) of soil would be excavated and later used as backfill after construction is complete. Dewatering may be necessary if groundwater is encountered during excavation.

Location: The Project is in the southwest region of unincorporated Los Angeles County, within the Santa Monica Mountain (SMM) planning region and Malibu Creek State Park. The Project area is approximately 1.4 acres occurring on both sides of Malibu Canyon Road and south of the intersection of Piuma Road. The pipeline extends from the Tapia WRF, located at 731 Malibu Canyon Road in Agoura Hills, to Malibu

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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Creek, which runs horizontally northeast of the Project area. Sleeper Canyon also occurs in the north.

Biological Setting: The current adjacent lands near the Project area are Sleeper Canyon and undeveloped land in the north; Malibu Creek and undeveloped land in the east; the Backbone Trail of Malibu Creek State Park, Tapia WRF, and undeveloped land to the south; and the Tapia WRF and undeveloped land to the west. The spaces surrounding the Project area include roadways, hiking trails, public utilities, and commercial and residential buildings. General field surveys were conducted on July 21, 2021, and February 7, 2023, and findings were compiled in a Biological Resource Assessment (BRA).

The topography is generally flat and consists of riparian woodlands, grasslands, and paved roads. More specifically, the vegetation communities are: black cottonwood forest and woodland (*Populus trichocarpa* Forest and Woodland Alliance, 0.06 acres), California sycamore – coast live oak woodlands (*Platanus racemosa* – *Quercus agrifolia* Woodland Association, 0.73 acres), California sycamore – arroyo willow woodlands (*Platanus racemosa* – *Salix lasiolepis* - Woodland Association, 0.70 acres), coast live oak woodland (*Quercus agrifolia* Forest and Woodland Alliance, 2.27 acres), coyote brush scrub (*Baccharis pilularis* Shrubland Alliance, 0.33 acres), creeping ryegrass turfs (*Elymus triticoides* Herbaceous Alliance, 0.7 acres), developed lands (0.67 acres), wild oats and annual brome grasslands (*Avena spp.* – *Bromus spp.* Herbaceous Semi-Natural Alliance, 0.46 acres), wild oats and annual brome grasslands with herbaceous natives (0.15 acres), and upland mustards (Upland mustards (*Hirschfeldia incana* Herbaceous Semi-Natural Association, 1.15 acres).

Sensitive species that have been identified to occur within the Project area and are of potential concern for the Project include southern California legless lizard (*Anniella stebbinsi*, California Special Species of Concern (SSC)), coast horned lizard (*Phrynosoma blainvillii*, SSC), coastal whiptail (*Aspidoscelis tigris stejneger*, SSC), western pond turtle (*Emys marmorata*, SSC), least Bell's vireo (*Vireo bellii pusillus*, Federal Endangered Species Act (ESA) listed-endangered and California Endangered Species Act (CESA) listed-endangered), Crotch's bumble bee (*Bombus crotchii*, CESA listed candidate species), arroyo chub (*Gila orcuttii*, SSC), western mastiff bat (*Eumops perotis californicus*, SSC), western red bat (*Lasiurus blossevillii*, SSC), Yuma myotis (*Myotis yumanensis*), spotted bat (*Euderma maculatum*, SSC), and nesting birds.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Las Virgenes Municipal Water District – Triunfo Joint Powers Authority in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

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COMMENT # 1: Impact to Crotch's Bumble Bee

Issue: The IS/MND does not include survey results for the presence or absence of Crotch's bumble bee.

Specific impact: The IS/MND states Crotch's bumble bee have the potential to occur on-site; however, surveys were not conducted prior to circulation of the IS/MND to determine if Crotch's bumble bee currently occupy the Project area.

