



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

August 23, 2021

August 23 2021

Mr. Erik Krause
City of Glendale
633 East Broadway, Room 103
Glendale, CA 91206
EKrause@glendaleca.gov

STATE CLEARINGHOUSE

Subject: Biogas Renewable Generation Project, Final Environmental Impact Report, SCH #2017081062, City of Glendale, Los Angeles County

Dear Mr. Krause:

The California Department of Fish and Wildlife (CDFW) has reviewed a Final Environmental Impact Report (FEIR) from the City of Glendale (City; Lead Agency) for the Biogas Renewable Generation Project (Project). The City is both the Lead Agency and the Project Applicant. CDFW submitted comments on a Draft Environmental Impact Report (DEIR) for the Project on September 29, 2020. CDFW provided comments and recommendations to assist the City in mitigating the Project's potential impacts on special status plants; aquatic and riparian resources; native plant communities; coast live oak trees (*Quercus agrifolia*); Crotch's bumble bee (*Bombus crotchii*); California gnatcatcher (*Polioptila californica californica*); California Species of Special Concern; nesting birds; and bats. CDFW appreciates that the City reviewed and responded to our comments and recommendations.

After reviewing the FEIR and responses to our comments, CDFW has prepared additional comments and recommendations to assist the City in mitigating the Project's potential impacts on fish and wildlife resources (biological resources). 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. Thank you for the opportunity to review the FEIR, and we request that the City consider our additional comments prior to approving the FEIR.

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

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

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regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project’s objective is to use the methane-rich landfill gas (LFG) generated by the Scholl Canyon Landfill (SCLF) as fuel to generate 100 percent renewable electrical energy on site. The South Coast Air Quality Management District (SCAQMD) requires the City to collect and control LFG to eliminate direct release of methane from the landfill into the atmosphere. Landfill gas is currently being captured through an existing LFG collection system and combusted in flares at the SCLF pursuant to a permit from the SCAQMD. Rather than continuing to flare LFG, the Project seeks to beneficially use LFG for power generation utility at the SCLF. This would assist the City in meeting and exceeding State requirements for renewable energy generation.

The Project includes construction and operation of an approximately 12-megawatt Power Generation Facility, and natural gas and water pipelines.

- Power Generation Facility. The proposed power generation facility would be located adjacent to the existing LFG flare station and would include the following equipment and systems: LFG compressors; LFG treatment system; condensate treatment system; electrical generating equipment; combustion exhaust gas cleanup; continuous emission monitoring systems; electric switchgear; office space; fire protection and safety system; two water tanks; security fencing, and lighting.
- Natural gas pipeline. Approximately two-thirds of a mile (3,500 linear feet) of natural gas pipeline would be constructed to connect the Power Generation Facility to the existing Southern California Gas Company pipeline system located at the eastern end of Scholl Canyon Drive. The Southern California Gas Company pipeline would be a 3-inch, schedule 40 steel gas pipeline located above ground, except at road and drainage culvert crossings, within the boundary of the SCLF.
- Water pipeline. In order to convey water to a new 60,000-gallon water storage tank for fire protection and 10,000-gallon potable water storage tank, an approximately one-mile-long, 12-inch steel or high-density polyethylene pipeline would be connected to the existing 16-inch pipeline located north of the SCLF on Glenoaks Boulevard. The water pipeline would be installed above-ground except at road and drainage culvert crossings, and at those locations the water pipeline would be installed below-ground under the roads and either over or under the drainage culvert crossings.

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The Project would occur in three phases.

- **Phase 1 – Demolition and Removal of Existing Equipment.** Four to five months and would entail demolition and removal of existing equipment from the site to make room for the Power Generation Facility. Tanks, piping, electrical systems, fencing, containers, office buildings, and other facilities would be dismantled and removed. The existing concrete foundations and existing asphalt roads would be demolished.
- **Phase 2 – Site Grading and Construction.** Nine to 10 months and would entail grading, excavation, and site preparation and civil construction. It is anticipated that during the grading process approximately 20,000 cubic yards of soil would be excavated, of which 6,000 cubic yards of soil would be used on-site as fill and 14,000 cubic yards of clean soil would be used as cover at the landfill.
- **Phase 3 – System Startup.** Two to three months would entail sandblasting, priming, and painting the facility, delivery of products/materials, and verifying the operational capabilities of all systems required to make the facility safe and operational.

