# FINAL PROGRAM EIR
# FOR THE SIX BASINS STRATEGIC PLAN
## (State Clearinghouse No. 2018091020)

Prepared for:

**Three Valley Municipal Water District**
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**October 2021**

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**FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT**



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# 1.0 Introduction

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15088, Three Valleys Municipal Water District (TVMWD) (Lead Agency) has evaluated the comments received on the Six Basins Strategic Plan Draft Program Environmental Impact Report (Draft Program EIR) (SCH No. 2018091020). Pursuant to CEQA Guidelines Section 15132, this Final EIR includes a list of persons, organizations, and agencies that provided comments on the Draft Program EIR; responses to the comments received regarding the Draft Program EIR; and errata, or revisions to the Draft Program EIR; as well as a Mitigation Monitoring and Reporting Program (MMRP) for use by TVMWD and other Watermaster Parties who would use the Program EIR to evaluate subsequent projects.

This document is organized into three sections:

- *Chapter 1—Introduction*. Provides an introduction to the Final EIR.
- *Chapter 2—Responses to Written Comments*. Provides a list of the agencies, organizations, and individuals who commented on the Draft EIR. Copies of all of the letters received regarding the Draft EIR and responses thereto are included in this section.
- *Chapter 3—Errata*. Includes a listing refinements and clarifications on the Draft EIR, which have been incorporated.

The Final Program EIR also includes the following under separate cover

- Draft Program EIR
- Draft Program EIR Appendices
- Mitigation Monitoring and Reporting Programs

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# 2.0 Responses to Comments

## 2.1 List of Authors

A list of public agencies, organizations, and individuals that provided comments on the Six Basins Strategic Plan Draft Program Environmental Impact Report (Draft EIR) during the 60-day public comment period between January 4, 2021, and April 2, 2021, is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be crossed-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

*State Agencies*


*Organizations*


## 2.2 Responses to Comments

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, TVMWD, as the Lead Agency, evaluated the comments received on the Draft Program EIR (State Clearinghouse No. 2018091020) for the Six Basins Strategic Plan (proposed Plan), and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final Program EIR for the proposed project in accordance with CEQA Guidelines Section 15132.

### Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
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*GAVIN NEWSOM, Governor*
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Letter 1

July 28, 2021

Ben Peralta
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**Subject: Six Basins Strategic Plan, Draft Program Environmental Impact Report, SCH #2018091020, Three Valley Municipal Water District, Los Angeles County**

Dear Mr. Peralta,

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Program Environmental Impact Report (DPEIR) and associated documentation, *Biological Resources Assessment* (BRA), from the Three Valley Municipal Water District (TVMD; Lead Agency) for the Six Basins Strategic Plan (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 & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (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.

1-1

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, including lake and streambed alteration 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 California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

**Project Description and Summary**

**Background:** The Six Basins are six interconnected groundwater basins located along the base of the San Gabriel Mountains. The basins are Canyon Basin, Upper Claremont Heights Basin (UCHB), Lower Claremont Heights Basin (LCHB), Pomona Basin, Live Oak Basin and Ganesha Basin. The limits of the Six Basins area are the San Gabriel Mountains to the north, the San Jose Hills to the south, the Main San Gabriel Basin to the west, and the Chino Basin to the east. The pumping and storage rights for the Six Basins were adjudicated in 1998 through a stipulated judgment (Judgment) titled "Southern California Water Company vs. City of La Verne, et al." in the Superior Court of California for the County of Los Angeles (Court)(Case No. KC029152). The Judgment prescribes a physical solution for the coordinated management of the Six Basins with the objective that the Parties to the Judgment can reliably pump their respective rights and maximize the beneficial use of groundwater. While the Court maintains continuing jurisdiction over the Judgment, the Judgment also established a Six Basins Watermaster to implement the physical solution.

Part of the solution was the establishment of a Safe Yield at 19,300 acre-feet per year (afy) and a Base Annual Production Right for each Party as a percentage of the Safe Yield. This was based on historical groundwater production for the period of 1985 through 1996 and a Safe Yield study developed by Camp Dresser McKee (CDM, 1996). Safe Yield is defined in the Judgment as "*the amount of groundwater, including Replenishment and return flows from imported water, that can reasonably be produced from the combined Two Basins and Four Basins Areas on an annual basis without causing an undesirable result*".

