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June 3, 2019

Governor's Office of Planning & Research

Mr. Roman Gonzalez
Central Basin Municipal Water District
6252 Telegraph Road
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June 3, 2019

STATE CLEARINGHOUSE

Dear Mr. Gonzalez:

Subject: Comments on the Montebello Hills Recycled Water Pipeline and Pump Station Project DMND, Los Angeles County (SCH# 2019059015)

The California Department of Fish and Wildlife (CDFW) received a Draft Mitigated Negative Declaration (DMND), from the Central Basin Municipal Water District (District) for the Montebello Hills Recycled Water Pipeline and Pump Station Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; 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 & Game 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 & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

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.

PROJECT DESCRIPTION SUMMARY

Proponent: The Central Basin Municipal Water District

Objective: The Project would involve construction and operation of approximately 2,600 linear feet of a 16-inch recycled water pipeline and a pump station with a peak demand capacity of 1,825 gallons per minute. The proposed pipeline would connect to the Central Basin Municipal Water District's existing recycled water system pipeline at the intersection of Lincoln Avenue and Montebello Boulevard. Starting at this intersection, the pipeline would extend north along Montebello Boulevard to the intersection of Montebello Boulevard and Jefferson Boulevard where it would then proceed to the east and connect to the proposed pump station.

The Montebello Hills Recycled Water Pipeline and Pump Station Project is associated with development of the Montebello Hills Specific Plan, a planned 1,200-unit residential development encompassing 488 acres. The Montebello Hills Specific Plan Final Environmental Impact Report (FEIR) was approved and certified in June 2015. The environmental impacts of the proposed Project were not addressed fully in the Montebello Hills Specific Plan FEIR due to limited project design information available at that time. This Initial Study-Mitigated Negative Declaration considers the environmental impacts of the proposed Project and is a standalone document that does not tier from the prior FEIR.

Location: The Project pipeline will extend along Montebello Boulevard from Lincoln Avenue to Jefferson Boulevard and also includes an approximately 0.14-acre site located immediately east of the intersection of Montebello Boulevard and Jefferson Boulevard, in the City of Montebello.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Central Basin Municipal Water District (Lead Agency) in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Comment # 1: Impacts to California Gnatcatcher

Issue: The Project may impact habitat occupied by California gnatcatcher (*Polioptila californica californica*), a federally endangered species. The DMND states, "One special-status wildlife species, the federally-threatened coastal California gnatcatcher, was observed within 200 feet of the pump station location during the field reconnaissance survey and has been documented during prior protocol surveys within the oil field."

The DMND references obtaining a Biological Opinion from United States Fish and Wildlife Service as well as mitigating at a minimum of 1:1 habitat creation for impacts to an undisclosed acreage of California gnatcatcher habitat. Specifically, the DMND states, "the developer of the Montebello Hills Specific Plan shall provide land for CSS habitat creation, enhancement, and/or revegetation at a minimum 1:1 mitigation ratio (i.e., for every 1 acre removed, 1 acre shall be created, enhanced, and/or revegetated), or as otherwise indicated by the regulatory agencies during the permitting process, whichever is greater. The developer of the Montebello Hills Specific Plan shall prepare and implement a habitat mitigation and monitoring plan (HMMP; discussed in more detail below) that identifies an approach for implementing a conceptual mitigation plan for impacts to critical habitat for California gnatcatcher resulting from the proposed project."

Specific impact: It is unclear how biological impacts from the Montebello Hills Specific Plan Project are related to this Project. Specifically, CDFW is concerned that the totality of impacts to

California gnatcatcher at this location is being piecemealed in its environmental review and mitigation analysis. In addition, the DMND requires "the developer of the Montebello Hills Specific Plan" instead of the Project proponent to mitigate for Project impacts. CDFW is concerned that mitigation obligations will not be enforced or implemented if another entity can be held responsible instead of the Project proponent.

Why impact would occur: Grading, vegetation removal, and other ground disturbances could crush and bury listed or sensitive plants and animals, resulting in direct mortality. The Project may also affect adjacent habitat by loud noises, lighting, increased human presence and activity, fugitive dust, and spreading invasive weeds, resulting in stress, displacement, and mortality of these species.

Impacts to nesting birds could result from vegetation clearing and other ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well as temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

Evidence impact would be significant: Inadequate avoidance, minimization, and mitigation measures for impacts to these listed species will result in the Project continuing to have a substantial adverse direct, indirect, 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 or United States Fish and Wildlife Service.

The loss of occupied habitat or reductions in the number of rare nesting bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under both federal and state laws and regulations, including the Migratory Bird Treaty Act (MBTA; U.S.C., §§ 703 - 712) and California Fish and Game Code sections 3503 and 3503.5, respectively.

CEQA Guidelines section 15070 and 15071 require the CEQA document to analyze if the Project may have a significant effect on the environment as well as review if the Project will "avoid the effect or mitigate to a point where clearly no significant effects would occur." Relying on future surveys, the preparation of future management plans, or mitigating by obtaining permits are considered deferred mitigation under CEQA. In order to analyze if a project may have a significant effect on the environment, the Project-related impacts, including survey results for species that occur in the entire Project footprint, need to be disclosed during the public comment period. This information is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: The Lead Agency should identify alternative locations for the Project that are outside of occupied California gnatcatcher habitat.

