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**EDMUND G. BROWN, Jr., Governor**  
**CHARLTON H. BONHAM, Director**



December 5, 2022

Mr. Jared Bouchard  
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**Subject: Groundwater Sustainability Improvement Program, Mitigated Negative Declaration, SCH No. 2022110057; Ventura County**

Dear Mr. Bouchard:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the Pleasant Valley County Water District (PVCWD; Lead Agency) for the Groundwater Sustainability Improvement Program (Project). 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]. 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). CDFW is charged 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.*). To the extent implementation of the Project as proposed may result in "take" of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to 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.

### **Project Description and Summary**

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**Objective:** The PVCWD has proposed to construct a 9,000-foot linear pipeline along a section of Laguna Road in unincorporated Ventura County. The 18-inch pipeline will transport recycled water and will connect to two existing transmission laterals along Wood Road and Las Posas Road. The water will be supplied from Oxnard's water treatment facility (OAWPF) and Conejo Creek Diversion structure to be made available to the PVCWD service areas and United Water Conservation District's Pumping Trough Pipeline system. The purpose of the Project is to increase water supplies to the PVCWD service area. **Based on the information available, it is unclear if the Lead Agency is proposing to increase the total volume of water allocated from Conejo Creek or Oxnard's water treatment facility (OAWPF). Similarly, the proportion of water sourced from each location was not readily discernable. As such, it is unclear if Project implementation will result in a reduction of flows in Conejo Creek and/or in streams that receive treated water from the OAWPF (see comment #1).**

Construction is proposed to begin around the late summer of 2023 and is anticipated to take six months. The majority of the pipeline will be installed by open trenching but a portion of the pipeline that crosses the Las Posas Road Drain will be installed using a Horizontal Directional Drilling method. Maximum excavation depth would be 6.5 feet and 4,000 cubic yards of soil would be exported from the site. Approximately 3,000 cubic yards of fill would be imported.

The pipeline alignment is proposed along an existing road and is mostly surrounded by agricultural fields. The Project site is in close proximity to two unnamed agricultural ditches which share a hydrologic connection with Calleguas Creek.

**Location:** The Project is located in an unincorporated area of Ventura County. The Project is surrounded by agricultural land uses. The alignment of the pipeline extends horizontally down Laguna Road and is between Wood Road and Las Posas Road which travel perpendicularly past the project.

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist the PVCWD in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. CDFW recommends the measures below be included in a science-based monitoring program with adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

## Specific Comments

### Comment #1: Project Description Concerns Regarding Potential Stream(s) Flow Reduction

**Issue:** The scope of the biological impact assessment within the MND may be insufficient to fully analyze/address potential impacts to aquatic resources. Impacts disclosed within the document only included impacts related to the direct and surrounding work areas. If stream(s) flow reduction occurs as a result of the Project, impacts that may occur due to increased water

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use, from either or both sources, should be evaluated and incorporated into the analysis. If no additional water will be used, beyond baseline conditions, this information should be clearly stated in the MND. **The following language, for Comment #1, may be predicated on necessary clarifications within the Project Description.**

**Why Impact Would Occur:** If the Lead Agency is proposing increased water use, CDFW is concerned that water allocated from the proposed point sources may substantially alter the present flow regimes in Conejo Creek and streams that receive discharge from OAWPF. CDFW is also concerned with how Project implementation may affect groundwater dependent ecosystems (GDE). The MND, as written, does not include information necessary to evaluate potential impacts to these aquatic resources. Details regarding the amount of water that would be allocated from the Conejo Creek Diversion or the OAWPF, the proportion of water taken from each source, and any subsequent changes to water discharge activities at the OAWPF were not included within the MND. Within the environmental document it states, “[t]he project would not facilitate increased groundwater pumping because water conveyed through the proposed pipeline would be supplied from existing water sources, specifically the OAWPF the Conejo Creek Diversion Structure. Accordingly, the proposed project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the [P]roject may impede sustainable groundwater management of the basin.” CDFW is unable to understand what changes to the “existing water sources” are expected relative to baseline conditions given the information provided. Understanding these changes are necessary for CDFW to analyze if impacts to GDE’s may occur.