Although prior hydrologic and physical conditions limited the Safe Yield to 19,300 afy, through the coordinated and equitable management of the Six Basins, the Physical Solution of the Judgment establishes that an Operating Safe Yield (OSY), an Operating Plan, and Base Annual Production Rights can be established independently for the Four Basins (Canyon Basin, UCH, Lower Claremont Heights Basin, and Pomona Basin) and the Two Basins areas (Live Oak Basin and Ganesha Basin). The Two Basins are for the sole use of the City of La Verne. 1-2

**Objective:** The proposed Project is to construct and operate projects in a coordinated manner to optimize conjunctive water management activities in the Six Basins. This would be to increase the reliability of regional water supplies. Execution of the Strategic Plan would be accomplished through the implementation of a number of projects identified by the Watermaster Parties. Implementation includes two elements: 1) a planning/programming element consisting of the development of an updated Operating Plan; and 2) a physical element consisting of the construction of new facilities and/or improvements to existing facilities with on-going operation/maintenance of those facilities.

For the environmental evaluation of Strategic Plan implementation, including updating the Six Basins Watermaster Operating Plan, the projects to optimize conjunctive water management, were placed in four categories:

1. Pump and Treat Groundwater in the Pomona Basin –improvements to existing facilities to increase groundwater production and treatment capacity.
2. Recharge Improvements – enhancement of stormwater and supplemental water recharge.
3. Temporary Surplus – rehabilitation to the existing City of Pomona's P-20 wellhead and

treatment facility in the Lower Claremont Heights Basin (LCHB) and construction and operation/maintenance of new production wells and pipelines; and,

4. Monitoring Programs in Support of the Strategic plan – development and implementation of groundwater monitoring program to support the design of new wells and treatment facilities.

1-2 Con't

**Location:** The Six Basins are six interconnected groundwater basins located along the base of the San Gabriel Mountains. Regionally, the Six Basins underly a portion of the Eastern San Gabriel Valley in Los Angeles County, the City of Upland, and the unincorporated community of San Antonio Heights in western San Bernardino County. The Project area is an urbanized area along the base of the mountains. The basins are Canyon Basin, Upper Claremont Heights Basin (UCHB), Lower Claremont Heights Basin (LCHB), Pomona Basin, Live Oak Basin, and Ganesha Basin. The limits of the Six Basins area are the San Gabriel Mountains to the north, the San Jose Hills to the south, the Main San Gabriel Basin to the west, and the Chino Basin to the east.

**Comments and Recommendations**

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

**Specific Comments**

**Comment #1: Groundwater Dependent Ecosystems**

**Issue:** The Project may impact biological resources located in areas identified with groundwater dependent ecosystems (GDE). In addition, these ecosystems do not seem to be identified in the DPEIR.

**Specific impacts:** The Project may cause local extirpation of wildlife from otherwise suitable habitat through increasing pumping efforts and constructing recharge improvements facilities. The construction of these facilities may remove habitat and alter groundwater levels, significantly impacting GDEs.

1-3

**Why impacts would occur:** DWR's Natural Communities Commonly Associated with Groundwater Dataset identifies many potential GDEs in the Projects geographic boundary (DWR 2021). The potential GDEs identified likely comprise phreatophytic vegetation, which rely on water supply from the groundwater table. This vegetation is a critical contributor to habitat and forage for a wide range of species and can be sensitive to depth to groundwater threshold impacts (Naumburg et al. 2005, Froend and Sommer 2010). This sensitivity to groundwater level thresholds means that localized pumping and recharge actions altering groundwater levels (such as those proposed in the Project) can impact phreatophyte vegetation health. Both decreasing (drying out) or increasing (drowning) groundwater elevation has the potential to

stress phreatophytes depending on the plant species and the groundwater elevation and duration (e.g., short term wetness/dryness versus prolonged wetness/dryness).

New recharge basins are proposed within the San Antonio Creek Spreading Grounds (SASG) and the Thompson Creek Spreading Grounds (TCSG). DWR has identified the locations of these spreading grounds as GDEs. CDFW is concerned that the installation of new spreading grounds will not only remove GDEs but potentially increase groundwater elevation, negatively impacting surrounding GDE vegetation. In addition, new production and monitoring wells and new pipelines may be located within GDEs. Therefore, construction efforts associated with these projects may temporarily disturb or remove GDEs.