Mitigation Measure #2: It is unclear if the DMND includes the area delineated as the oil field as part of the Project boundary. The DMND should include an analysis of the cumulative effects to California Gnatcatcher from the various project's occurring in and around the occupied oil field.

Mitigation Measure #3: Given that this Project is proposed for a sensitive location (within occupied California gnatcatcher habitat), the potential for direct and indirect impacts to sensitive,

listed species should be further addressed. The DMND should include specific information on species locations and how the project will be sited to avoid impacts to California gnatcatcher or vegetation communities that support this species. If the Project will impact a sensitive species or vegetation community, specific mitigation to offset the loss of habitat (acreage and type) should be included in the MND. Any mitigation proposed should be covered under a conservation easement, include a long-term management plan, and ensure funding to manage the mitigation land in perpetuity.

Comment #2: Impact to Drainage Features Potentially Within CDFW Jurisdiction

Issue: The Project location may support streams subject to notification under Fish and Game code section 1600 *et seq.*

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

Why impact would occur: Direct loss of stream and wetland habitat directly affects water quality downstream. Additionally, piping or undergrounding streams create sediment and erosion issues downstream, as well as change the hydrograph of the stream, altering geomorphic processes and the listed species that depend on them. Urban runoff has been shown to be high in nutrients, as well as other contaminants.

Evidence impacts would be significant: The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

Water diversions can impact flow regimes, decreasing the frequency of high flows. Prolonged low flows can cause streams to become graded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic species including fish that utilize floodplains for nursery grounds. Undersized culverts and other stream crossings can also cause downstream channel erosion and tributary head-cutting, reduced magnitude and frequency of high flows, channel narrowing, and reduced formation of secondary channels and oxbows (Poff et al. 1997). Additionally, these structures can degrade water quality and associated wildlife habitats (Santucci, Jr. et al. 2005). Streams with such structures can have reduced abundance of anurans due to decreased availability of breeding habitat (Eskew et al. 2012). Based on the foregoing, Project impacts may substantially adversely affect the existing stream pattern and associated habitat of the Project site.

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at www.wildlife.ca.gov/habcon/1600.

CDFW's issuance of an LSA 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 of the Lead Agency for the Project. However, the MND does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to 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.

Mitigation Measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3: CDFW recommends a hydrogeomorphology study be conducted to evaluate the impacts of elevated flows of water and sediment through a stream within a recently burned watershed.

COMMENT #3: Vegetation Communities

Issue: It is unclear what vegetation communities exist on the Project site and what would be impacted by the Project.

Specific impact: Without disclosing vegetation communities or providing a map depicting the location of these communities, the Project may result in substantial impacts to sensitive vegetation communities.

Why impact would occur: In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the State (Fish and G. Code, § 1940). This standard complies with the National Vegetation Classification System which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the *Manual of California Vegetation* (Sawyer et al. 2008; MCV), found online at <http://vegetation.cnps.org/>. Through this new vegetation classification system, CDFW tracks Sensitive Natural Communities and their respective rankings using the MCV Alliance and Association names for vegetation communities. Given that the DMND uses Holland ecosystem classification to identify vegetation communities, the Project may impact Sensitive Natural Communities or wildlife species that depend on these communities due to misidentified vegetation classifications.

Evidence impact would be significant: An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6 occurrences. CDFW considers natural communities with ranks of S1-S3 to be sensitive natural communities that meet the CEQA definition (CEQA Guidelines, §§ 15380, 15063, 15065) to be addressed in CEQA (CEQA Guidelines, § 15125[c]). Without appropriate vegetation classification, the Project may result in substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any Sensitive Natural Communities and S1-S3 ranked species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: The DMND should include a map clearly depicting MCV vegetation communities located within the Project survey area.

Mitigation Measure #2: CDFW recommends conducting floristic, alliance- and/or association-based mapping and vegetation impact assessments at the project site and within the neighboring vicinity following the updated CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>). The Manual of California Vegetation should be used to inform this mapping and assessment to fully allow CDFW to comment on Project impact significance to vegetative communities (Sawyer et al. 2008). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

Mitigation Measure #3: MCV alliance/association community names should be provided in order for the DMND to determine the rarity ranking of vegetation communities potentially affected by the Project.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at:

http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDB at the following email address:
CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at:

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 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 DMND to assist the Central Basin Municipal Water District in adequately identifying and mitigating Project-related direct and cumulative impacts on biological resources.

Questions regarding this letter and further coordination on these issues should be directed to Kelly Schmoker-Stanphill, Senior Environmental Scientist (Specialist), at (626) 335-9092 or Kelly.schmoker@wildlife.ca.gov.

Sincerely,



Erinn Wilson
Environmental Program Manager I

ec: CDFW
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State Clearinghouse

References:

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