Why impact would occur: The Project's ground and vegetation disturbance could result in potentially significant impacts to Crotch's bumble bee, 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. According to the IS/MND, there is suitable vegetation and habitat for host plants within the Project area. Additionally, a California Natural Diversity Database (CNDDDB) search shows the Project area is in within the [Crotch's Bumble Bee Range](#) (CDFW 2024a) and is presumed extant. Crotch's bumble bee is known to forage on the Project area as there are multiple observations within one mile of the Project area. They are generalist foragers and can be found throughout most of southwestern California in areas that have suitable nesting habitat and floral resources. BIO-1, BIO-2, BIO-5, BIO-7, and BIO-8 does not call for focused surveys for Crotch's bumble bee and for construction to be halted if the species is detected during preconstruction surveys, which means that impacts to Crotch's bumble bee may occur without appropriate take authorization under CESA. Construction delays caused by work stoppages due to Crotch's bumble bee presence can extend the Project into additional breeding seasons, leading to increased risk of disturbance to Crotch's bumble bee. In addition to the biological cost of construction delays, such delays are expensive in terms of Project implementation and logistics.

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 in the Project area at any time of year.

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

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warranted” and advancing the species to the candidacy stage of the CESA listing process. 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).

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)

CDFW recommends the Authority include the following Mitigation Measure within the IS/MND:

Mitigation Measure #1: Focused Survey for Crotch’s Bumble Bee

The Project proponent shall retain a qualified biologist with appropriate handling permits and familiar with the species’ behavior and life history of the species. Focused surveys should follow CDFW’s [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#) (CDFW 2023). Prior to finalizing the CEQA document, focused surveys shall be conducted throughout the entire Project area during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. If Crotch’s bumble bee is detected within the Project area, the Project Applicant should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq). The Project Applicant should have a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA will be pursued, then the Authority shall also include details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.

COMMENT # 2: Impacts to Least Bell’s Vireo

Issue: The IS/MND does not discuss or provide mitigation measures to reduce impacts to least Bell’s vireo.

Specific impact: Riparian vegetation removal and human disturbance will have an impact on potential breeding and foraging habitat for least Bell’s vireo.

Why impact would occur: The IS/MND states that “suitable riparian habitat is present in the arroyo willow vegetation community along Malibu Creek within the Study Area.” Suitable habitat and two citizen science-based documentations of least Bell’s vireo indicate a moderate potential to occur within the Project area. 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 construction

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activities, generators, and heavy equipment may disrupt vireo 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). Although there is potential for least Bell's vireo to occur during Project activities, the IS/MND incorporates a general pre-construction nesting bird survey rather than focused surveys for this listed species. Without focused surveys, the Project may result in missed detection of least Bell's vireo and adverse impacts. Adverse impacts that may occur to least Bell's vireo include but is not limited to direct injury, direct mortality by heavy machinery, or entrapment.

Evidence impact would be significant: There are only a few populations and breeding pairs of least Bell's vireo remaining in Los Angeles County. Project construction and activities resulting in loss of breeding pairs or nestlings or habitat supporting least Bell's vireo may result in the Project potentially causing a wildlife population to drop below self-sustaining levels; threaten to eliminate an animal community; or substantially reduce the number of restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Accordingly, impacts on least Bell's vireo may require a mandatory finding of significance (CEQA Guidelines, § 15065).

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. Inadequate avoidance, minimization, and mitigation measures for impacts on the least Bell's vireo will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a wildlife species identified as special status by CDFW and USFWS. As to 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). 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.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #2: Least Bell's Vireo Focused Surveys - The Project proponent shall retain a qualified biologist to conduct protocol surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the United States Fish and Wildlife Service's [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001). Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.

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Mitigation Measure #3: Incidental Take Permit – If take or adverse impacts to least Bell's vireo cannot be avoided, the Project Applicant shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.

Recommendation #1: ESA Consultation – Take under the 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 recommends consultation with the USFWS, in order to comply with ESA, well in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell's vireo.

COMMENT # 3: Impact to Streams

Issue: Project could potentially impact Malibu Creek.

Specific impact: Project activities (i.e. grading and ground disturbance) may cause indirect impacts, such as sedimentation and erosion, to Malibu Creek and associated species.