**Evidence Impact Would Be Significant:** The environmental document should provide sufficient information and disclosure to facilitate meaningful public review, analysis, and comment on the adequacy of proposed mitigation measures to offset Project-related impacts on biological resources. Adequate disclosure is necessary so CDFW may provide comments on the appropriateness of proposed avoidance, minimization, or mitigation measures.

**Recommended potentially feasible mitigation measure(s):**

**Mitigation Measure #1:** If it is determined that water use will increase, relative to baseline conditions, CDFW recommends the MND disclose how the Project would modify current flow regimes and potential impacts to biological resources in Conejo Creek and streams that receive affluent from the OAWPF. At a minimum, the MND should provide the following:

- a) CDFW recommends PVCWD define the extent of up- and downstream reaches of the waterbodies that may be directly and indirectly affected by the proposed Project and assess potential Project-related impacts on biological resources within this study reach including any potential GDE’s;
- b) An analysis of the existing flow regimes during the winter and summer seasons, and how that may change under Project conditions;
- c) An analysis of potential Project-related effects on river hydraulics. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change);

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- d) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities occurring in Conejo Creek and streams receiving discharge from OAWPF;
- e) A discussion as to how each species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and
- f) A discussion of the Project's potential impacts on the Pleasant Valley Groundwater Basin as well as GDE's within that groundwater basin.

**Recommendation #1:** CDFW recommends that PVCWD disclose the amount of water anticipated to be withdrawn from each source as well as more specific information on the intended use.

### **Comment #2: Lake and Streambed Alteration Agreement (LSAA)**

**Issue:** Based on the information available within the MND it is unclear as to whether the Project will need an LSA. The Project could directly or indirectly impact the bed, bank, and channel of water bodies subject to Fish and Game Code, section 1600 *et seq.* CDFW is concerned that impacts to biological resources, including GDE and nearby vegetation communities, may be impacted by the proposed Project. CDFW offers the following precautionary recommendations in the case that PVCWD determines that the Project is expected to directly or indirectly affect streams.

**Specific Impact:** CDFW is concerned that impacts to biological resources including GDE and surrounding vegetation communities may occur as a result of reduced stream flows. The Project will allocate water from the Conejo Creek Diversion structure and may impact the channel and vegetation along its banks. Project activities may also alter natural hydrologic and geomorphic processes of the SCR and may affect GDE. The Project may also directly or indirectly impact the unnamed ditches and Calleguas Creek which is subject to Fish and Game Code, section 1600 *et seq.* and eventually discharges into the Pacific Ocean.

**Why Impact Would Occur:** The Project plans to allocate water from the Conejo Creek Diversion structure which is located approximately 5 miles northeast of the project at 34.20868, -118.99519. Within the MND it states, "[t]he purpose of the project is to facilitate increased transfer of existing water supplies available..." It is unclear whether the Project intends to increase water allocation with the implementation of this pipeline or if water usage to this area will remain the same as pre-project usage. Project actions may result in changes to hydrologic and geomorphic processes that may impact plant and wildlife species in Conejo Creek and in streams that receive treated water from the OAWPF.

Water flowing past the Conejo Creek Diversion flows downstream where it eventually meets with Calleguas Creek. According to the National Wetland Inventory (NWI) Conejo Creek has stands of freshwater emergent shrub wetland along its banks. Increased water withdrawal may impact these natural communities. Further, several special status species have been documented in the short section of Conejo creek that is downstream of the diversion and upstream of the hydrologic connection with Calleguas Creek. These species include southern steelhead (*Oncorhynchus mykiss*), western pond turtle (*Emys marmorata*), arroyo chub (*Gila*

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*orcuttii*), and least Bell's vireo (*Vireo belli pusillus*) (CDFW 2022 a, b, c, & d). These species may depend on the natural communities and habitats surrounding Conejo Creek, which could potentially be altered by Project activities.