Location: The City proposes to implement the proposed Project within the existing boundaries of the 535-acre SCLF, located at 3001 Scholl Canyon Road in the City of Glendale. Scholl Canyon Landfill is an existing 535-acre Class III nonhazardous landfill facility that accepts municipal solid waste and is not a generator of, or repository for, hazardous wastes. The Project is proposed to be located on a 2.2-acre, non-fill portion of the site, situated on bedrock. The 2.2-acre site is on a portion of the SCLF that is not used for disposal of waste.

Comments and Recommendations

CDFW offers the comments and potentially feasible 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 the Project's Mitigation and Monitoring Reporting Plan.

Comment #1: Lake and Streambed Alteration (LSA)

Issue: The Project could impact streams subject to LSA Notification under Fish and Game Code section 1602 et seq.

Specific impacts: The Project could impact streams within the Project site. Page 4.164 in the FEIR states, "should they occur, direct impacts to federal non-wetland Waters of the U.S. and CDFW jurisdictional waters could include the removal of native vegetation, the discharge of fill, degradation of water quality, and increased erosion and sediment transport. Potential indirect impacts could include alterations to the existing topographical and hydrological conditions and the introduction of non-native, invasive plant species [...]"

Why impacts would occur: The Project would require installation of gas and water pipelines. The FEIR and Response to Comments both acknowledge that streams could be impacted during pipeline installation. First, according to the City's Responses to Comments, "pipelines

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would be installed over or below all potentially jurisdictional features [...] all the pipelines are proposed above ground which will result in minimal ground disturbing activities.” This statement acknowledges that ground disturbing activities near potentially jurisdictional features will occur regardless of the magnitude of those activities. Boring under streams to install pipelines could lead to erosion or subsidence.

Second, page 4.164 in the FEIR states, “as required by law, the City would comply with the regulations regarding conducting Project activities in water courses and habitats under the jurisdiction of the State and federal government. Therefore, the City would obtain required permits pursuant to Section 401 and 404 of the CWA, the State Porter- Cologne Act, and Fish and Game Code Section 1605. Due to the importance of jurisdictional habitats and ephemeral/perennial drainages and their suitability to support special-status species, the loss of these habitats associated with the proposed Project would be considered a significant adverse impact requiring mitigation.” This statement also acknowledges that impacts on streams could occur and impacts would warrant mitigation to reduce impacts to less than significant.

Lastly, the Project would require perpetual management of vegetation within 100 feet around the new Power Generation Facility to comply with Fire Department brush clearance requirements. The footprint of that clearance zone is near the headwater of a stream located on south-facing canyons. This stream flows into a 0.13-acre freshwater pond (see Figure 4.3-2 in the FEIR). Vegetation removal could expose more surfaces that would wash out and erode during rain events. Exposed soils could be transported into this stream and into the freshwater pond. Erosion and sediment could impair both the stream and freshwater pond.

Evidence impacts would be significant: The Project could impact streams. 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 plant 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:

- Divert or obstruct the natural flow of any river, stream, or lake¹;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

After CDFW is notified pursuant to Fish and Game Code section 1602, CDFW informs the entity in writing whether an activity would not substantially adversely affect an existing fish or wildlife resource thus may commence the activity without an LSA Agreement [Fish and G. Code, § 1602(a)(4)(A)(i)], or CDFW determines that an activity may substantially adversely affect an existing fish or wildlife resource and will issue a final agreement (LSA Agreement) to the entity that includes measures necessary to protect the resources, and the entity conducts the activity in accordance with the agreement [Fish and G. Code, § 1602(a)(4)(B)].

The City has not provided measures to mitigate for potential impacts on streams. The reasoning for not providing mitigation according to the City’s Responses to Comments, is that “there would

¹ “Any river, stream, or lake” includes those that are dry for periods of time as well as those that flow year-round.

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be no impacts to CDFW jurisdictional waters, and as such, and application for a Lake and Streambed Alteration Agreement is not required for Project construction or operation. Because obtaining a LSAA is not required for the Project, a mitigation measures to ensure compliance with a regulatory standard not applicable to the Project is not required.” Inadequate avoidance, minimization, and mitigation measures for impacts on river, stream, or lake resources, including plant communities and wildlife supported by and dependent on those resources, could result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species or plant community identified as a candidate, sensitive, rare, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW determined that this Project could impact streams. Therefore, CDFW recommends the City notify CDFW pursuant to Fish and Game Code 1600 et seq. Based on this notification and other information, CDFW determines whether an LSA Agreement with the City is required prior to conducting Project activities. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021). CDFW recommends the City obtain an LSA Agreement (if one is needed per CDFW’s discretion) before the City starting any Project construction and activities.