Why impact would occur: The Project BRA includes anticipated permanent and temporary impacts to stream habitat. The Project site includes a perennial waterway (Malibu Creek), an ephemeral drainage, and an ephemeral ditch, all of which may be subject to Fish and Game Code section 1600 *et seq.* Additionally, arroyo chub (*Gila orcuttii*) has a moderate potential to occur due to suitable habitat in Malibu Creek and observations during field surveys. Direct or indirect impacts to the stream may negatively impact arroyo chub. Grading of the Project site would directly impact these water features and alter the hydrology pattern.

Evidence impact would be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 *et seq.* to conserve fish and wildlife resources, which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

1. Divert or obstruct the natural flow of any river, stream, or lake;
2. Change the bed, channel, or bank of any river, stream, or lake;
3. Use material from any river, stream, or lake; or
4. Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing water features and the hydrology pattern of the Project area. Inadequate avoidance and mitigation measures will result in the

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Project continuing to have a substantial adverse direct and cumulative 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 CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #2: CEQA

CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the Authority for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the Project's potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the Authority consider CDFW's comments and revise the IS/MND by incorporating the mitigation measures recommended in this letter into the Project's environmental document. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity.

Mitigation Measure #4: LSA

The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. Please visit [CDFW's Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2024b).

COMMENT # 4: Impacts to Bats

Issue: The IS/MND states several species of bats have the potential to occur on site and does not include survey results for the presence of absence of bats.

Specific impact: Potential direct impacts include Project construction on structures or trees that may provide roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g.,

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staging, access, excavation, grading), and vibrations caused by heavy equipment. Demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites.

Why impact would occur: The IS/MND states that there are potential direct Project impacts resulting in the removal of roost trees and mortality or harassment of bats through noise, light, and dust pollution. Indirect impacts could include a degradation of riparian habitat, which provides foraging opportunities for special-status bat species. The Project site contains suitable habitat for several bat species that have the potential to occur on the Project site including western mastiff bat, western red bat, Yuma myotis, and spotted bat. MM-BIO-8 does not specifically call for construction to be halted if the species is detected during preconstruction surveys, which means that impacts to bats may occur without appropriate take authorization. In addition to the biological cost of construction delays, such delays are expensive in terms of Project implementation and logistics. Moreover, the mitigation measure does not provide compensatory mitigation to offset the permanent loss of confirmed roosting sites for bats. Without replacement of habitat, the Project would contribute to the ongoing loss of suitable habitat on a local and regional scale.

Evidence impact would be significant: Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code § 4150, CCR § 251.1). Several bat species are also considered Species of Special Concern (SSC), which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). CDFW considers adverse impacts to a SSC, for the purposes of CEQA, to be significant without mitigation. Mitigation is not just exclusion from maternity roosts, wintering sites, night roosts, mating roosts and foraging sites, but providing similarly functioning habitat to what is impacted.

CEQA Guidelines §15070 and §15071 require the document to analyze if the Project may have a significant effect on the environment as well as review if the Project will 'avoid the effect or mitigate to a point where clearly no significant effects would occur'. In order to analyze if a project may have a significant effect on the environment, the Project related impacts, including survey results for species that occur in the entire Project footprint, need to be disclosed during the public comment period. This information is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #5: Mitigation Measure BIO-8 – The Authority should revise Mitigation Measure BIO-8 to incorporate the underlined language and omit language in strikethrough:

The presence or absence of any bat roosts shall be confirmed prior to the initiation of project activities. A qualified bat specialist with appropriate handling permits shall

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conduct bat surveys within the project site and within a 100-foot buffer, ~~as feasible~~, to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be used to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall. If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees, trees planned for removal shall be pushed down using heavy machinery rather than felling it with a chainsaw. To optimize the warning for any roosting bats that may still be present, trees shall be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall be initially pushed slowly to allow roosting bats to escape. After a suitable bat roosting tree is felled, it shall remain in place until it is inspected by a bat specialist. Trees that are confirmed to be bat roosts shall not be bucked or mulched immediately, instead, a period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape. If presence of individual bats is confirmed, the bat specialist shall halt Project activities until it has been determined that all individual bats have left the Project site and Project activities may resume. The bat specialist shall document all demolition monitoring activities and prepare a summary report to the Lead Agency upon completion of Project activities.

