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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

Ms. Jodie Lanza, Supervising Engineer
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Subject: Comments on the Draft Environmental Impact Report for the San Gabriel River Watershed Project to Reduce River Discharge in Support of Increased Recycled Water Reuse (SCH# 2018071021), Los Angeles County

Dear Ms. Lanza:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Draft Environmental Impact Report (DEIR) for the San Gabriel River Watershed Project to Reduce River Discharge in Support of Increased Recycled Water Reuse (Project) prepared pursuant to the California Environmental Quality Act (Public Resources Code 21000 *et seq.*) and its administrative regulations (CEQA Guidelines)¹ with the Sanitation Districts of Los Angeles County acting as lead agency.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code § 21069; CEQA Guidelines § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration (LSA) 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

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.

California Endangered Species Act (CESA) (Fish & G. Code § 2050 *et seq.*) or the Native Plant Protection Act (NPPA; Fish & Game Code § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Proponent: Sanitation Districts of Los Angeles County (LACSD)

Project Location: Los Angeles County. The Pomona Water Reclamation Plant (WRP) currently discharges recycled water to San Jose Creek. San Jose Creek WRP, Whittier Narrows WRP, and Los Coyotes WRP each discharge to the San Gabriel River. Long Beach WRP discharges to Coyote Creek at the confluence with the San Gabriel River. The Project study area includes the San Gabriel River and San Jose Creek.

Project Description/Objective:

The objective of the Project is to incrementally reduce discharges of recycled water from five WRPs including San Jose Creek WRP, Pomona WRP, Whittier Narrows WRP, Los Coyotes WRP, and Long Beach WRP. Each of these WRPs currently discharges in the San Gabriel River, San Jose Creek, or Coyote Creek. The proposed use of the recycled water would be implemented by water agencies and other users over time. LACSD will continue to maintain the ability to discharge treated water at the same points but anticipates discharging lesser quantities. A brief description of the Project's discharge operation modifications is provided below:

- The San Jose Creek WRP discharge is currently rotated between five discharge locations within the San Gabriel River watershed as show on in Figure 1. The use of the discharge locations is irregular throughout the year and varies year-to-year, depending on the availability of groundwater recharge facilities and channel maintenance activities. Under the proposed Project, discharges from the San Jose Creek WRP at discharge point SJC002 would be reduced from an annual average of approximately 9.48 million of gallons per day (MGD) to a minimum monthly average of approximately 5 MGD. Although the total annual volume would be reduced, the new monthly average discharge would provide a more consistent discharge rate compared to existing conditions. Discharges would be timed to more efficiently meet the water demand needs of sensitive habitat. The diverted water would be conveyed for beneficial reuse to groundwater recharge basins or other reuse facilities.
- The Pomona WRP discharges into a concrete-lined portion of San Jose Creek that contains no sensitive habitat. As San Jose Creek nears the San Gabriel River, the concrete lining gives way to a soft-bottom reach. Current and historic groundwater upwelling occurs within the lined portion of San Jose Creek upstream of the transition location. The proposed Project would result in zero discharge from the Pomona WRP. Habitat in the soft-bottomed portion of San Jose Creek would continue to be sustained by rising groundwater.
- The Whittier Narrows WRP has three discharge locations but only one tributary to the San Gabriel River. A recently approved modification to discharge from the Whittier Narrows WRP will reduce discharges to the San Gabriel River by approximately 1 percent (0.01 MGD).
- The Los Coyotes WRP discharges into a concrete-lined portion of the San Gabriel River. Discharge flow is contained within the low-flow channel of the river under typical dry

weather conditions. This Project proposes to maintain a minimum discharge flow of 2 MGD to prevent the low-flow channel from going completely dry downstream of the plant.

The Long Beach WRP discharges into the concrete-lined Coyote Creek approximately 3,000 feet before the start of the San Gabriel River estuary. Urban runoff and natural flows in Coyote Creek upstream of the Long Beach WRP maintain a consistent flow in the creek at the discharge location. This Project proposes a minimum discharge flow of zero from the Long Beach WRP.