**Evidence impacts would be significant:** CDFW has a vested interest in the sustainable management of groundwater, as many sensitive ecosystems and resources are dependent on groundwater. The San Gabriel Valley Groundwater Basin is likely exempt from the Sustainable Groundwater Management Act (SGMA) requirements due to its majority adjudicated status. However, the Department of Water Resources (DWR) documented declining groundwater levels and potential for adverse impacts to streams and habitat in San Gabriel Valley Groundwater Basin attributable to groundwater pumping according to the SGMA Basin Prioritization (DWR 2020). Absent SGMA requirements for environmental considerations and protections, it is incumbent upon the Six Basins Watermaster to consider and manage for impacts to public trust resources, including GDEs and interconnected surface waters in the Project. Per CEQA Guidelines section 15065(a), a project may have a significant effect on biological resources if the project substantially reduces the habitat of a fish or wildlife species; threatens to eliminate a plant community; or has the potential to restrict the range of an endangered, rare, or threatened species. By impacting sites like GDEs without mitigation, the Project may have a significant effect on biological resources by further eliminating a plant community and reducing habitat for wildlife species.

1-3 Con't

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends Project proponents conduct the following for individual subsequent projects: 1) determine which proposed project actions are most likely to impact GDEs, 2) deploy representative groundwater monitoring stations within GDEs to track groundwater levels and vegetation responses overtime, and 3) establish thresholds/triggers for adaptive management to respond to stressed vegetation as needed.

**Mitigation Measure #2:** There is potential that the proposed projects could benefit GDEs. For example, injection wells or new spreading grounds could increase groundwater levels, so it becomes more accessible to vegetation. This allows GDEs to persist or potentially expand. Through the use of the monitoring stations mentioned in the previous mitigation measure, they should be monitored for sustainable groundwater levels and the GDE response. If GDEs display a positive response to projects, then Project proponents should maintain groundwater management activities to allow GDEs to sustain that beneficial level.

**Recommendation:** The subsequent CEQA document should verify the GDE existence, identify vegetated communities (e.g., species compositions), and disclose associated rooting depths/optimal groundwater table elevations. This verification should be conducted for any area sited for individual subsequent projects.

**Comment #2: California Fully Protected Bird Species**

**Issue:** The Project may impact California Fully Protected bird species. According to Table 2 of the BRA, California black rail (*Laterallus jamaicensis coturniculus*), a California Fully Protected bird species, has potential to occur within the Project boundary. In addition, according to ebird, American peregrine falcon (*Falco peregrinus*) has been recorded multiple times within the Project boundary.

**Specific impacts:** Project construction and activities, directly or through habitat modification, may result in injury or mortality, reduced reproductive capacity, population declines, or local extirpation of these California Fully Protected bird species. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat may occur. In addition, diverting water from its current course may impact the availability of water for various bird species or habitats supporting birds, impacting the ability of Fully Protected species to persist within the Project boundary.

**Why impacts would occur:** Impacts to these species may occur as a result of ground-disturbing (e.g., staging, mobilization, demolition, and grading) activities, vegetation removal, increased human activity, noise disturbances, light, and dust. The Project proposes mitigation for nesting birds and raptors by having the biologist set "appropriate no-work buffers around the nest, which would be determined based on the nesting species, its sensitivity to disturbance, nesting stage and expected types, intensity and duration of disturbance." Buffers for birds and raptors may not be large enough to avoid impacts on nests of California Fully Protected birds. Moreover, the Project's proposed buffers only mitigates for impacts on nests, eggs, and nestlings during the bird/raptor breeding season. California Fully Protected species may not be taken at any time. Accordingly, an adequate mitigation plan would need to also avoid impacts on a California Fully Protected species during all life stages. 1-4

**Evidence impact would be significant:** The Project may result in adverse effects, either directly or through habitat modifications, on a California Fully Protected species. Take of any species designated as California Fully Protected under the Fish and Game Code is prohibited. CDFW cannot authorize the take of any California Fully Protected species as defined by State law. California Fully Protected species may not be taken or possessed at any time. No licenses or permits may be issued for take, except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, § 3511).

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects avoid impacts on California Fully Protected birds by implementing a minimum 0.5-mile no-disturbance buffer around each nest of a California Fully Protected bird. Additionally, a qualified biologist should develop a robust avoidance, buffer, and demarcation plan specifically for California Fully Protected birds depending on project-level specifics [e.g., project area, species, life stage(s), scope of work].

**Mitigation Measure #2:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects notify and consult with CDFW if a Fully Protected species nest is detected within a project area.

**Comment #3: San Bernardino Kangaroo Rat**

**Issue:** Project activities at the SASG may impact San Bernardino Kangaroo Rat (*Dipdomys merriami* parvus; SBKR) habitat.

**Specific impacts:** The Project may result in temporary or permanent impacts or removal of SBKR habitat, crushing or filling of active colonies, causing the death or injury of adults or juveniles.