If maternity roosts are found, ~~to the extent feasible~~, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30). If maternity roosts are found and trees must be removed during the maternity season, a qualified bat specialist with appropriate handling permits shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than seven days prior to tree disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of an active roost and construction shall not occur between 30 minutes before sunset and 30 minutes after sunrise.

Mitigation Measure #6: Bat Compensatory Mitigation – If the Project shall impact confirmed habitat of bats and avoidance is not achievable, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC (CEQA Guidelines, § 15370(e)). Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species. A proposed mitigation area/plan shall be provided to the Authority and include a discussion on the territory size; roosting and foraging locations; food availability; and how all life cycle

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functions will be mitigated. The replacement habitat shall also be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

COMMENT # 5: Impacts to SSC Reptiles

Issue: The IS/MND did not discuss Project impacts for SSC reptile species.

Specific impact: Direct impacts to SSC reptiles 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 impact would occur: The Project site contains suitable habitat for several SSC reptile species that have the potential to occur on the Project site including southern California legless lizard, coast horned lizard, coastal whiptail, and western pond turtle. Malibu Creek, adjacent riparian vegetation, grassland, and riparian woodland provide suitable habitat for SSC reptiles where the IS/MND states that these species as either moderate or high potential to occur within the Project area. Additionally, CNDDDB has multiple observations of these species within one mile of the Project area. Project activities may result in death or injury of adults, juveniles, eggs, or hatchlings. Moreover, buildout of the Project may eliminate foraging, breeding, or nesting habitat and refugia. The IS/MND acknowledges the potential presence of reptile SSC and provides a general preconstruction survey and a construction monitor. Based on the mitigation measure, the preconstruction survey would occur two weeks prior to activities; however, this window may allow for reptile species to return the Project site and go undetected until Project activities is commenced. Additionally, the measure describes active relocation as the primary method to remove special-status species from the Project site. Active relocation if done improperly may result in adverse impacts such as physical distress, injury, or mortality during the transit process. Furthermore, the MND does not outline compensatory mitigation if presence of SSC is confirmed. Given that habitat loss on a local and regional scale is a major cause of population decline for SSC, removal of confirmed SSC habitat would be considered a significant impact and should be mitigated appropriately.

Evidence impact would be significant: A California Species of Special Concern is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

1. if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

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2. if the species is listed as threatened or endangered under ESA-, but not CESA-, threatened, or endangered;
3. if the species meets the State definition of threatened or endangered but has not formally been listed;
4. if the species is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and
5. if naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or -endangered status (CDFW 2024c).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #7: Mitigation Measure BIO-5 – The Authority shall revise Mitigation Measure BIO-5 to incorporate underlined language and omit language in strikethrough:

No more than three days ~~two weeks~~ prior to initiation of each phase of ground disturbance and vegetation removal, a qualified biologist with appropriate handling permits shall conduct a pre-construction survey for potential rare, listed, or other special-status wildlife species. For western pond turtle, surveys shall adhere to [USGS Western Pond Turtle \(Emys marmorata\) Visual Survey Protocol for the Southcoast Ecoregion](#) (USGS 2006). The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. The preconstruction surveys shall incorporate appropriate methods and timing to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil. Should a special-status species be located on the project site during pre-activity surveys all individuals shall be documented and locations of presence recorded. If a special-status species is found, the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring. ~~be flagged or relocated, with the concurrence of the LACDRP, USFWS, and/or CDFW as appropriate, to an approved site with suitable habitat.~~

Mitigation Measure #8: Compensatory Mitigation

For SSC that have been confirmed and/or are expected to occur within the Project area, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that

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support that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

COMMENT # 6: Impacts to Nesting Birds and Raptors

Issue: The mitigation measure for nesting birds and raptors may be improved to ensure adequate surveys occur prior to the start of construction.

Specific impact: Nesting birds and raptors could establish within the Project area after nesting bird surveys have been conducted as the IS/MND propose they occur at least 14 days prior to construction activity. Additionally, the IS/MND recommends a 50-foot buffer around non-raptor active nests, which may continue to result in disturbance and ultimate take of nesting birds.