HISTORY

LACSD has been working with CDFW and the U.S. Fish and Wildlife Service (USFWS) over the last several years to address concerns regarding the potential impacts to biological resources associated with the proposed Wastewater Change Petitions from the San Gabriel River. LACSD has proposed several small reductions through the Water Code section 1211 process, Notice of Wastewater Change Petition WW0098 (WW0098), and Notice of Wastewater Change Petition WW0100 (WW0100), for which CDFW had protested but subsequently dismissed. The primary concerns identified in the protests were: 1) the use of a categorical exemption to satisfy CEQA, and 2) cumulative impacts to biological resources including habitat communities. LACSD subsequently prepared the San Gabriel River Watershed Project to Reduce River Discharge in Support of Increased Recycled Water Reuse Initial Study/Mitigated Negative Declaration (2018 MND) to address the WW0098 and WW0100 protests. Potential impacts to biological resources associated with WW0098 and WW0100 are expected to be addressed through the Adaptive Management Plan (AMP) proposed in the 2018 MND. The Adaptive Management Plan will include the formation of a working group that includes the entities that manage the surface and ground water of the San Gabriel River (Los Angeles County Flood Control District, LACSD, USFWS, and CDFW) to develop guidelines that protect existing biological resources.

CDFW has supported LACSD's efforts to consider all anticipated reductions in discharge together under CEQA and to prepare an EIR and an updated AMP for the Project. LACSD and CDFW have continued to work together to address potential impacts to biological resources since the protests were dismissed. LACSD provided CDFW with a copy of the 1211 Wastewater Change Petition on August 7, 2019, that was submitted to the State Water Resources Control Board (SWRCB). If necessary, CDFW will have the opportunity to protest the Wastewater Change Petition and propose measures to remedy any unresolved concerns in the AMP related to potential impacts to biological resources.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist LACSD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW also recommends the environmental document include measures or revisions (outlined below) in a science-based monitoring program, with adaptive management strategies, as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code § 21081.6; CEQA Guidelines § 15097).

Comment # 1: Baseline Flows

Issue: There is a significant discrepancy between the baseline discharges reported in LACSD's 2018 MND compared to the DEIR. The 2018 MND stated that discharges from the San Jose Creek WRP discharge point SJC002 would be reduced from approximately 16 MGD to a minimum monthly average of approximately 5 MGD. The DEIR states that LACSD would reduce discharges from an annual average of 9.48 MGD to a minimum monthly average of approximately 5 MGD. The MND identified a combined annual average discharge of 54.24 MGD from the San Jose Creek WRP based on water years between 2011 and 2015 (MND, Table 1-1), which is twice the baseline discharge of approximately 27.16 MGD that is analyzed in the DEIR.²

Specific impact: The proposed baseline condition analyzed in the DEIR underestimates the water that was available from San Jose Creek WRP which establish the current extent of riparian and wetland biological resources.

Why impact would occur: LACSD discharges contribute to a significant portion of the hydrograph of the lower San Gabriel River over the last several decades. While natural flows of the San Gabriel River are diverted out of the channel or held behind dams upstream, the downstream riverbed does receive predictable inputs from wastewater discharges. These inputs have altered the hydrograph and thus created dependence on the wastewater discharge. The current five-year period represents the lowest discharges in the last several decades due to recent increases in water conservation and recycling programs. Because riparian and wetland vegetation in the San Gabriel River has developed over decades and not only within the last five years, the five-year average annual discharge period is not adequate to evaluate the potential impacts of the proposed reduction in discharge.

Evidence impact would be significant: Current baseline conditions include a declining hydrograph with wastewater contributing significantly to year-round flows. In the absence of the natural hydrograph, flows in the amount and velocity were conducive to the growth of mature riparian habitat. These riparian tree species, such as willow and cottonwood trees, rely on the available discharges to fulfill key points of the hydrograph that are necessary for recruitment. This riparian vegetation, not historic to this extent in the watershed, support the nesting habitat of least Bell's vireo (*Vireo bellii pusillus*), a federal Endangered Species Act (ESA)- and CESA-listed species.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure: Given the recent substantial reduction in baseline discharge levels, we request that the DEIR clarify the discrepancy in the baseline conditions and acknowledge that discharge levels may need to be higher than the current average annual discharge levels "to ensure that the quantity and quality of riparian and wetland habitat currently supported by wastewater discharges is maintained at or above baseline levels" (Mitigation Measure BIO-1).

