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STATE CLEARINGHOUSE

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Subject: Comments on the Final Environmental Impact Report for the Arroyo Seco Canyon Project Areas 2 and 3, SCH #2014101022, Los Angeles County

Dear Ms. Ventura:

The California Department of Fish and Wildlife (CDFW) has reviewed the Arroyo Seco Canyon Project Areas 2 and 3 (Project) Final Environmental Impact Report (FEIR) from the City of Pasadena (Lead Agency; City). The FEIR's supporting documentation including the *Response to Comments on the Arroyo Seco Canyon Project Areas 2 and 3 Draft Environmental Impact Report, SCH# 2014101022* (Response).

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's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish

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& G. Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The Project is divided into two areas (Area 2 and Area 3) along the Arroyo Seco. Improvements in Area 2 include the removal of the existing diversion/weir structure and intake structure. This would be replaced with a new diversion/weir structure that could be operated to divert up to 25 cubic feet per second (cfs) of creek flows through the new intake structure and into the existing conveyance system (a combination of tunnels and pipelines). Improvements in Area 3 include the reconfiguration and expansion of the spreading basins to accommodate the increased flows for infiltration into the Raymond Basin. Various facilities would be demolished, including inlet/outlet structures, pipes and valves, fencing, and other small appurtenant structures, to allow for the reconstructed basins. The Project objective is to increase the use of the City's surface water rights and to improve biological functions within the Arroyo Seco.

Location: The Project site is located within the Arroyo Seco Canyon adjacent to North Arroyo Boulevard (i.e., Gabriellino Trail/Access Road), located in Township 1 North, Range 12 West. The proposed Project consists of two primary areas, including Area 2, Diversion and Intake Replacement and Area 3, Spreading Basin Improvements, which is adjacent to the former Jet Propulsion Laboratory (JPL) parking lot in the City of Pasadena.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

Comment #1: Native Resident and Migratory Fish Monitoring Plan

MM-BIO-7 states, "the City shall develop a Native Resident and Migratory Fish Monitoring Plan (Monitoring Plan), in consultation with CDFW," and "At such time as steelhead passage is restored, the City shall alter either the design of the diversion/weir structure, the operational methods of the diversion/weir structure, or both to satisfy Fish and Game Code Sections 5901 and 5937." CDFW looks forward to coordinating with Pasadena Water and Power on diversion structure and the Monitoring Plan to ensure compliance as set forth by Fish and Game Code 5901 and 5937.

Comment #2: Cumulative Impacts and Devil's Gate Reservoir

The *Topical Response BIO Cumulative Impacts and Devil's Gate Reservoir* in the Response states, "The Devil's Gate project also includes a habitat restoration element within upper portions of the reservoir area. Much of the riparian habitat within the reservoir area that is avoided by sediment removal shall be retained and enhanced or restored. Project mitigation and regulatory permit conditions associated with the Devil's Gate project required the development of a Habitat Mitigation and Monitoring Plan (HMMP). In other words, some of the areas that were previously identified as impacted by the proposed Project, but whose impact was reduced

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due to new conditions, are now included in the mitigation areas of the County's HMMP. The HMMP includes an assessment of the hydrology based on a hydraulic analysis prepared for the project. The assessment concludes that the hydrology of the area, inclusive of a reduction in stream flows from the proposed Project's diversions, is enough to support the existing retained vegetation as well as the additional riparian habitat to be restored per HMMP requirements throughout the reservoir area."

The Devil's Gate Dam Sediment Removal Project includes several areas of on-site mitigation currently in progress with habitat enhancement and planting of native riparian vegetation. CDFW is concerned that the proposed diversion will result in changes to water availability for downstream resources, including areas that will be utilized for mitigation. In addition, the hydraulic analysis referred in the HMMP occurred prior to start of sediment removal and may no longer be representative of existing site conditions.

The potential loss of riparian habitat from the Project's long-term surface water diversion components could potentially result in significant loss of habitat for biological resources known to occur downstream. This diversion may adversely affect the existing riparian habitat within and in the vicinity of the Project site, which absent specific mitigation, may result in substantial changes to riparian composition. In addition, CDFW is concerned that requirements set forth by Fish and Game Code 5937 may not be met throughout the downstream area due to the diversion. Lastly, the diversion of water may result in a decrease in objective and goals of the restoration efforts from the Devil's Gate Dam Sediment Removal Project mitigation sites.