Why impact would occur: According to the IS/MND, the Project area has suitable nesting bird habitat within shrubs and trees. Raptors could also potentially nest in the taller trees of the Project area. Vegetation communities such as riparian and upland woodlands provide suitable habitat for nesting and/or foraging. Additionally, multiple observations of potential nesting birds were seen during the field surveys and were included in the BRA. These nesting birds have moderate to high potential to roost or forage within the Project area.

Bird species can construct nests and begin laying eggs in less than seven days. Therefore, a pre-construction nesting bird survey scheduled within 14 days prior to construction may miss some instances of nesting. In terms of a no disturbance buffer, it may need to be increased based on the birds' tolerance level to the disturbance as it varies greatly depending on species, intensity of disturbance, whether the nesting pair is accustomed to disturbance, the location of the nest, the stage of development of nestlings, etc. Disturbance too close to the nest may impact the parents' ability to forage effectively and reduce nestlings' chances of survival. In some cases, disturbance can cause the parents to abandon the nest completely.

Evidence impact may be significant: Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it

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is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act (MBTA).

Consistent with CEQA Guidelines, Section 15380, the status of the least Bell's vireo as an endangered species pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species. CDFW may authorize the take of any such species if certain conditions are met.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #9: Nesting Bird and Raptor Pre-Construction Survey – The Authority shall revise BIO-6 to incorporate the underlined language and omit the language in strikethrough:

If feasible, removal of vegetation within suitable nesting bird habitats will be scheduled to occur in the fall and winter (between September 1 and February 14), after fledging and before the initiation of the nesting season. If construction activities must occur during the nesting season (generally February 1 to September 15), surveys for nesting birds covered by the CFGC and the Migratory Bird Treaty Act (MBTA) shall be conducted by a qualified biologist no more than ~~44~~ 3 days prior to vegetation removal for each phase of the Project. The surveys shall include the disturbance area plus a 500-foot buffer around the site, or to the topographic divide where substantial topography is present in the buffer. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by a qualified biologist. The buffer shall be a minimum of ~~50~~ 100 feet for non-raptor bird species and at least ~~300~~ 500 feet for raptor species. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed, and young have fledged the nest prior to removal of the buffer. If buffer zones are determined to be infeasible, a full-time qualified biological monitor must be onsite to monitor construction within the buffer zones to ensure active nests and nesting birds are not impacted.

Active nests shall be monitored at a minimum of once per week until it has been determined that the nest is no longer being used by either the young or adults. If Project activities must occur within the buffer, they shall be conducted at the discretion of a qualified biologist. If no nesting birds are observed during pre-construction surveys, no further actions would be necessary. ~~If least Bell's vireo or other listed species are identified in the work area, work must be halted and USFWS and/or CDFW must be contacted for additional avoidance and minimization measure guidance.~~ Pre-construction nesting bird and raptor surveys should be conducted during the time of day

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when birds are active and should be of sufficient duration to reliably conclude presence/absence of nesting birds and raptors onsite and within the designated vicinity. In addition, if construction must occur within the bird breeding season, low-noise construction equipment shall be used whenever possible to reduce the amount of noise generated during construction activities within 100 feet from the limits of riparian habitat. Low-noise equipment would reduce noise to less than 38/92 60dB hourly average or to ambient noise levels. If sound levels exceed 60dB hourly average or ambient noise levels, sound mitigation measures such as sound shields, blankets around smaller equipment, use of mufflers, and minimizing the use of back-up alarms shall be employed (as feasible). If these sound mitigation measures do not reduce noise levels, work activities shall cease and shall not recommence until either new sound mitigation can be employed.

ADDITIONAL COMMENTS

Additional comments or other suggestions are also included to improve the document.

Rare Plant Survey. In addition to BIO-3, CDFW recommends rare plant surveys adhere to [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#) (CDFW 2018) and [Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants](#) (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 100-foot-wide buffer around them prior to the commencement of activities that may cause disturbance. No activity will occur within the buffer area. If avoidance is not feasible, impacts must be offset through implementation of a restoration plan.