Comment # 2: Mitigation Measure BIO-1

Issue # 1: Mitigation Measure BIO-1 would require that the LACSD implement a discharge operational scenario that maintains downstream habitat conditions. Riparian vegetation is a

² Based on information presented in DEIR, Table 2-1, a combined 27.16 MGD is released from the San Jose Creek WRP.

naturally dynamic vegetation community that may change in distribution and extent due to flood events or other factors, outside the control of the LACSD. According to the DEIR, the AMP will be implemented to monitor vegetation in areas currently supported by wastewater discharge “to ensure that the quantity and quality of riparian and wetland habitat currently supported by wastewater discharges is maintained at or above baseline levels” (DEIR, BIO-1). It will be difficult to collect sufficient data to separate out natural changes in the quality and extent of vegetation from changes directly attributable to the reduction in discharge.

Issue # 2: The AMP states that “a detectable change of 10 percent in total habitat area mapped as alliances during an annual mapping exercise will trigger an appropriate response based on the alliance. If it is agreed that habitat changes are not detectable on an annual basis, or if suitable aerial photographs are not available, the frequency of mapping may be modified” (AMP, Page 18). A 10 percent change in the acreage of habitat is considered significant.

Specific impact: Project implementation may result in reduced reproductive capacity, population declines, or local extirpation of the least Bell’s vireo, an ESA- and CESA-listed species.

Why impact would occur: The AMP identifies triggers for restoring discharges to the San Gabriel River. These triggers allow for some impacts to habitat for the least Bell’s vireo (e.g., willow and mulefat vegetation alliances) to occur prior to restoring discharges. It is anticipated that the discharge operational scenario can be adjusted to continue to support the baseline condition of vegetation; however, it is not clear if the appropriate adjustments to the schedule will be determined before permanent impacts to existing riparian vegetation would occur.

Evidence impact would be significant:

The DEIR proposes a 10 percent reduction in mulefat and sandbar willow vegetation alliances and/or a 5 percent reduction in black willow and arroyo willow vegetation alliances prior to restoring discharges (AMP, Table 8).

Mapped Vegetation Alliance (DEIR Table 3.1-1A)	Acreages (DEIR Table 3.1-1A)	Remedial Action Trigger (AMP Table 8)	Loss Amount (acres)	Loss Amount (with Mapping Error ≈ 15.4 %) (Scheidlinger 2019)	Total Loss Amount (with Mapping Error ≈ 15.4 %) (Scheidlinger 2019)
Black Willow	75.2	5%	3.76	11.58	15.34
Arroyo Willow (including disturbed)	4.1	5%	0.21	0.63	0.84
Mulefat (including disturbed)	19.8	10%	1.98	3.05	5.03
Sandbar Willow (including disturbed)	4.2	10%	0.42	0.65	1.07
Estimated Total Loss			6.37 acres		22.28 acres

These proposed triggers will allow for a loss of up to 6.37 acres of least Bell’s vireo habitat prior to restoring discharge.³ Given that least Bell’s vireo territories range in size from about 0.5 to 4.5 acres (RECON 1990), CDFW believes a loss of upwards of 6.37 acres of least Bell’s vireo habitat before discharges are restored is significant. Vegetation is also mapped at the alliance

³ Includes black willow, arroyo willow, sandbar willow, and mulefat vegetation alliances as presented in the DEIR (Table 3.1-1A).

level with an 84.6% level of accuracy (Scheidlinger 2019) which may result in a delay in identifying accurate loss of acreages.

CDFW considers adverse impacts to special status species protected by CESA and the federal Endangered Species Act (ESA, 16 U.S.C. § 1531 et seq.), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any State endangered, threatened, candidate species, or listed rare plant species pursuant to the NPPA that results from the Project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). 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”.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # 1: CDFW recommends lowering the triggers for combined losses of arroyo and black willow vegetation alliances to 2% (i.e., a maximum loss of 1.4 acres). This would reduce the overall potential impacts to habitat for least Bell’s vireo to a maximum of 3.7 acres (i.e., including willow and mulefat vegetation alliances) prior to restoring discharges.