**Why impacts would occur:** Impacts may result from ground disturbing activities (e.g., staging, mobilization, and grading), vegetation removal, increased noise disturbances, light, human activity, and dust associated to the creation of new spreading grounds. In addition, diverting water from its current course may decrease the availability of water for SBKR or habitats supporting SBKR, impacting the ability of the species to persist within the Project boundary.

**Evidence impacts would be significant:** SBKR is a candidate CESA and ESA-listed species. SBKR has experienced loss, degradation, and fragmentation of habitat due to sand and gravel mining, flood control projects, and urban development (United States Fish and Wildlife Service 2007). It was once considered a common species, but the San Bernardino kangaroo rat had lost significant habitat by the 1930s. With continued habitat fragmentation and destruction, today nearly 95 percent of the kangaroo rat's habitat has disappeared. The SASG are within the far western part of SBKR range, and there is potential they may be present in the existing recharge basins.

1-5

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, from the Project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Additionally, as to ESA, take of any endangered, threatened, candidate species, from the Project is prohibited, except as authorized by federal law (Endangered Species Act § 10).

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1: Species surveys** – the Project proponent should retain a qualified biologist with experience surveying for SBKR. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist should conduct surveys for where suitable habitat is present. Pre-construction surveys should be conducted no more than one week prior to initial Project-related ground-disturbing activities. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys should consist of appropriate time of day surveys, no more than one month from the start of any ground-disturbing activities. The surveys should include mapping of current locations of any SBKR for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the Project site and surrounding areas is achieved.

If SBKR are detected, the qualified biologist should use visible flagging to mark the location where SBKR was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist should provide a summary report of SBKR surveys to TVMWD before any Project-related

ground-disturbing activities. The CDFW should be notified and consulted regarding the presence of any special-status wildlife species found on site during surveys. The United States Fish and Wildlife Service (USFWS) should also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS.

**Mitigation Measure #2:** CDFW primarily recommends avoiding impacts to SBKR to the greatest extent feasible. If "take" or adverse impacts to SBKR cannot be avoided during any individual subsequent project activities or over the life of the Project, project proponents should apply for a CESA Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2080 *et seq*. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. CDFW recommends that the project proponents seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an ITP or a consistency determination in certain circumstances. CDFW may require separate CEQA documentation for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

1-5 Con't

**Comment #4: Crotch's Bumble Bee**

**Issue:** A search of CNDDB has indicated four occurrences of Crotch's bumble bee within and adjacent to the Project boundary.

**Specific impacts:** The Project may result in temporal or permanent loss of suitable nesting and foraging habitat. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

**Why impacts would occur:** Project activities, such as diverting water from its current course, may impact the availability of water for various bird species or habitats supporting birds, impacting the ability of Fully Protected species to persist within the Project boundary. In addition, ground disturbance and vegetation removal associated with Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project area. Project activities may result in temporal or permanent loss of colonies, and suitable nesting and foraging habitat.

1-6

**Evidence impact would be significant**: Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Also, Crotch's bumble bee has a very restricted range and steep population declines make the species vulnerable to extirpation from the State (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by TVMWD (CEQA Guidelines, § 15065). Project activities may have potential to substantially reduce or adversely modify habitat, impair the viability of populations, and reduce the number and range of the Crotch's bumble bee.

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** Due to suitable habitat within the Project site, CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects analyze potential impacts on Crotch's bumble bee. If suitable habitats are on subsequent project sites, within one year prior to vegetation removal and/or grading for any subsequent projects, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following:

A) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.
B) Field survey conditions that should include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions: survey goals, and species searched.
C) Map(s) showing the location of nests/colonies.
D) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).

1-6 Con't

**Mitigation Measure #2:** If Crotch's bumble bee is detected, the subsequent CEQA document should require project proponents, in consultation with a qualified entomologist, to develop a plan to fully avoid impacts to Crotch's bumble bee. The plan should include effective, specific, enforceable, and feasible measures. An avoidance plan should be submitted to TVMWD prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.

**Mitigation Measure #3:** If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, project proponents/qualified entomologist should coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. CDFW recommends TVMWD mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts.

**Comment #5: Water Diversion and Impacts on Streams**

**Issue:** The Project may divert surface stormwater and urban runoff for projects, such as those at the Pedley Spreading Grounds (PSG) and the LA County Fairplex (Fairplex). The Project may modify water received or discharged into channels throughout the Project boundary and install new diversion structures to spreading grounds. This may result in impacts to streams.

1-7

**Specific impact:** Diverting stormwater and runoff into stormwater catchment basins or infiltration galleries may reduce the availability and extent of water flow. Modifications to

channels and installation of diversion structures may result in temporary or permanent impacts to a stream. There could be changes to the hydrologic regime both within the immediate area and downstream. Changes to the hydrologic regime could affect abiotic and biotic variables that support plants, fish, wildlife, and macroinvertebrates. Significant impacts to biological resources could occur, especially during a dry season proceeding after a below-average water year.