Mitigation Measure #2: CDFW recommends the LSA Notification include the following information and analyses:

- 1) A hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions in order to provide information on how water and sediment is conveyed through the Project site;
- 2) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of Project activities; and,
- 3) An analysis demonstrating that potential boring activities under streams would avoid impacts on streams, and subsidence and erosion would not occur.

Mitigation Measure #3: CDFW recommends the LSA Notification include measures to avoid impacts on streams during vegetation clearing activities occurring for the life of the Project. The City should provide measures that would address erosion, sediment transport, and preventing vegetation removal beyond the 100-foot clearance zone.

Recommendation #1: 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 City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW’s comments and revise the FEIR by incorporating the Mitigation Measures recommended in this letter into the Project’s final environmental document.

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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.

Recommendation #2: If the Project would require routine maintenance of gas and water pipelines or other Project-related infrastructure, within or adjacent to streams, CDFW recommends the City revise the FEIR to provide details of those routine maintenance activities. The FEIR should discuss potential impacts on biological resources during those routine maintenance activities and provide measures to mitigate those impacts.

Comment #2: Impacts to Crotch's Bumble Bee

Issue: The Project does not provide measures to mitigate for potential impacts to Crotch's bumble bee.

Specific impact: The Project may result in crushing or filling of active bee colonies, causing the death or injury of adults, eggs, and larvae; burrow collapse; nest abandonment, and reduced nest success. Additionally, the Project may result in permanent loss of habitat.

Why impacts would occur: The Project would require vegetation to be removed on south-facing slopes within 100 feet of the new Power Generation Facility to comply with Fire Department brush clearance requirements. Specifically, the Project would permanently remove vegetation composing laurel sumac scrub (*Malosma laurina* Shrubland Alliance) and California sagebrush scrub (*Artemisia californica* Shrubland Alliance). The habitat formed by these plant communities could provide suitable habitat for Crotch's bumble bee. Suitable Crotch's bumble bee habitat includes areas of grasslands and shrublands that contain requisite habitat elements such as small mammal burrows.

Crotch's bumble bee 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, underneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil, or under leaf litter or other debris (Goulson 2010; Williams et al. 2014). Ground disturbing activities and vegetation removal associated with the Project could impact Crotch's bumble bee if they occur in suitable habitat within the Project site. This could result in injury or mortality, reduced reproductive capacity, population declines, or local extirpation of Crotch's bumble bees and colonies. Moreover, the Project could result in permanent loss of suitable overwintering, nesting, and foraging habitat for Crotch's bumble bee.

Evidence impact would be significant: Crotch's bumble bee is listed as an invertebrate of conservation priority under the [California Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) (CDFW 2017). Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Also, Crotch's bumble bee has a very restricted range and steep population declines make the species vulnerable to extirpation from the State (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Impacts on Crotch's bumble bee may

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require a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant or animal community and/or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, §15065). In the City's Responses to Comments, the City states that no mitigation for Crotch's bumble bee is required. The City offers the following to justify that conclusion: (1) Crotch's bumble bees have been not observed within the Project vicinity in more than 20 years and (2) ground disturbing activities would only occur as part of the Project's new facilities and water tank installation areas.

One of the basic purposes of CEQA is to inform governmental decision makers and the public about the potential significant environment effects of proposed activities (CEQA Guidelines, § 15002). The City has not provided substantial evidence that Crotch's bumble bee is absent from the Project site and impacts would not occur. First, the lack of current records in the California Natural Diversity Database (CNDDDB) is likely due to an absence of focused surveys. The CNDDDB does not contain any records of past or recent surveys in the Project site for Crotch's bumble bee. Historically, focused surveys for Crotch's bumble bee were not required for projects and it was only until recently that this was not the case. Second, the Project would result in ground disturbing activities beyond "disturbed" parts of the Project site. The Project would require ground disturbing activities and vegetation removal on south-facing slopes in predominately undisturbed areas. Plant communities in these undisturbed areas could provide suitable habitat for Crotch's bumble bee. If present, Crotch's bumble bees could be impacted either directly or through habitat modifications if vegetation removal was to proceed based on a false negative. Lastly, the City has not provided substantial evidence that the Project site does not support habitat for Crotch's bumble bee. The City only stated that suitable food plants could occur but provides no assessment of habitat suitability. The FEIR provides no information as to whether the Project site supports or could support nesting and overwintering sites. Bumble bee colony success is often limited by the availability of suitable nesting and overwintering sites. Conservation of nesting and overwintering sites is critical to conserving the vulnerable Crotch's bumble bee. Project activities proceeding without an assessment of habitat, or based on an inadequate assessment, may result in significant impacts on Crotch's bumble bee by causing the loss of overwintering and nesting sites.

