



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

January 17, 2020

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STATE CLEARINGHOUSE

Ms. Myra Herrmann
City of San Diego - Planning Department
9485 Aero Drive, M.S. 413
San Diego, CA 92123
MHerrmann@sandiego.gov

Subject: Comments on the Draft Environmental Impact Report for the Municipal Waterways Maintenance Plan, San Diego County, California (Project # 616992, SCH #2017071022)

Dear Ms. Herrmann:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced the Draft Environmental Impact Report (DEIR) for the City of San Diego's (City) Municipal Waterways Maintenance Plan, dated November 26, 2019 (project). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines §15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program. While we acknowledge that San Diego State University (SDSU) is not signatory to a NCCP, the City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

The City proposes a Municipal Waterways Maintenance Plan (MWMP) for maintenance and repair of approximately 50 miles of channels, ditches, and basins, 48,561 drainage conveyance facilities (including storm drain pipes and channels), 55,334 structures (including inlets, outlets, cleanouts, and connectors), 3,724 drainage best management practice (BMP) facilities and 85 Capital Improvement Program (CIP) facilities (outlets, BMPs, and stream restoration) located throughout the 342-square-mile metropolitan area.

The MWMP provides the regulatory guidance and parameters for the City to maintain and repair existing storm water facilities necessary to reduce and manage flood risk. The MWMP provides both a project-level and program-level analysis for the specific maintenance and repair activities in areas where potential local, state, and federally regulated impacts may be necessary and includes Facility Maintenance Plans that provide project-specific details and requirements for the majority of facilities that are likely to require routine maintenance and repair. The MWMP includes a range of plan-wide activities that may occur throughout the storm water system.

The project sites support riparian, woodland, marsh, upland and developed vegetation communities. The least Bell's vireo (*Vireo bellii pusillus*; vireo; CESA listed- and federal Endangered Species Act [ESA]-listed endangered), southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher; CESA- and ESA- listed endangered), light-footed Ridgeway's rail (*Rallus obsoletus levipes*; Ridgeway's rail; formerly light-footed clapper rail; CESA- and ESA-

listed endangered), California least tern (*Sternula antillarum browni*; California fully protected species; ESA-listed endangered) and the coastal California gnatcatcher (*Polioptila californica californica* (ESA-listed threatened) have been documented within the project study area.

The Department has identified biological resource issues that are of concern. We offer the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

Comments on the Municipal Waterways Maintenance Plan (MWMP)

1. Waterways Maintenance and Repairs, Section 1.2
The EIR should describe in detail the process used by the City to ensure flood control activities on private lands are consistent with the MWMP, EIR, and other required agency permits.
2. Inspections and Prioritizations, Section 4.1.1
The Final Prioritization List should be provided to the Department to verify project consistency with the environmental analysis and to ensure no other outstanding environmental concerns remain. The Department may request site visits to determine if further measures can be implemented to reduce or avoid negative effects to sensitive resources. The EIR should identify the process and point of contact for coordinating agency site visits.

Comments on the Biological Resources Technical Report for the Municipal Waterways Maintenance Plan City of San Diego, California PTS #616992

3. Focused Surveys for Sensitive Biological Resources, Section 2.3
The project sites support riparian, woodland, marsh, upland, and developed vegetation communities. Because the project sites include dynamic habitats that change in response to environmental conditions, species-specific protocol surveys to determine presence or absence of southwestern willow flycatcher, least Bell's vireo, and Ridgeway's rail should be: 1) completed in advance of the maintenance projects for the purposes of seasonal resource detection; and 2) conducted concurrent with project maintenance activities for the purposes of monitoring construction impacts on resources and compliance with resource avoidance and impact minimization measures within areas of suitable habitat.
4. Survey Limitations, Section 2.4
Suitable habitat for vireo and flycatcher may overlap with portions of Ridgeway's rail habitat; however, Ridgeway's rail may also occur in habitats outside of vireo and flycatcher suitable habitat. Therefore, the EIR should identify the possibility of additional Ridgeway's rail habitat, and protocol surveys for Ridgeway's rail should be completed in advance of and concurrent with project activities within areas of suitable habitat.
5. Direct Impacts, Section 4.1.1
Please clarify why federally and state listed species are included in Table 4-2a under Significant, Habitat-Based Mitigation when the text states "For impacts to Narrow Endemic Covered Species or state-listed or federally listed species, species-specific mitigation is required on a case-by-case basis to reduce impacts to less than significant."