**Why impacts would occur:** Diversion structures may obstruct water flow and change the bed and channel of a stream (confinement). Water diversion may adversely affect the existing stream pattern, potentially resulting in substantial erosion or siltation within the project area and downstream. In addition, the DPEIR does not provide sufficient analysis as to whether the Project, specifically activities associated with the PSG and Fairplex projects, would impact biological resources within the project area, in the vicinity, and downstream.

*Biological Resources*: Both the concrete-lined and soft-bottom channels in the Project boundary support biological resources. The Project area could potentially support a variety of species that utilize washes and creeks as habitat, including four amphibian species, two bird species, and six mammal species listed in Table 2 of the BRA. A review of the California Natural Diversity Database (CNDDB) shows Thompson Creek may support woody riparian vegetation alliances such as sycamore alder riparian woodland and coast live oak riparian forest.

Flow reductions, especially dry season flow, could impact beneficial uses directly or indirectly through habitat modifications. Diverting water from channels, such as the Thompson Wash, Live Oak Wash, and Marshall Creek, during the dry season could reduce the availability and extent of shallow water sheet flow. The resulting sheet flows allow phytoplankton (algae and cyanobacteria), microorganisms, and herbaceous vegetation to establish. The algae provide habitat and a food source for benthic invertebrates, a vital food source for wading birds. The diversion of water could potentially impact algae and benthic invertebrates, and eventually birds.

1-7 Con't

*Seasonality*: The DPEIR does not analyze the potential significance of water diversion depending on the season. During the dry season, typically April through September in southern California, the many concrete-lined channels are largely maintained by urban runoff and discharge from wastewater reclamation plants. Diverting water could be significant during the dry season and could either significantly reduce water flow or result in complete loss of water flow.

*Drought*: The DPEIR does not analyze the potential significance of water diversion during a below-normal water year. Since 2000, the longest duration of drought in California lasted between 2011 and 2019 (USGS 2021) and in southern California, between 2012 through 2016 (Los Angeles Almanac 2021). The 2017-2018 rainfall season was below normal and the driest for Los Angeles since 2006-2007 (Los Angeles Almanac 2021). Diverting water during a below-normal rainfall year may significantly reduce water flow or result in complete loss of water flow.

*Cumulative Flow Reductions*: The DPEIR does not analyze whether the Project would result in significant impacts when considered with other existing or proposed water diversion projects in surrounding water basins. The cumulative diversion of flows within the Project boundary and in surrounding water basins may lead to decreased flow in surface waters. This could impact not only vegetation and wildlife uses, but also potentially interconnected surface waters, up and downstream of project areas.

**Evidence impacts would be significant:** Changes to hydrology and channel morphology, both within a project area and downstream, are reasonable potential direct and indirect physical changes in the environment. Said changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in a 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 by CDFW, USFWS, and/or National Marine Fisheries Service (NMFS).

In addition, 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.

The construction of diversion devices such as deployable barriers and inflatable dams, and conveyance of water structures within a stream is subject to notification under Fish and Game Code section 1602. The ongoing operations and maintenance of instream storm flow diversion devices and conveyance of water structures is also subject to notification under Fish and Game Code section 1602 once the devices are constructed. Also, the diversion of stormwater and/or dry weather runoff that flows within streams or that have overflown the banks of streams may be subject to notification under Fish and Game Code section 1602.

1-7 Con't

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects analyze potential impacts on biological resources resulting from proposed water diversion. At a minimum, an analysis and should include:

*Study Reach*

1) A study reach that includes an additional length of channel downstream from a project site. The additional study reach should extend a minimum of one mile downstream, or to the extent of the channel downstream that could be expected to be affected similarly by a proposed project (hydraulic and ecological zones), or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater.

*Changes to Hydrology and Hydraulics*

1) Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The

analysis should clearly define above-average or below-average rainfall year.
2) Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.
3) A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.
4) An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).

*Biological Resources Impact Assessment*

1) A map of plant communities and important bird foraging and nesting habitat occurring in the study reach. Plant communities should be mapped at the alliance/association level using the Manual of California Vegetation, second edition (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018).
2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the study reach. For each biological resource, provide:
    a. A summary of species-specific habitat requirements.
    b. A discussion as to how the 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,
    c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts.
3) A discussion of whether construction, operations, and maintenance of diversion devices such as rubber dams, pipes, and tunnels, would have direct and/or indirect, permanent or temporal impact on biological resources.
4) An adequate discussion to address how the project may potentially affect on-going habitat recovery and restoration efforts.
5) An adequate discussion of project-related impacts on biological resources in relation to cumulative flow reductions.