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency 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 a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

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

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Database (CNDDDB). The [CNDDDB website](#)³ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

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](#)⁴.

Las Virgenes Municipal Water District – Triunfo Joint Powers Authority should ensure data collected for the preparation of the recirculated IS/MND 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 IS/MND to assist Las Virgenes Municipal Water District – Triunfo Joint Powers Authority in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the Las Virgenes Municipal Water District – Triunfo Joint Powers Authority 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 [Joleena De La Fe](#)⁵, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

³ <https://wildlife.ca.gov/Data/CNDDDB>

⁴ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

⁵ Phone: 858-354-3527; Email: Joleena.delafe@wildlife.ca.gov

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ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
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Christian Romberger
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Riley Scott
Andrew Aitken

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REFERENCES

Bayne, E. M., Habib, L., and S. Boutin. 2008. Impacts of chronic anthropogenic noise from energy-sector activity on abundance of songbirds in the boreal forest. *Conservation Biology* 22:1186–1193.

California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available from:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Available from:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

California Department of Fish and Wildlife. 2024d. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDB>

California Department of Fish and Wildlife. 2024a. Crotch's Bumble Bee Range - CDFW [ds3095]. Available from: <https://data.ca.gov/dataset/crotchs-bumble-bee-range-cdfw-ds3095>

California Department of Fish and Wildlife. 2024b. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

California Department of Fish and Wildlife. 2024c. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>

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Francis, C.D., Ortega, C.P., and A. Cruz. 2009. Noise pollution changes avian communities and species interactions. *Current Biology* 19:1415–1419.

Goulson, D. 2010. *Bumblebees: Behaviour, Ecology, and Conservation*. New York, NY: Oxford University Press.

Hatfield, R, S Jepsen, E Mader, S H Black, and M Shepherd. 2012. *Conserving Bumble Bees Guidelines for Creating and Managing Habitat for America's Declining Pollinators*. Portland, OR: The Xerces Society for Invertebrate Conservation.

Halfwerk, W., Holleman, L.J.M., Lessells, Ck.M., Slabbekoorn, H. 2011. Negative impact of traffic noise on avian reproductive success. *Journal of Applied Ecology* 48:210–219.

Kleist, N. J., R. P. Guralnick, A. Cruz, C. A. Lowry, and C. D. Francis. 2018. Chronic anthropogenic noise disrupts glucocorticoid signaling and has multiple effects on fitness in an avian community. *Proceedings of the National Academy of Sciences* 115: E648–E657. Patricelli, G., and J.J.L. Blickley. 2006. Avian communication in urban noise: causes and consequences of vocal adjustment. *Auk* 123:639–649.

Rincon Consultants, Inc. 2024. *Tapia Water Reclamation Facility 003 Outfall Rehabilitation Project Biological Resources Assessment*.

United States Fish and Wildlife Service. 2000. *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants*. Available from: https://cnps.org/wp-content/uploads/2019/10/Bot-Cert_US-Fish-and-Wildlife-Service-guidelines-botanical-inventories-LR.pdf

United States Fish and Wildlife Service. 2001. *Least Bell's Vireo Survey Guidelines*. Available from: <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf>

United States Geological Survey. 2006. *USGS Western Pond Turtle (Emys marmorata) Visual Survey Protocol for the Southcoast Ecoregion*. Available from: https://sdmmp.com/upload/SDMMP_Repository/0/4fnpv18xm0sqtw29j7d3rz56bkychg.pdf

Williams, P H, R W Thorp, L L Richardson, and S R Colla. 2014. *Bumble Bees of North America: An Identification Guide*. Princeton University Press.