Table 4-2a should identify State and federally listed species under the sub-heading of Significant, Species-Specific Mitigation rather than the current subheading of "Significant, Habitat-Based Mitigation." The Department agrees with the Biological Technical Report's recommendation that mitigation for impacts to narrow endemic species (see Section 1.6.4 of the City's MSCP SAP) should be reviewed on a case-by-case review to determine if habitat-based mitigation is appropriate.

6. Documentation, EP-BIO-3a.2
Mitigation measure EP-BIO-3a.2, found in the Biological Resources Technical Report, is not brought forth into the DEIR. We recommend that mitigation measure BIO-1a in the DEIR include a requirement like EP-BIO-3a.2, which states that the City implement a GIS database that includes all City wetland mitigation sites, along with features for tracking impacts/mitigation type/restoration status. This information should be provided to the City's MSCP Program for inclusion in its annual reports to the Department.
7. Handling of Non-Native Invasive Plant Species, EP-BIO-4
EP BIO-4 should include a requirement to develop a specific invasive species removal plan that includes lists of targeted invasive species, removal techniques, success criteria and restoration.

Comments on the EIR

8. Previous Master Storm Water System Maintenance Program, Section 4.2.1
The EIR should include all publicly available aspects of the settlement agreement that may affect the implementation of the MWMP.
9. Watershed Master Plans, Section 4.2.2.2
The Department seeks to coordinate with the City in developing Watershed Management Plans (WMPs) including but not limited to Chollas Creek, Los Peñasquitos, Maple Canyon, and Mission Bay watersheds to facilitate conservation and habitat restoration.

The EIR should provide additional information regarding the Alternative Compliance Program and how it influences the evaluation of floodplain/riparian land acquisitions and preservation (EIR, p. 4-6).

10. Project-Level Analysis (Facility Maintenance Plans), Section 4.3.4
The EIR does not contain a formal process through which the Department may provide timely input regarding biological resources impacts associated with the MWMP. To facilitate a review of constraints or concerns for upcoming facility maintenance, the Department requests the EIR include a mitigation measure which ensures that the City will provide an annual list of facilities proposed for maintenance.
11. Mitigation Measures, Section 5.3.9
Mitigation measure MM-BIO-1b states that, "[c]umulative impacts to sensitive uplands under the [MWMP] are generally limited in size (i.e., less than the 5- to 10- acre threshold established in the City's Biological Guidelines) and, therefore, shall be mitigated in accordance with the applicable SDBG [San Diego Biology Guidelines] mitigation ratios (Table 5.3-9) through payment into the City's Habitat Acquisition Fund

(Fund #10571), as established by City Council Resolution R-275129, adopted on February 12, 1990, or dedication of credits from the City's Cornerstone Lands Marron Valley Mitigation Bank."

According to the City's Biology Guidelines, monetary compensation via the HAF is intended to be used for the mitigation of impacts to small, isolated sites with lower long-term conservation value (Section III.B.1.c(4)). The Department does not consider all projects associated with the MWMP to be small, isolated, or have low long-term conservation values; therefore, if impacted habitat cannot be restored on site, alternative mitigation strategies other than payment into the HAF should be analyzed in the EIR.

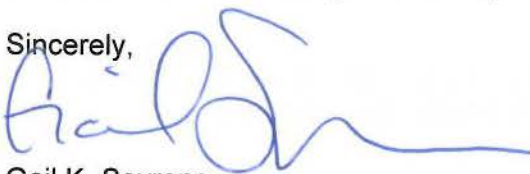
12. Cumulative Impacts, Chapter 6

While the County of San Diego's Vector Control Program is referenced briefly in the Cumulative Impacts section of the EIR (page 6-28), the EIR does not address the County of San Diego's ongoing vector control measures within the project area as to whether the scope of those activities overlap with the processing steps outlined under the maintenance and annual maintenance procedures of the MWMP (e.g., contributing to additional resource impacts that have not been considered in the DEIR's impact analysis).

The EIR should identify any Caltrans drainage facilities that overlap in maintenance responsibilities and identify the responsible agency that will serve as lead for implementing maintenance measures and addressing the necessary resource permitting process.

We appreciate the opportunity to comment on the EIR for this project and to assist the City in further minimizing and mitigating project impacts to biological resources. We request that a written response to our comments be provided in the EIR, as required per CEQA Guidelines section 15088(d). If you have any questions or comments regarding this letter, please contact Jennifer Turner of the Department at (858) 467-2717 or jennifer.turner@wildlife.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gail K. Sevens', with a long horizontal flourish extending to the right.

Gail K. Sevens
Environmental Program Manager
South Coast Region

cc: Patrick Gower, U.S. Fish and Wildlife Service
Scott Morgan, State Clearinghouse