1-7 Con't

**Mitigation Measure #2:** For projects proposing to divert water, CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects develop an Adaptive Management Plan that would reduce or suspend water diversion if at any point the project may impact biological resources downstream exceeding a defined threshold/trigger.

**Mitigation Measure #3:** CDFW recommends project proponents provide a copy of the basis of water right (water right permit) by State Water Resources Control Board that authorizes the beneficial use of stormwater or dry weather flows diverted from streams. This information along with the LSA Notification would assist CDFW in assessing the need for an LSA Agreement. CDFW recommends including documentation of water rights in a project-level CEQA document

to ensure project budgets and timelines consider CDFW's regulatory process in the implementation of projects under the Six Basins Strategic Plan.

**Mitigation Measure #4:** CDFW recommends modifying Mitigation Measure BIO-4, *Wetland Permits*, to include the underlined language:

"Waters of the State or Waters of the U.S. the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alternation Agreement under Fish and Game Code 1602 are required prior to development. Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year. 1-7 Con't

**Recommendation:** CDFW's issuance of an LSA Agreement for 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 from a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code 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 Agreement.

To compensate for any on- and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

**Comment #6: Impacts on Riparian Habitat**

**Issue:** The Project may impact riparian habitat.

**Specific impacts:** The Project may result in temporary or permanent loss of riparian resources

**Why impacts would occur:** According to CNDDB, areas within and adjacent to the Project boundary contain riparian vegetation communities. This includes sycamore alder riparian woodland, Riversidean alluvial fan sage scrub, and coast live oak riparian forest. In addition, the BRA identifies scale broom scrub (*Lepidospartum squamatum*), laurel sumac scrub (*Artemesia/Eriogonum/*Malosma) mosaic and cost live oak woodland (*Quercus agrifolia*) alliances on site at TCSG and SASG. Moreover, the California Natural Communities List designates scale broom scrub as a sensitive alliance. Some or all of these vegetation communities could be completely removed during project construction and activities, especially 1-8

with the creation of new spreading grounds. This could result in temporary or permanent loss of riparian habitat. Vegetation communities may also be impacted through changes to hydrology (e.g., amount of flow) and hydraulics (e.g., wetted perimeter and depth). These changes may occur if a project modifies the channel, installs diversion structures, or expands recharge basins. Increased sediment deposition can bury seedlings and saplings of riparian trees, resulting in increased mortality of new recruits (Kui and Stella 2016).

**Evidence impacts would be significant:** Over 90 percent of southern California's coastal riparian habitat have been lost (USACE 2015). The remaining fragments of riparian habitat contribute significantly to the integrity of regional hydrologic connectivity, biodiversity, and habitat connectivity and wildlife movement between significant ecological areas, including the nationally significant San Gabriel Mountains National Monument (USACE 2015). Therefore, loss of remaining riparian habitat could affect regional hydrologic, habitat, and wildlife connectivity, and increase threats/stressors on regional biodiversity. Per CEQA Guidelines section 15065(a), a project may have a significant effect on biological resources if the project substantially reduces the habitat of a fish or wildlife species; threatens to eliminate a plant community; or has the potential to restrict the range of an endangered, rare, or threatened species.

1-8 Con't

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure:** CDFW recommends that there be no net loss of riparian habitat within the Project boundary. Mitigation for impacts to riparian habitat should be provided within the Project boundary or at a CDFW approved mitigation bank. Compensatory mitigation should increase if a project would result in permanent loss of riparian habitat within a contiguous riparian corridor or loss of an isolated, remnant habitat patch. Mitigation should increase if a project would impact a riparian vegetation community considered rare in the State (i.e., S1, S2, or S3). Mitigation should further increase if the riparian habitat is considered very threatened or threatened (i.e., 0.1, 0.2). Mitigation should further increase if the riparian habitat impacted supports special status species, specifically obligate riparian breeders (e.g., Coastal California gnatcatcher (*Polioptila californica californica*)). Mitigation should replace the same vegetation association/alliance that was impacted.

**Comment #7: California Species of Special Concern**

**Issue:** The Project may impact California Species of Special Concern (SSC). According to Table 2 of the BRA, the Project area has the potential to support SSC, which includes two avian species, one fish, four amphibians, five reptiles, and six mammals.

**Specific impacts:** Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of an SSC. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat for an SSC may occur.