The Project is also to occur within close proximity to two unnamed agricultural ditches which share a downstream hydrologic connection with Calleguas Creek. The agricultural ditches themselves may also be subject to Fish and Game Code, section 1600 *et seq.* Project implementation includes trenching and use of heavy equipment. Direct and/or indirect impacts to the bed, bank, or channel of the unnamed ditches may occur. The proposed Project may diminish on-site and downstream water quality and may impact fish and wildlife downstream. Within the MND it states, "small fish were observed in the ditches." Although the ditches are in poor condition and offer only marginal habitat it is possible that special status aquatic species are present. Debris, soil, silt, sawdust, rubbish, raw cement/concrete, or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous or deleterious to aquatic life, wildlife, or riparian habitat resulting from Project related activities may enter the stream. Excavation and stockpiling of soils may result in the influx of sediment into the system which could result in changes to the streams and alter hydrologic and geomorphic processes that may impact plant and wildlife species. Project activities may also impact tributaries that occur upstream, outside of the Project boundary, where hydrologic connectivity occurs.

**Evidence Impact Would Be Significant:** The Project may impact streams and associated riparian habitats. CDFW exercises its regulatory authority (Fish and Game Code, section 1600 *et seq.*) to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural 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 lake;
- 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.

CDFW requires a Lake and Streambed Alteration Agreement (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.

For reasons discussed above, the Project may continue to have a substantial adverse effect on streams and associated riparian habitat through direct removal, filling, hydrological interruption, or other means.

**Recommended potentially feasible mitigation measure(s):**

**Mitigation Measure #1:** The Project Applicant (or "entity") should 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 shall determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting the proposed activities. A notification package for a

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LSA may be obtained by accessing CDFW's web site at <https://www.wildlife.ca.gov/conservation/lisa> (CDFW 2022e).

If necessary, 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 of the Lead Agency for the Project. 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 streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

**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 such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement 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:** Project implementation should attempt to retain as much surface flow and natural hydrologic processes as possible in Conejo Creek and any streams which receive discharge from the OAWPF.

**Recommendation #1:** CDFW recommends the MND disclose how the Project may modify current flow regimes and potentially impact biological resources in Conejo Creek and streams that receive affluent from the OAWPF (see comment #1).

**Recommendation #2:** CDFW recommends the MND discuss whether the Project could impact special status fish species, directly or indirectly through habitat modifications, as a function of potential reduction in flow in Conejo Creek and in streams with potential reduction in releases from the OAWPF. The MND should discuss potential impacts on fish based on the following factors: water availability; water flows; water quality; benthic invertebrates and microorganisms; and habitat requirements (e.g., pools, slower moving waters, water temperature, substrate, vegetation).

### **Comment #3: Impacts to Special Status Species due to Project Activities**

**Issue:** CDFW is concerned that the Project may impact surrounding special status species.

**Specific Impact:** The Project has the potential to directly impact several rare, threatened, and/or endangered species through direct mortality (trampling, crushing) due to construction activities (e.g. excavation, use of heavy equipment and vehicles). Likewise, the Project could indirectly impact species through increased noise, vibration, and lighting. Impacts may disrupt or alter species behavior in the area.

**Why impact would occur:** According to the MND marginal habitat is present for western pond turtle (*Emys marmorata*), arroyo chub (*Gila orcuttii*), and two-striped garter snake (*Thamnophis hammondi*). Likewise, after reviewing CNDDDB data on BIOS, it was revealed that burrowing owl

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(*Athene cunicularia*) may also be present within the Project's vicinity (CDFW 2022f). The only mitigation for biological resources included within the MND was nesting bird pre-construction surveys.

The Project would require ground disturbance and vegetation removal using heavy equipment. These activities create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. The MND did not offer focus or clearance surveys for ground dwelling species which could be injured or killed due to Project activities. Impacts on special status reptiles are more likely to occur because these are cryptic species that are less mobile during certain times of the day and seek refuge and hide under structures. Western pond turtles are also at heightened risk to burial or crushing as they aestivate underground and are only reliably detected above ground from May to July (USGS 2006). Implementation of focus would help minimize impacts from crushing and burial of species within the work area.