Mitigation Measure # 2: If the lower percent triggers and extensive monitoring are not feasible for LACSD⁴, then CDFW recommends that LACSD assume a certain reduction in habitat commensurate with the loss of discharges and include mitigation for this loss of least Bell’s vireo habitat in the Final EIR. Additionally, we recommend LACSD apply for and obtain an Incidental Take Permit for the least Bell’s vireo to mitigate the direct take of least Bell’s vireo by the Project. This would change the purpose of the AMP to provide long term monitoring of the habitat, but allow for take as well. This would significantly reduce the monitoring requirements because take is authorized.

Mitigation Measure # 3: CDFW recommends establishing a 2 percent loss trigger for the arroyo willow and black willow alliances grouped together instead of the proposed 5 percent trigger. A 2 percent loss of the arroyo willow and black willow alliances would be equivalent to a loss of approximately 1.58 acres.

Mitigation Measure # 4: CDFW is requesting clarification on impacts to riparian habitat and suitable habitat to least Bell’s vireo. The AMP proposes a 10 percent trigger for any mapped alliances and a proposed 5 percent trigger for arroyo willow and black willow vegetation alliances. A proposed 5 percent trigger would be a loss of up to 3.97 acres of various vegetation alliances used by least Bell’s vireo. CDFW is requesting clarification on how the loss of 3.97 to 6.37 acres is not considered significant. Without an Incidental Take Permit, the Project may have significant impacts to least Bell’s vireo. This level of significance should be addressed or analyzed in the DEIR.

Mitigation Measure # 5: The DEIR currently includes a Project alternative that considers phased reductions in discharge over a two-year period (DEIR, page 5-5). CDFW recommends that LACSD include phased discharge reductions from the San Jose Creek WRP over a minimum of a 10-year period to accommodate a gradual transition of vegetation from areas that become drier to areas that may become more suitable with the change in discharge

⁴ CDFW, USFWS, and LACSD have previously discussed the possibility of assuming a certain reduction in habitat commensurate with the loss of discharges and mitigate for impacts. This would significantly reduce monitoring requirements.

schedule. The phased reduction will also allow adequate time to determine appropriate adjustments to the discharge schedule to meet LACSD's objective of ensuring the quantity and quality of riparian and wetland habitat currently supported by wastewater discharges is maintained at or above baseline levels.

Comment # 3: Mitigation Measure BIO-2

Issue: Mitigation Measure BIO-2 would require trapping of brown-headed cowbirds (*Molothrus ater*) to minimize predation of least Bell's vireo nests. This beneficial action is expected to offset any temporary drought stress experienced by the vegetation used by least Bell's vireo as monitored through the AMP; however, as currently written, it is not clear how long cowbird trapping activities will be implemented. Mitigation Measure BIO-2 specifically states "The Sanitation Districts shall conduct brown-headed cowbird trapping adjacent to the San Gabriel River channel in areas that are accessible to Sanitation Districts' staff. The trapping shall occur during the first three years of reduced discharges. Additional cowbird trapping activities shall be implemented subject to need based on AMP annual reporting" (DEIR 3.1-58).

Specific impact: The proposed three-year commitment to conduct cowbird trappings may not adequately offset the potential loss of riparian habitat used by least Bell's vireo an ESA- and CESA-listed species.

Why impact would occur:

As currently written, it is not clear what conditions will require cowbird trapping beyond three years. Cowbird trapping activities may be necessary to minimize impacts to least Bell's vireo in the event of vegetation thinning as a result of drought stress; however, the appropriate discharge operation schedule may not be developed within the first three years of the Project. Water flows in the San Gabriel River are highly manipulated by other entities (e.g., Los Angeles County Flood Control District) in addition to LACSD. It may take many years to coordinate new discharge schedules in a manner that will support baseline habitat conditions. In absence of cowbird trapping to minimize parasitism, a reduction in least Bell's vireo productivity is more likely to occur if habitat is degraded as a result of leaf loss or reduced understory growth.