1-9

**Why impacts would occur:** Mitigation Measure BIO-3 of the DPEIR includes the need for biological resource assessments for "future projects on sites not identified in this [DP]EIR and occurring within an undeveloped area." While CDFW concurs that such assessments are necessary, there is concern over the lack of specifics a "mitigation strategy" would include in the event an SSC is detected during the assessment. Typical compensatory mitigation includes the purchase of land consisting of suitable habitat and/or individuals of the impacted species. There

is no discussion of whether the mitigation strategy will include preservation, enhancement, restoration, or other mitigation activities to offset impacts to sensitive species and habitats. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The DPEIR does not provide enough information regarding the appropriate avoidance and minimization measures to facilitate meaningful public review and comment on the appropriateness of BIO-3. Additionally, all subsequent projects would have a cumulative impact on biological resources over the life of the Project. Therefore, it is unclear how the mitigation strategy would be developed in order to reduce impacts to biological resources to less than significant.

More specifically, impacts to an SSC could result from ground-disturbing (e.g., staging, mobilization, demolition, and grading) activities, vegetation removal, increased noise disturbances, light, human activity, and dust. All of these impacts should be addressed in the mitigation strategy.

**Evidence impact would be significant:** A California Species of Special Concern is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2021a)

1-9 Con't

CEQA provides protection not only for CESA-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, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

**Recommended Potentially Feasible Mitigation Measure(s):**

When preparing a mitigation strategy for review and approval, CDFW recommends including the following measures, at a minimum, to reduce impacts to less than significant.

**Mitigation Measure #1:** If impacts are unavoidable, wildlife should be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be prepared prior to implementing any

Project-related ground-disturbing activities and vegetation removal.

While relocation is an option for mitigating impacts, it may not fully account for impacts to an SSC, such as loss of individuals, loss of habitat, or loss of natal dens/middens/burrows. Capturing, handling, or relocation are acts that may have multiple unintended negative consequences, including increased stress and mortality of relocated animals, negative impacts on resident animals at release sites, increased conflicts with human interests, and the spread of diseases. Attempts to avoid impacts to SSC should be the first option. Seeking a Scientific Collection Permits (see Mitigation Measure #2 below) in order to trap and relocate individuals should only be done if impacts cannot be avoided.

**Mitigation Measure #2:** Handling and relocation of wildlife, including SSC, may be required. If so, Pursuant to the California Code of Regulations, title 14, section 650, the lead agency/qualified biologist should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the Agreement.

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).

1-9 Con't

**Mitigation Measure #3:** CDFW recommends providing compensatory mitigation for temporary and/or permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC within the Project boundary. Compensatory mitigation for should be provided within the Project boundary. Compensatory mitigation should be provided at no less than 2:1. Mitigation should provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan should include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC should adhere to CDFW and/or USFWS established protocol/guidelines if available.

**Comment #8 Tree Removal**

**Issue:** The DPEIR indicates projects may require tree trimming or removal.

**Specific Impact:** Project activities that result in the removal of trees may cause temporary or permanent impacts to wildlife that utilize the tree as habitat. In addition, native tree species could be removed, causing further declines in native vegetation.

1-10

**Why impact would occur:** As written, BIO-1 only addresses "heritage trees". This term is not defined in relation to the DPEIR, so it is unknown what trees would fall under BIO-1. Therefore, there would be a net loss of trees that do not fall under "heritage tree" classification. Moreover,

tree removal may result in temporary or permanent losses to bird or bats that may utilize the tree as habitat.

**Evidence Impact would be significant:** Any type of trees on site may provide adequate habitat for nesting birds and roosting bats. For tree species like coast live oak, wildlife, such as squirrels, magpies, scrub jays and other bird species, depend on the tree for an important food source (Steinberg 2002). Additionally, removal of trees on site may temporarily or permanently impact available habitat for wildlife in the area.

**Recommended Potentially Feasible Mitigation Measure(s):**

1-10 Con't

**Mitigation Measure:** The Project area is partially located in the City of La Verne. Therefore, in order to ensure no net loss of native trees, CDFW recommends following the City of La Verne *General Plan Update Conservation and Natural Resources Background Report* replacement ratio (at a minimum) for the removal of any mature tree which states, "Require mature trees to be replaced at the four-to-one ratio". CDFW recommends this replacement include a combination of native trees and/or appropriate understory and lower canopy plantings. Replacement oaks should be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. CDFW recommends replacing nonnative trees with native trees.