The reduction in the number of Crotch's bumble bees, either directly or indirectly through habitat loss, would constitute a significant impact absent appropriate mitigation. Inadequate avoidance and mitigation measures will result in the 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)

Mitigation Measure: Due to the presence suitable habitat within the Project site, within one year prior to vegetation removal and/or grading, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Surveys should focus on areas in the Project sites south-facing slopes that are potentially suitable for Crotch's bumble bees. A survey report should also provide a habitat assessment focusing on overwintering and nesting sites. Survey results including negative findings should

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be submitted to CDFW prior to initiation of Project activities.

No further mitigation is required if Crotch's bumble bees are not present. However, the City should consult with CDFW if Crotch's bumble bees are present and adverse impacts to Crotch's bumble bee cannot be avoided either during Project activities or over the life of the Project. The City should consult with CDFW prior to starting any Project activities that could impact Crotch's bumble bee.

Filing Fees

The Project, as proposed, would 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 City of Glendale 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 FEIR to assist the City of Glendale in adequately analyzing and minimizing/mitigating the Project's impacts on biological resources. We appreciate your time to review CDFW's comments on the FEIR. CDFW requests an opportunity to review and comment on any response that the City of Glendale has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:



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Victoria Tang signing for

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts on Streams-Lake and Streambed Alteration Notification	The City shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. prior to conducting proposed activities. The City shall obtain an LSA Agreement (if one is needed per CDFW's discretion) before grading and development permits are issued.	Prior to any construction and activities	City of Glendale
MM-BIO-2- Impacts on Streams-Lake and Streambed Alteration Notification	The City shall include the following information and analyses as part of its LSA Notification: <ol style="list-style-type: none"> 1) A hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions in order to provide information on how water and sediment is conveyed through the Project site; 2) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of Project activities; and, 3) An analysis demonstrating that potential boring activities under streams would avoid impacts on streams, and subsidence and erosion would not occur. 	Prior to any construction and activities	City of Glendale
MM-BIO-3- Impacts on Streams-Lake and Streambed	The LSA Notification shall include measures to avoid impacts on streams during vegetation clearing activities occurring for the life of the Project. Measures shall address erosion, sediment transport, and preventing vegetation removal beyond the 100-foot clearance zone.	Prior to any construction and activities	City of Glendale

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Alteration Notification			
MM-BIO-4- Impacts on Crotch's bumble bee-surveys	<p>Within one year prior to vegetation removal and/or grading, a qualified entomologist familiar with the species behavior and life history shall conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys shall be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1. Surveys shall focus on areas in the Project sites south-facing slopes that are potentially suitable for Crotch's bumble bees. A survey report shall also provide a habitat assessment focusing on overwintering and nesting sites. Survey results including negative findings shall be submitted to CDFW prior to initiation of Project activities.</p> <p>No further mitigation is required if Crotch's bumble bees are not present. The City shall consult with CDFW if Crotch's bumble bees are present and adverse impacts to Crotch's bumble bee cannot be avoided either during Project activities or over the life of the Project. The City shall consult with CDFW prior to starting any Project activities that could impact Crotch's bumble bee.</p>	<p>One year prior to vegetation removal and/or grading</p> <p>Prior to starting any Project activities that could impact Crotch's bumble bee</p>	City of Glendale
REC-1- Impacts on Streams-CEQA document revisions	<p>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 potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and revise the FEIR by incorporating Mitigation Measure #1 through #4 into the Project's final environmental document.</p> <p>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</p>	Prior to finalizing CEQA document	City of Glendale

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	downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.		
REC-2- Impacts on Streams-Routine Maintenance	If the Project would require routine maintenance of gas and water pipelines or other Project-related infrastructure, within or adjacent to streams, the City should revise the FEIR to provide details of those routine maintenance activities. The FEIR should discuss potential impacts on biological resources during those routine maintenance activities and provide measures to mitigate those impacts.	Prior to finalizing CEQA document	City of Glendale