Evidence impact would be significant:

Cowbird parasitism is considered a significant threat to least Bell's vireo nesting in this area of the San Gabriel River⁵. Cowbird parasitism of least Bell's vireo nests may exceed 42 percent in some locations (Kus 1999). In the absence of cowbird trapping the temporary reduction in habitat quality that may occur as discharge schedules are adjusted could result in an increase in cowbird parasitism. CDFW believes the potential for increased cowbird parasitism on least Bell's vireo is significant. CDFW considers adverse impacts to special status species protected by CESA and the federal Endangered Species Act (ESA, 16 U.S.C. § 1531 et seq.), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any State endangered, threatened, candidate species, or listed rare plant species pursuant to the NPPA that results from the Project is prohibited, except as authorized by State law (Fish and Game Code §§ 2080, 2085; Cal. Code Regs. tit. 14 § 786.9). 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".

⁵ N. Moorhatch, Wood Environmental & Infrastructure Solutions, personal communication to C. Medak, USFWS, August 6, 2019.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure: CDFW recommends an initial ten years of cowbird trapping activities. The ten-year period will allow adequate time for the occupied least Bell's vireo population to calibrate and make adjustments to any minor habitat transitions. This will help LACSD quantitatively evaluate the effectiveness of the AMP and the Project impacts to least Bell's vireo.

Comment # 4: Adaptive Management Plan: 12.1 Monitoring for Presence of Least Bell's Vireo and the Quantification of Least Bell's Vireo Nesting/Territory Locations

Issue: In the AMP Section 12.1 Monitoring for Presence of Least Bell's Vireo, the Project has the potential to affect existing least Bell's vireo and their habitat. LACSD has proposed to contact U.S. Army Corps of Engineers (USACE) and request annual least Bell's vireo survey data within the Project Area and include survey data in their annual report. If LACSD cannot obtain USACE least Bell's vireo data, the LACSD shall commit to conducting annual nesting/territory location information to include in their annual report.

Specific impact: The Project has the potential to affect the viability of nesting least Bell's vireo. Inadequate data collection may never allow this impact to be identified.

Why impact would occur: Project implementation may have direct impacts to least Bell's vireo nesting habitat by degrading the quality of existing habitat that may cause the existing least Bell's vireo populations to drop below self-sustaining levels.

Evidence impact would be significant:

The data from USACE shows least Bell's vireo occurrences within the limits of USACE. USACE least Bell's vireo data lacks the qualitative information that is needed to establish baseline least Bell's vireo nesting data, and to monitor population estimates over time. LACSD's reliance on another agency's quantitative data will not capture the qualitative data needed to support the AMP and maintain least Bell's vireo nesting territories. CDFW considers adverse impacts to special status species protected by CESA and ESA, for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any State endangered, threatened, candidate species, or listed rare plant species pursuant to the NPPA that results from the Project is prohibited, except as authorized by State law (Fish and Game Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). 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."

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # 1: CDFW recommends that least Bell's vireo nesting territory surveys be conducted every 3 years to document least Bell's vireo trends within the Project area. Least Bell's vireo protocol-level surveys shall be completed.

- Survey protocol for least Bell's vireo can be found at:https://www.fws.gov/ventura/docs/species/protocols/vireo/leastbellsvireo_survey-guidelines.pdf

Comment # 5: Adaptive Management Plan: 6.4 and 7.2 Habitat Structure Transects

Issue: The Draft AMP proposes to monitor habitat structure for the least Bell's vireo as part of annual monitoring of the riparian vegetation. The methodology for choosing sample sites in the AMP lacks the specificity needed to ensure sample sites are placed in least Bell's vireo habitat. In addition, the proposed number of sample sites does not appear to account for naturally high variability within habitat for the least Bell's vireo (Kus 1998) or for expected differences in hydrology within the proposed monitoring area.

Specific impact: Project implementation may result in reduced reproductive capacity, population declines, or local extirpation of the least Bell's vireo, an ESA- and CESA-listed species.

Why impact would occur: An inadequate sample design will limit the ability of the LACSD to detect changes in least Bell's vireo habitat structure over time as a result of the proposed Project. If degradation of least Bell's vireo habitat is not detected during monitoring, discharges will not be restored and existing least Bell's vireo populations could drop below self-sustaining levels. Without adequate transects, the Project may have significant impacts to vireo that may not be detected.