Recommendation #1: Considering the recent changes in the existing conditions from ongoing sediment removal activities, CDFW recommends a new hydrological study and post-Project riparian impact monitoring be conducted. The study should include a range of expected monthly precipitation cycles (e.g., dry, average, and wet) during which the riparian vegetation response within the mitigation area can be evaluated to represent a more accurate response to reduced flows from the Project.

Recommendation #2: Monitoring of post-Project conditions should include soil moisture measurements at depths representative of root zone accessibilities of selected target riparian plant species in the monitoring areas.

Recommendation #3: The City should provide threshold criteria that can be used during monitoring events to identify any decline of downstream resources. The City should develop contingency measures if downstream resources are being impacted due to the Project's ongoing water diversion.

Comment #3: Occupied Habitat for Special Status Species

While MM-BIO-4, MM-BIO-5, MM-BIO-6 measures may address the loss of sensitive vegetation communities, they do not separately address the loss of occupied or foraging habitat for special status wildlife species including California newt (*Taricha torosa*), two-striped garter snake (*Thamnophis hammondi*), Southern California legless lizard (*Anniella pulchra*), and coastal whiptail (*Aspidoscelis tigris stejnegeri*).

Comment 2-11 from the Response states that "These species, while considered special status, are not highly restricted in range and are typical of intact riparian and streambed corridors." CDFW asserts that these special status species require mitigation because their range has

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been adversely impacted over time. The populations of the California newt located in the Santa Monica, San Gabriel, and Santa Ana Mountains are highly fragmented (Stebbins, 2003); therefore, mitigation for habitat loss is important for this population to prevent further fragmentation. The two-striped garter snake population has been estimated to have been extirpated from 40 percent of its historic range in California (Jennings and Hayes, 1994). There is evidence that an estimated 20 percent of historical habitat is no longer suitable to the Southern California legless lizard due to soil disturbance (Jennings and Hayes, 1994). Construction activities will result in soil and ground disturbance and may lead to loss of suitable habitat for this species. Lastly, the coastal whiptail has been nearly extirpated from large areas of the Los Angeles basin due to habitat loss (Stebbins, 2003). Therefore, the loss of occupied habitat, especially that of special status species, would constitute a significant impact absent mitigation.

In addition, BIO-MM-1 the Preconstruction Survey and Relocation Plan states it will include protocols to “flush out and/or move identified special status wildlife within the study area.” Not only does flushing species into surrounding area negatively impact the surrounding habitats, but it generally results in mortality of the individuals flushed. The movement of individuals to the surrounding area lowers the carrying capacity of the surrounding habitat by putting more pressure on the resources available to the individuals currently occupying these areas. The species on site are also highly cryptic and nearly impossible to flush; for example, silvery legless lizards need to be excavated from sand to relocate. Mitigation should not only consider the overall acreage lost but the number of each individual species, its habitat and territory requirements, as well as impacts to the surrounding area.

Recommendation: CDFW recommends occupied habitat mitigation ratio be based on (but not limited to) the number of individuals of each species that may be on site, rarity of the species in the State; local significance; acreage of occupied habitat; territory requirements; temporal loss of habitat; and the likelihood that the Project would impact the vicinity around the Project area.

Comment #4: Impacts to Sensitive Vegetation Communities

According to the [California Natural Communities List](#) (CDFWb, 2020), white alder-California sycamore (*Alnus rhombifolia* – *Platanus racemosa*) and California sycamore are considered sensitive vegetation communities with a State (S) rarity ranking of S3. As shown in MM-BIO-4, the mitigation ratio is presented at 3:1, which may not be sufficient for this S3-ranked vegetation community. The Project will also impact sensitive vegetation communities within and around the Project area.

Recommendation: Factors to determine mitigation should include (but not limited to) the rarity of the vegetation community in the State; local significance; potential rarity of specific plant species associated with each vegetation community; temporal loss of habitat; and the likelihood that the Project would impact communities associated with wetlands, streams, rivers, and creeks, which provide important food, nesting habitat, cover, and migration corridors for wildlife. Therefore, CDFW recommends the Project mitigate at least 5:1 for impacts for S3 communities. Given that the FEIR has not yet identified factors such as temporal loss or presence/absence of nesting species, a higher mitigation ratio may be warranted based on factors described above.