Further, the MND did not provide any mitigation measures to reduce levels of noise, human activity, or ground vibrations to less than significant for special status species in the surrounding area. Noise and vibration studies were conducted but were not intended to gauge potential impacts to wildlife, rather to assess potential disturbance to surrounding residence. The Project's proposed activities may disrupt and alter behaviors necessary for survival for special status species. Substantial noise may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55-60 dB (Barber et al. 2009). Likewise, use of sound reducing equipment was not offered as a mitigation measure within the document. Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011). Moreover, increased ambient lighting levels can increase predation risks and disorientation and disrupt normal behaviors of wildlife in adjacent feeding, breeding, and roosting habitat (Longcore and Rich 2004).

According to the California Natural Diversity Database (CNDDB) the following special status wildlife species have potential to occur in or around the Project site:

- CESA and Endangered Species Act (ESA-) listed least Bell's Vireo (*Vireo bellii pusillus*) (CDFW 2022c)
- Species of Special Concern (SSC) western pond turtle (*Emys marmorata*) (CDFW 2022b)
- SSC burrowing owl (*Athene cunicularia*) (CDFW 2022f)
- SSC arroyo chub (*Gila orcuttii*) (CDFW 2022c)

**Evidence impact would be significant:** Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G.

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Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CEQA provides protection not only for State and federally listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the County (CEQA Guidelines, § 15065). CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

### **Recommended potentially feasible mitigation measure(s):**

**Mitigation Measure #1:** Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

**Mitigation Measure #2:** Focus surveys should be performed by a qualified biologist onsite and where appropriate habitat is present for the aforementioned species. Surveys should follow proper protocols where necessary:

- Least Bell's vireo. Follow USFWS 2001 [Least Bell's Vireo Survey Guidelines](#) (USFWS 2001).
- Western pond turtle. Follow USGS 2006 [Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion](#) (USGS 2006)
- Burrowing owl. Follow CDFW 1995 [Burrowing Owl Survey Protocol and Mitigation Guidelines](#) (CDFW 1995g).
- Arroyo chub. PVCWD should perform focus surveys for arroyo chub in the unnamed agricultural ditches. If the ditches transitions to subsurface flow, the remainder should be surveyed to determine if there are isolated pools potentially supporting fish. Surveys should be conducted in areas adjacent to the pipeline alignment along the agricultural ditches. Surveys should also be conducted along downstream sections, including segments that are hydrologically connected to the ditches such as the Revlon Slough.

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**Mitigation Measure #3:** PVCWD should avoid all impacts to arroyo chub and western pond turtle. Some portions of the Project are in close Proximity to the agricultural ditches along laguna Road. For this segment, no work should occur on the stream banks adjacent to the ditches during the winter rainy season, typically between December 1 through March 31 (NMFS 2011). Additionally, no work should occur during the combined rainy season and breeding season for:

- Arroyo chub: February 1 through August 31 (Tres 1992).
- Western pond turtle: March 1 through July 15 (Morey 2000)

**Mitigation Measure #4:** If necessary, PVCWD should retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan should describe all SSC that could occur within the Project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan should include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the Project site. The qualified biologist should submit a copy of a Wildlife Relocation and Avoidance Plan to CDFW for approval prior to any clearing, grading, or excavation work on the Project site.

**Mitigation Measure #5:** To avoid direct injury and mortality of special status species, PVCWD should have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife should be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where a special status species is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution. A qualified biologist should be on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing activities, as well as vegetation removal, to ensure that no wildlife is harmed.

**Mitigation Measure #6:** PVCWD should retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003).

Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022h). Pursuant to the California Code of Regulations, title 14, section 650, the qualified biologist must obtain or have appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.

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**Mitigation Measure #7:** The Project should restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am) to the extent feasible. CDFW recommends use of noise suppression devices such as mufflers or enclosure for generators. Generators should not be used except for temporary use in emergencies. Unnecessary construction vehicle use, and idling time should be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine should be shut off. Sounds generated from any means should be below the 55-60 dB range within 50 feet from the source.

**Mitigation Measure #8:** Trenches or pits that remain unfilled should be securely to prevent entrapment of wildlife species.