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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: Focused Survey for Crotch’s Bumble Bee</p> <p>The Project Proponent shall retain a qualified biologist with appropriate handling permits and familiar with the species’ behavior and life history of the species. Focused surveys should follow CDFW’s Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Prior to finalizing the CEQA document, focused surveys shall be conducted throughout the entire Project area during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. If Crotch’s bumble bee is detected within the Project area, the Project Applicant should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq). The Project Applicant should have a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA will be pursued, then the Authority shall also include details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency / Qualified Biologist</p>
<p>Mitigation Measure #2: Least Bell’s Vireo Focused Surveys - The Project proponent should retain a qualified biologist to conduct protocol surveys for least Bell’s vireo. The qualified biologist should conduct surveys according to the United States Fish and Wildlife Service’s Least Bell’s Vireo Survey Guidelines (USFWS 2001). Per protocol, all potential least Bell’s vireo habitat should be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>

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<p>USFWS should be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.</p>		
<p>Mitigation Measure #3: Incidental Take Permit – If take or adverse impacts to least Bell’s vireo cannot be avoided, the Project Applicant should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent should comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent should provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.</p>	<p>Prior to Project Initiation</p>	<p>Permittee / Lead Agency</p>
<p>Recommendation #1: ESA Consultation – Take under the 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 recommends consultation with the USFWS, in order to comply with ESA, well in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell’s vireo.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p>Recommendation #2: CEQA</p> <p>CDFW’s issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the Authority for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project’s CEQA document should fully identify the Project’s potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the Lead Agency consider CDFW’s comments and revise the IS/MND by incorporating the mitigation measures recommended in this letter into the Project’s environmental document. To</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>

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<p>compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>		
<p>Mitigation Measure #4: LSA</p> <p>The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. Please visit CDFW’s Lake and Streambed Alteration Program webpage for more information (CDFW 2024b).</p>	<p>Prior to Project Initiation</p>	<p>Permittee</p>
<p>Mitigation Measure #5: Mitigation Measure BIO-8 - The Authority should revise Mitigation Measure BIO-8 to incorporate the underlined language and omit language in strikethrough:</p> <p>The presence or absence of any bat roosts shall be confirmed prior to the initiation of project activities. A qualified bat specialist <u>with appropriate handling permits</u> shall conduct bat surveys within the project site and within a 100-foot buffer, as feasible, to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be used to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall. If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year and could roost in trees, trees</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist / Lead Agency</p>

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<p>planned for removal shall be pushed down using heavy machinery rather than felling it with a chainsaw. To optimize the warning for any roosting bats that may still be present, trees shall be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall be initially pushed slowly to allow roosting bats to escape. After a suitable bat roosting tree is felled, it shall remain in place until it is inspected by a bat specialist. Trees that are confirmed to be bat roosts shall not be bucked or mulched immediately, instead, a period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape. <u>If presence of individual bats is confirmed, the bat specialist shall halt Project activities until it has been determined that all individual bats have left the Project site and Project activities may resume. The bat specialist shall document all demolition monitoring activities and prepare a summary report to the Lead Agency upon completion of Project activities.</u></p> <p>If maternity roosts are found, to the extent feasible, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost (March 1 to September 30). If maternity roosts are found and trees must be removed during the maternity season, a qualified bat specialist <u>with appropriate handling permits</u> shall conduct a preconstruction survey to identify those trees proposed for disturbance that could provide hibernacula or nursery colony roosting habitat. Acoustic recognition technology shall be used to maximize detection of bats. Each tree identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no more than seven days prior to tree disturbance to determine the presence or absence of roosting bats more precisely. If maternity roosts are detected, trees determined to be maternity roosts shall be left in place until the end of the maternity season. Work shall not occur within 100 feet of an active roost and construction shall not occur between 30 minutes before sunset and 30 minutes after sunrise.</p>		
<p>Mitigation Measure #6: Bat Compensatory Mitigation – If the Project shall impact confirmed habitat of bats and avoidance is not achievable, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat</p>	<p>Prior to Project Initiation /</p>	<p>Permittee / Lead Agency</p>