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Comment #5: Impacts to Sensitive Vegetation Communities and Streams

Response 2-19 states, “MM-BIO-4, MM-BIO-5, MM-BIO-6 are provided to mitigate for direct impacts to sensitive and riparian habitats, regardless of location relative to CDFW jurisdiction.” However, this seems to contradict MM-BIO-4, which states, “Mitigation for impacts to sensitive vegetation communities shall consider and overlap with compensation for jurisdictional waters (MM-BIO-6) since the sensitive vegetation is associated with the jurisdictional limits of Arroyo Seco.” The FEIR appears to combine mitigation for vegetation communities together with stream mitigation. Based on how MM-BIO-4 is written, CDFW is concerned that any sensitive community that is impacted outside the limits of the Arroyo Seco will not be sufficiently mitigated if the sensitive community is not within the lateral extent of the stream and not subject to Fish and Game code 1602. Project activities will result in the loss of sensitive vegetation communities that CDFW considers unique as distinct biological communities consisting of layers that include trees and herbaceous understory vegetation.

Recommendation: CDFW requests the FEIR clarify these measures so that mitigation for streams is considered separately from impacts to the sensitive communities that are outside of the stream. CDFW recommends mitigation for impacts to sensitive vegetation communities not overlap with compensation for streams.

Comment #6: Fish Survey

Section 4.2.7 Mitigation Measures, MM-BIO-7 states, “The Monitoring Plan will include the results of the baseline conditions for fish, which shall be conducted prior to commencement of earthwork in Area 2 within the 3,500 section of the stream using the survey methodology described in the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition).”

While CDFW agrees that the area surveyed for the Project and use of the 2010 California Salmonid Stream Habitat Restoration Manual (4th Edition) is adequate, CDFW is concerned about the lack of specific methods mentioned to conduct the survey. Fish sampling methods presented in the [2010 California Salmonid Stream Habitat Restoration Manual \(4th Edition\)](#) include visual methods of stream bank observation. While these are approved fish sampling methods, they can miss fish that may be hiding between boulders, below undercut banks, or in shadowed areas of the stream. In an area with historically low populations for fish species, such as the Arroyo Seco, above water visual surveys along and within the stream may not be adequate to state absence of fish in the stream. The lack of deep pool habitats, as stated in Appendix C, does not dismiss rainbow trout potential from the stream. In southern California, rainbow trout are known to utilize a variety of stream habitat at a variety of depths. In addition, visual observation methods may prove difficult for species identification, number of fish observed, and is only most useful in pools and areas where visibility is better than riffles.

Insufficient surveys may result in a false negative that could have further negative implications for fish that may be located in the stream. In addition, the positive identification of fish may impact the construction and operations of the diversion/weir to accommodate passage.

Recommendation: CDFW strongly recommends conducting surveys, such as direct or underwater observation or electrofishing, as described in the California Salmonid Stream Habitat Restoration Manual, part IV covers fish survey methods. Surveys should be conducted in the same survey area as the previous survey. All results, including negative results should be

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reported to CDFW and included in the final environmental document.

Additional Recommendations:

Preconstruction Survey and Relocation Plan

MM-BIO-1 identifies the minimum aspects the Preconstruction Survey and Relocation Plan (Plan) will include. While CDFW concurs with the current listed requirements in the Plan, CDFW recommends the following measures also be included into the Plan to further protect special status species that may be found on site.

Recommendation:

- **Scientific Collecting Permit** – Pursuant to the [California Code of Regulations, title 14, section 650](#), the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFWa 2020). As a note, an LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.
- **Species Surveys** – The City should retain a qualified biologist(s) with experience surveying for or is familiar with the life history of each of the following species: California newt (*Taricha torosa*), two-striped garter snake (*Thamnophis hammondi*), Southern California legless lizard (*Anniella pulchra*), and coastal whiptail (*Aspidoscelis tigris stejnegeri*). The qualified biologist should conduct focused surveys for species of special concern and suitable habitat no more than one month from the start of any ground-disturbing activities or vegetation removal where there may be impacts to species of special concern. In addition, the qualified biologist should conduct daily biological monitoring during any activities involving vegetation clearing or modification of natural habitat. Positive detections of species of special concern and suitable habitat at the detection location should be mapped and photographed. The qualified biologist should provide a summary report of species of special concern surveys to the City prior to implementing any Project-related ground-disturbing activities and vegetation removal. Depending on the survey results, a qualified biologist should develop species-specific mitigation measures for implementation during the Project.
- **Protection/Relocation Plan** – Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. Species of special concern should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (to be included with the Plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas.
- **Worker Training** – The City, in consultation with a qualified biologist, should prepare a worker environmental awareness training. The qualified biologist should communicate to workers that upon encounter with a species of special concern (e.g., during construction or equipment inspections), work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so.

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- **Injured or Dead Wildlife** – If any species of special concern are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

Filing Fees

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

Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. Questions regarding this letter and further coordination on these issues should be directed to Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 430-0098.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

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