**Mitigation Measure #9:** Parking, driving, lay-down, stockpiling, and vehicle and equipment storage should be limited to previously compacted and developed areas. No off-road vehicle use should be permitted beyond the Project site and designated access routes. Disturbances to adjacent native vegetation should be minimized.

## Conclusion

We appreciate the opportunity to comment on the Project to assist PVCWD in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that PVCWD 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 Angela Castanon, Environmental Scientist, at [Angela.Castanon@wildlife.ca.gov](mailto:Angela.Castanon@wildlife.ca.gov) or (626) 513-6308.

Sincerely,

DocuSigned by:



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Erinn Wilson-Olgin

Environmental Program Manager I

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**EDMUND G. BROWN, Jr., Governor**  
**CHARLTON H. BONHAM, Director**



**Attachment A: Draft Mitigation and Monitoring Reporting Plan**

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP should reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM) or Recommendation (REC)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1- Project Description/ Increased Water Use</b>	<p>CDFW recommends the MND disclose how the Project may modify the current flow regime and potentially impact biological resources in Conejo Creek and streams that receive affluent from the OAWPF. At a minimum, the MND should provide the following:</p> <ul style="list-style-type: none"> <li>a) CDFW recommends PVCWD define the extent of up- and downstream reach of the waterbodies that may be directly and indirectly affected by the proposed Project and assess potential Project-related impacts on biological resources within this study reach including any potential GDE;</li> <li>b) An analysis of the existing flow regimes during the winter and summer seasons, and how that may change under Project conditions;</li> <li>c) An analysis of potential Project-related effects on river hydraulics. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change);</li> </ul>	Prior to Project construction and activities	PVCWD

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	<p>d) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities occurring in Conejo Creek and streams receiving discharge from Oxnard’s AWPf;</p> <p>e) A discussion as to how each species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and</p> <p>f) A discussion of the Project’s potential impacts on the Pleasant Valley Groundwater Basin as well as GDE within that groundwater basin.</p>		
<p><b>MM-BIO-2-LSA</b></p>	<p>The Project Applicant (or “entity”) should provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW’s web site at <a href="https://www.wildlife.ca.gov/conservation/lsa">https://www.wildlife.ca.gov/conservation/lsa</a>.</p> <p>If necessary, 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 of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to streams or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>
<p><b>MM-BIO-3-LSA</b></p>	<p>Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA</p>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>

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	Agreement 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.		
<b>MM-BIO-4-LSA</b>	Project implementation should attempt to retain as much surface flow and natural hydrologic processes as possible in Conejo Creek and any streams which receive discharge from the OAWPF.	Prior to/During Project construction and activities	PVCWD
<b>MM-BIO-5-ITP</b>	Appropriate authorization from CDFW under CESA may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.	Prior to Project construction and activities	PVCWD
<b>MM-BIO-6-Focus Surveys</b>	Focus surveys shall be performed by a qualified biologist onsite and where appropriate habitat is present for the aforementioned species. Surveys should follow proper protocols where necessary:	Prior to Project construction and activities	PVCWD

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	<ul style="list-style-type: none"> <li>• <u>Least Bell's vireo</u>. Follow USFWS 2001 <a href="#">Least Bell's Vireo Survey Guidelines</a> (USFWS 2001b).</li> <li>• <u>Western pond turtle</u>. Follow USGS 2006 <a href="#">Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion</a> (USGS 2006b)</li> <li>• <u>Burrowing owl</u>. Follow CDFW 1995 <a href="#">Burrowing Owl Survey Protocol and Mitigation Guidelines</a> (CDFW 1995c).</li> <li>• <u>Arroyo chub</u>. PVCWD shall perform focus surveys for arroyo chub in the unnamed agricultural ditches. If the ditches transitions to subsurface flow, the remainder shall be surveyed to determine if there are isolated pools potentially supporting fish. Surveys shall be conducted in areas adjacent to the pipeline alignment along the agricultural ditches. Surveys shall also be conducted along downstream sections, including segments that are hydrologically connected to the ditches such as the Revlon Slough.</li> </ul>		
<p><b>MM-BIO-7- Project Timing</b></p>	<p>PVCWD shall avoid all impacts to arroyo chub and western pond turtle. Some portions of the Project are in close Proximity to the agricultural ditches along laguna Road. For this segment, no work shall occur on the stream banks adjacent to the ditches during the winter rainy season, typically between December 1 through March 31 (NMFS 2011). Additionally, no work shall occur during the combined rainy season and breeding season for:</p> <ul style="list-style-type: none"> <li>• Arroyo chub: February 1 through August 31 (Tres 1992).</li> <li>• Western pond turtle: March 1 through July 15 (Morey 2000)</li> </ul>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>
<p><b>MM-BIO-8- Avoidance and Relocation Plan</b></p>	<p>If necessary, PVCWD shall retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan shall describe all SSC that could occur within the Project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan shall include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the Project site. The qualified biologist shall submit a copy</p>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>