Evidence impact would be significant: CDFW and USFWS reviewed established transects during a site visit on August 20, 2019, with Wood Environment & Infrastructure Solutions. Some transects were established on easily accessible trails that would not be considered least Bell's vireo habitat. CDFW and USFWS has expressed significant concern to LACSD that the sample locations were being placed with bias due to time constraints, access constraints, and lack of a specific protocol to identify transect locations. In addition, the AMP identifies five sample areas (Groups) that are distinguished by different hydrological conditions. Because of the expected differences in response to changes in discharge, proposed sample sizes within each Group should be adequate to characterize the baseline conditions of habitat in each Group and to detect differences between Groups over time.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # 1: If non-random sampling is used, CDFW recommends that the criteria used to establish the sample locations is defined in detail to limit potential bias in the monitoring program. If transects are used, we recommend sampling points be evenly distributed within each Group and cross the entire width of the channel to capture the diversity of the vegetation structure across all elevation bands and describe the structure of the entire ground. This methodology would allow the LACSD to track changes in least Bell's vireo habitat across the channel as discharge is reduced.

Mitigation Measure # 2: CDFW recommends that an equal number of sample sites (2 x 2 x 5 meter stacked cubes) are established within each Group. The number of samples should be sufficiently large to ensure the data have power to detect differences over time within each Group and between Groups (i.e., starting with a minimum of 20 sites per group to evaluate the variance within and between groups and then reducing sampling sites if you have significant power to detect differences with a smaller sample size).

Mitigation Measure # 3: CDFW requests that both CDFW and USFWS have an opportunity to review and approve the criteria, and the sample locations after new criteria are established and new sites are chosen.

Comment # 6: Remedial action triggers

Issue # 1: Chapter 3.1-55 of the DEIR states that “the AMP will also institute action triggers based on monitoring results that require the discharge of additional recycled water as necessary to maintain overall habitat area and habitat suitability for endemic species.” The DEIR does not define the requirements that will trigger an immediate discharge of water.

Issue # 2: LACSD proposes a 10 percent remedial action trigger for *Arundo donax* which would be an approximate increase of 1.2 acres of the invasive species. An increase of 1.2 acres of *Arundo donax* is considered significant.

Issue # 3: BIO-1: states that “the AMP identifies parameters that would trigger actions to remedy any effects attributable to the proposed reduced discharges. If triggers are reached, specific remedial actions will include resumed discharges into the San Gabriel River channel sufficient to support the acreage of habitat sustained by historical discharges.” The AMP does not define what will be sufficient discharges to maintain the existing quality riparian habitat.

Issue # 4: In the AMP Page 19. Overall Trigger Points, it states that “Trigger points for any individual parameter in any individual vegetation alliance or AMP alone, however, may not be cause for implementing the adaptive management actions of increasing water delivery.” An effective AMP should highlight the primary response to loss of riparian vegetation by immediately restoring discharges to the San Gabriel River.

Specific impact: There is a discrepancy between the DEIR and the AMP regarding triggers. The DEIR states that if triggers are reached, specific remedial actions will include resumed discharges into the San Gabriel River (Chapter 3.1-55). However, the AMP states that triggers (Table 8, Page 17) may include resumed discharges into the San Gabriel River channel only after initiating a working group meeting and discussion (AMP, Page 20). The immediate action of discussion instead of immediately putting the water back to baseline conditions will result in a delay that may result in the permanent loss of riparian habitat.

Why impact would occur: LACSD proposes to convene a working group meeting and discussion as a remedial action trigger. The AMP states that adaptive management discussions are the appropriate response; however, this immediate remedial action may result in the further loss of riparian habitat depending on the amount of time that goes by before a decision is made to restore discharges to the San Gabriel River. This additional loss of vegetation would be on top of LACSD's proposed 5 to 10 percent vegetation loss that triggered the initial immediate action and may result in prolonged temporal loss of least Bell's vireo habitat that may be considered permanent impacts.