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<p>supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species. A proposed mitigation area/plan shall be provided to the Lead Agency and include a discussion on the territory size; roosting and foraging locations; food availability; and how all life cycle functions will be mitigated. The replacement habitat shall also be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>	<p>Post Project Activities</p>	
<p>Mitigation Measure #7: Mitigation Measure BIO-5 – The Authority shall revise Mitigation Measure BIO-5 to incorporate underlined language and omit language in strikethrough:</p> <p>No more than three days two weeks prior to initiation of each phase of ground disturbance and vegetation removal, a qualified biologist <u>with appropriate handling permits</u> shall conduct a pre-construction survey for potential rare, listed, or other special-status wildlife species. <u>For western pond turtle, surveys shall adhere to USGS Western Pond Turtle (Emys marmorata) Visual Survey Protocol for the Southcoast Ecoregion (USGS 2006).</u> The qualified biologist shall survey the proposed impact areas and a 50-foot buffer. <u>The preconstruction surveys shall incorporate appropriate methods and timing to detect these species, including individuals that could be concealed in burrows, beneath leaf litter, or in loose soil.</u> Should a special-status species be located on the project site during pre-activity surveys all individuals shall <u>be documented and locations of presence recorded.</u> If a special-status species is found, <u>the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm’s way to an area that is unaffected by the Project.</u> If the Project requires <u>SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols.</u> The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>

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<p>monitoring, be flagged or relocated, with the concurrence of the LACDRP, USFWS, and/or CDFW as appropriate, to an approved site with suitable habitat.</p>		
<p>Mitigation Measure #8: Compensatory Mitigation</p> <p>For SSC that have been confirmed and/or are expected to occur within the Project area, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that support that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>	<p>Prior to Project Initiation / Post Project Activities</p>	<p>Lead Agency / Permittee</p>
<p>Mitigation Measure #9: Nesting Bird and Raptor Pre-Construction Survey - The Authority shall revise BIO-6 to incorporate the <u>underlined</u> language and omit the language in strikethrough:</p> <p>If feasible, removal of vegetation within suitable nesting bird habitats will be scheduled to occur in the fall and winter (between September 1 and February 14), after fledging and before the initiation of the nesting season. If construction activities must occur during the nesting season (generally February 1 to September 15), surveys for nesting birds covered by the CFGC and the Migratory Bird Treaty Act (MBTA) shall be conducted by a qualified biologist no more than 14 <u>3</u> days prior to vegetation removal for each phase of the Project. The surveys shall include the disturbance area plus a</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency / Qualified Biologist</p>

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500-foot buffer around the site, or to the topographic divide where substantial topography is present in the buffer. If active nests are located, all construction work shall be conducted outside a buffer zone from the nest to be determined by a qualified biologist. The buffer shall be a minimum of ~~50~~ 100 feet for non-raptor bird species and at least ~~300~~ 500 feet for raptor species. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The buffer area(s) shall be closed to construction personnel and equipment until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed, and young have fledged the nest prior to removal of the buffer. If buffer zones are determined to be infeasible, a full-time qualified biological monitor must be onsite to monitor construction within the buffer zones to ensure active nests and nesting birds are not impacted.

Active nests shall be monitored at a minimum of once per week until it has been determined that the nest is no longer being used by either the young or adults. If Project activities must occur within the buffer, they shall be conducted at the discretion of a qualified biologist. If no nesting birds are observed during pre-construction surveys, no further actions would be necessary. ~~If least Bell's vireo or other listed species are identified in the work area, work must be halted and USFWS and/or CDFW must be contacted for additional avoidance and minimization measure guidance.~~ Pre-construction nesting bird and raptor surveys should be conducted during the time of day when birds are active and should be of sufficient duration to reliably conclude presence/absence of nesting birds and raptors onsite and within the designated vicinity. In addition, if construction must occur within the bird breeding season, low-noise construction equipment shall be used whenever possible to reduce the amount of noise generated during construction activities within 100 feet from the limits of riparian habitat. Low-noise equipment would reduce noise to less than 38/92 60dB hourly average or to ambient noise levels. If sound levels exceed 60dB hourly average or ambient noise levels, sound mitigation measures such as sound shields, blankets around smaller equipment, use of mufflers, and minimizing the use of back-up alarms shall be employed (as feasible). If these sound mitigation measures do not

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reduce noise levels, work activities shall cease and shall not recommence until either new sound mitigation can be employed.		
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