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	<p>of a Wildlife Relocation and Avoidance Plan to CDFW for approval prior to any clearing, grading, or excavation work on the Project site.</p>		
<p><b>MM-BIO-9-Biological Monitor</b></p>	<p>To avoid direct injury and mortality of special status species, PVCWD shall have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where a special status species is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution. A qualified biologist shall be on site daily during initial ground and habitat disturbing activities as well as vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of the Project phase until the cessation of all ground and habitat disturbing activities, as well as vegetation removal, to ensure that no wildlife is harmed.</p>	<p>During Project construction and activities</p>	<p>PVCWD</p>
<p><b>MM-BIO-10-Collection Permits</b></p>	<p>PVCWD shall retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish &amp; G. Code, §§ 1002, 1002.5, 1003).</p> <p>Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal.</p>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>

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	Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2022d). Pursuant to the California Code of Regulations, title 14, section 650, the qualified biologist must obtain or have appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.		
<b>MM-BIO-11- Impacts from Noise and Lighting</b>	The Project shall restrict use of equipment and lighting to hours least likely to disrupt wildlife (e.g., not at dusk or in early morning before 9 am) to the extent feasible. CDFW recommends use of noise suppression devices such as mufflers or enclosure for generators. Generators shall not be used except for temporary use in emergencies. Unnecessary construction vehicle use, and idling time shall be minimized to the extent feasible, such that if a vehicle is not required for use immediately or continuously for safe construction activities, its engine shall be shut off. Sounds generated from any means shall be below the 55-60 dB range within 50 feet from the source.	During Project construction and activities	PVCWD
<b>MM-BIO-12- Site Protection</b>	Trenches or pits that remain unfilled shall be securely to prevent entrapment of wildlife species.	During Project construction and activities	PVCWD
<b>MM-BIO-13- Storage/Vehicle Access</b>	Parking, driving, lay-down, stockpiling, and vehicle and equipment storage shall be limited to previously compacted and developed areas. No off-road vehicle use shall be permitted beyond the Project site and designated access routes. Disturbances to adjacent native vegetation shall be minimized.	During Project construction and activities	PVCWD
<b>REC-1- Disclosure- Amount and use</b>	CDFW recommends that PVCWD disclose the amount of water anticipated to be withdrawn from each source as well as more specific information on the intended use.	Prior to Project construction and activities	PVCWD

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<p><b>REC-2- Disclosure- Impacts</b></p>	<p>CDFW recommends the MND disclose how the Project may modify current flow regimes and potentially impact biological resources in Conejo Creek and streams that receive affluent from the OAWPF (see comment #1).</p>	<p>Prior to Project construction and activities</p>	<p>PVCWD</p>
<p><b>REC-3- Impacts to Fish</b></p>	<p>CDFW recommends the MND discuss whether the Project could impact special status fish species, directly or indirectly through habitat modifications, as a function of potential reduction in flow in Conejo Creek and in streams with potential reduction in releases from the OAWPF. The MND should discuss potential impacts on fish based on the following factors: water availability; water flows; water quality; benthic invertebrates and microorganisms; and habitat requirements (e.g., pools, slower moving waters, water temperature, substrate, vegetation).</p>	<p>Prior to Project construction and activities</p>	<p>Prior to Project construction and activities</p>