Evidence impact would be significant:

Evidence has been provided in Comments #1 to 5 regarding discrepancies in the baseline flows, the methodology and criteria used to capture existing baseline vegetation conditions, and concerns regarding the 15.6% margin of mapping error. This evidence has highlighted the inconsistencies of the information provided in the DEIR and AMP.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # 1: Vegetation is mapped at the alliance level with an 84.6% level of accuracy (Scheidlinger 2019). CDFW recommends that for CDFW's recommend of a 2 to 10

percent loss of vegetation that is determined in vegetation mapping, LACSD shall immediately (within 1 week) ground-truth the acreage change. If vegetation loss is confirmed, then LACSD shall restore discharge to reduce water stress within 1 week of confirmation (with the exception of invasive species, such as *Arundo donax*). A meeting would then be held with the working group to discuss the results and implementation changes to the discharge schedule that would avoid additional water stress and restore the loss of habitat.

Mitigation Measure # 2: CDFW recommends a 5 percent remedial action trigger (increase of 0.6 acres) for *Arundo donax*. CDFW recommends that LACSD immediately conduct *Arundo donax* removal and modify their discharge to limit the spread of *Arundo donax*. If LACSD cannot access the Project area to conduct *Arundo donax* removal, then *Arundo donax* removal shall be implemented within the San Gabriel River watershed or an alternate mitigation plan shall be provided to CDFW for approval.

Mitigation Measure # 3: The AMP should separate out the vegetation mapping trigger under Section 7.0 instead of including it in the discussion with Stem Water Potential and Canopy Volume.

Comment # 7: "Impossible to determine cause of (habitat) decline in confidence"

Issue: In the AMP Page 20. Section 8.0 Evaluating the Nature of the Changes in Habitat, it states that "Habitat declines, as measured by vegetation mapping, SWP, CV, habitat structure, recruitment, or species richness, could be caused by a decline in water supply from WRPs, but also by regional drought or other factors such as human activity. Because it may be impossible to determine the cause of the decline with confidence, adaptive management discussions are the appropriate response." CDFW is concerned that the extensive monitoring of the AMP cannot determine the cause of habitat decline.

Specific impact: The inability of an AMP to determine the cause of habitat decline may result in adverse impacts to fish and wildlife resources that is not analyzed in the DEIR. Project implementation may also result in reduced reproductive capacity, population declines, or local extirpation of the least Bell's vireo, an ESA- and CESA-listed species.

Evidence impact would be significant: In the AMP Page 20. Section 8.0 Evaluating the Nature of the Changes in Habitat, it states that "Because it may be impossible to determine the cause of the decline with confidence, adaptive management discussions are the appropriate response." This statement confirms that the AMP is not sufficient to detect riparian habitat changes.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure # 1: As CDFW, USFWS, and LACSD have discussed in multiple meetings, LACSD agreed to the immediately release of water when any of the monitoring triggers are met. CDFW recommends that LACSD honor this agreement and release water as an immediate trigger action to avoid additional vegetation loss.

Mitigation Measure # 2: To effectively monitor and determine the cause of habitat decline CDFW recommends monitoring and triggers that reflect the Operational Scenarios (DEIR, page 3.1-48) through the monitoring of and the acreage triggers for each alliance that is segmented into HAA1-HAA10 (DEIR, Table 3.1-4).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

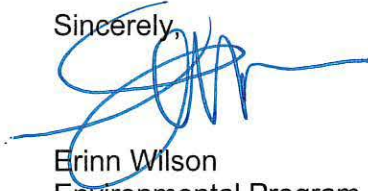
FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife and assessment of CEQA 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 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 DEIR for the San Gabriel River Watershed Project to Reduce River Discharge in Support of Increased Recycled Water Reuse to assist the Los Angeles County Sanitation Districts in identifying and mitigating Project impacts on biological resources. For any questions regarding this letter and further coordination on these issues, please contact Mary Ngo, Senior Environmental Scientist (Specialist), at (562) 342-2140 and Mary.Ngo@wildlife.ca.gov.

Sincerely,



Erinn Wilson
Environmental Program Manager I

ec: CDFW
Victoria Tang, SES-Supervisory (Los Alamitos)
Dolores Duarte, Executive Secretary (San Diego)
Mary Ngo, SES-Specialist (Los Alamitos)

Christine Medak, Fish and Wildlife Biologist (Carlsbad)
Patricia D. Fernandez, SWRCB, Senior Water Resources Engineer, (Sacramento)

Office of Planning and Research, State Clearinghouse, Sacramento

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