



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 10, 2023
Sent via email

Ron Buchwald
District Engineer
Valley Sanitary District
45500 Van Buren Street
Indio, CA 92201



Subject: Response to CDFW Comments on the Mitigated Negative Declaration,
Westward Ho Sewer Siphon Replacement, State Clearinghouse No.
2022100200

Dear Mr. Buchwald:

On November 10, 2022, the California Department of Fish and Wildlife (CDFW) submitted comments on the Mitigated Negative Declaration (MND) for the Westward Ho Sewer Siphon Replacement (SCH #2022100200; Project) in its capacity as Trustee and Responsible Agency (Pub. Resources Code, § 21069 & 21070; Fish & G. Code, §§ 711.7, subd. (a) & 1802). On November 16, 2022, CDFW received a response from the Valley Sanitary District to those comments.

To support the Valley Sanitary District in its environmental review efforts for this Project, CDFW provides the following additional guidance related to the Valley Sanitary District's "Response to Comment 1." CDFW is concerned about conclusions the Valley Sanitary District makes in this response—namely, that (1) because the Project involves horizontal directional drilling, notification to CDFW's Lake and Streambed Alteration (LSA) Program is not required; and (2) that there is no "fish habitat or state or federally listed sensitive plant or animal habitat in or proximal to the channel."

The Valley Sanitary District indicates that it rejects CDFW's guidance regarding notification to CDFW's LSA Program on the grounds that it "could be construed as the identification of a potentially significant and adverse impact that was not disclosed in the Initial Study circulated for public review." However, in its role as Lead Agency, the Valley Sanitary District is required by CEQA to provide an accurate assessment of all direct and reasonably foreseeable indirect physical changes to the environment that could occur with implementation of the Project.

In its "Response to Comment 1," the Valley Sanitary District acknowledges that horizontal direction drilling carries with it the potential for a frac out, and that if a frac out were to occur, best management practices in a "standard frac out contingency plan" would be used. CDFW encourages the Valley Sanitary District to have a frac out contingency plan and to include this in its MND to lessen potential impacts of the Project to a level that is less than significant. In addition, because a frac out could result in

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deposition of bentonite clay, which could impact resources subject to Fish and Game Code 1602, CDFW recommends that the Valley Sanitary District include notification to CDFW's LSA Program as part of its contingency plan. This would ensure that Project activities are not delayed if a frac out does occur and would also avoid violations of Fish and Game Code 1602 in the event of a frac out.

Finally, the Valley Sanitary District concludes in "Response to Comment 1" that the Coachella Valley Storm Channel does not support "fish habitat" or "state or federally listed sensitive plant or animal habitat" to make the argument that resources subject to Fish and Game Code 1602 would not be impacted. Fish and Game Code 1602 extends to all fish and wildlife resources associated with streams, including native trees, shrubs, and forbs, and nesting, foraging, refugia, and burrowing habitat for mammals, reptiles, birds, and other wildlife. The Coachella Valley Storm Channel is part of the Whitewater River ecosystem. Although the Whitewater River ecosystem has been disturbed by development, wildlife and habitat persist in and adjacent to the Whitewater River.

CDFW recommends that including assessment of the potential for frac out resulting from horizontal direction drilling and inclusion of mitigation measures (such as MM BIO-[A] and a frac out contingency plan) to mitigate the impact to a level less than significant are necessary for the Valley Sanitary District to fulfill its obligation under CEQA. CDFW requests that Valley Sanitary District address CDFW's concerns prior to adoption of the MND.

CDFW appreciates the opportunity to provide additional guidance on the Westward Ho Sewer Siphon Replacement Project to assist the Valley Sanitary District in identifying and mitigating Project impacts on biological resources to reduce impacts to below a level of significance. If you have questions or comments regarding this letter, please contact Heather Brashear, Senior Environmental Scientist (Supervisor), at heather.brashear@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn
Environmental Program Manager

Enclosures:

Copy of CDFW comment letter dated November 10, 2022:
Copy of Valley Sanitary District response letter dated November 16, 2022

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Jacob Skaggs, CDFW Inland Deserts Region
Jacob.Skaggs@wildlife.ca.gov

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Rollie White, U.S. Fish and Wildlife Service
rollie_white@fws.gov

Vincent James, U.S. Fish and Wildlife Service
vincent_james@fws.gov