**Comment #9: Tree Diseases, Pests, and Pathogens**

**Issue:** The Project may remove trees and spread material infected with invasive tree diseases, pests, and pathogens.

**Specific impacts:** The Project may spread tree insect pests and diseases into areas not currently exposed to these stressors. This could result in expediting the loss of native trees and plant communities. Loss of trees may result in loss of foraging and perching habitat for small mammals, birds, and raptors.

**Why impacts would occur:** The Project may remove trees that could host diseases and pests. One such pathogen is sudden oak death. Sudden oak death has become the most common cause of mortality of oak (*Quercus* genus) and other native trees (Phytosphere 2015). Mortality rates of oak trees are greater than 50 percent in some areas impacted by sudden oak death (Phytosphere 2012). Tree dieback can have cascading impacts on the habitat and ecosystem, particularly avian distribution and abundance (Monahan and Koenig 2006). Another pest is the polyphagous shot hole borer, which hosts on many native trees species that include box elder (*Acer negundo*), California sycamore (*Platanus racemosa*), willows (*Salix* genus), oaks, cottonwoods (*Populus* genus), and alders (*Alnus* genus) (Calinvasives 2021).

1-11

Diseases such as sudden oak death can spread via equipment and transport of infected material. These fragments can be spread to new locations if equipment and tools are not disinfected or cleaned before moving to the next work location. Infected material that is transported off site for disposal may expose trees and plant communities to pest and disease. This could result in expediting the loss of California sycamore, oak trees, and other native trees and plant communities within and adjacent to a project area.

**Evidence impacts would be significant:** The Project may have a substantial adverse effect on any sensitive natural communities identified in local or regional plans, policies, and regulations

or by the CDFW. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW that are dependent on woodlands susceptible to insect and disease pathogens.

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure:** CDFW recommends that the subsequent CEQA document include a measure to mitigate the spread of invasive pests and diseases by implementing the following:

1) Prior to tree removal, a certified arborist should evaluate trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).
2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist should prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a project area without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.
3) If possible, all tree material, especially infected tree material, should be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

1-11 Con't

**Comment #10: In-lieu Fees**

**Issue:** Mitigation Measure BIO-4 *Wetland Permits* mentions an “in lieu fee program” as an option for offsite replacement of wetland resources.

**Specific impacts:** Impacting wetland resources has the potential to impact directly, or indirectly through habitat loss, sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities. In addition, the DPEIR does not provide sufficient information for CDFW to evaluate the adequacy of in-lieu fees to offset the cumulative loss of biological resources associated with wetlands.

**Why impacts would occur**: It is unclear how proposed payments would be sufficient to offset impacts associated with the Project. Typical compensatory mitigation includes the purchase of land consisting of suitable habitat and/or individuals of the impacted species. CDFW is concerned that an in-lieu fee would not provide enough funding for preservation, enhancement, restoration, or other mitigation activities to offset impacts to sensitive species and habitats.

1-12

The DPEIR does not explain or make a connection as to why in-lieu fee is adequate to offset Project impacts so that the Project would have no impacts. The DPEIR does not discuss or provide the following information:

1) Whether the in-lieu fee is going towards an established program.
2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA.
3) What the in-lieu fee would acquire. It is unclear if the in-lieu fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the in-lieu fee would be used to purchase credits at a mitigation bank, or none of the above.
4) What biological resources would the in-lieu fee protect/conserve.
5) Why the in-lieu fee is appropriate for mitigating cumulative loss of biological resources in the Project area.
6) How the in-lieu fee is sufficient to purchase land or credits at a mitigation bank.
7) Where the project proponent may acquire land or purchase credits at a mitigation bank so that the in-lieu fee would offset Project impacts on biological resources in the Project area.
8) When the project proponent would use the fee in the Project area. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the project proponent fails to implement its proposed mitigation.
9) How the project proponent would commit to the project to paying the in-lieu fee. For example, when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, and what mechanisms would project proponent implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4).
11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
12) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.

1-12 Con't

**Evidence impacts would be significant**: Without identifying when mitigation activities will be implemented, additional temporal impacts to biological resources would occur. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or USFWS. This Project may have the potential to reduce the habitat of rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; threatened to eliminate a plant or animal community; and substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 15065(a)(1)]. Additionally, this Project has possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)].

**Recommended Potentially Feasible Mitigation Measure(s):**

**Recommendation #1:** CDFW recommends the subsequent environmental document provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

1) Whether the in-lieu fee is going towards an established program.

2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA.
3) What the in-lieu fee would acquire.
4) What biological resources would the in-lieu fee protect/conserve.
5) Why the in-lieu fee is appropriate for mitigating the cumulative loss of biological resources.
6) Why the in-lieu fee is sufficient to purchase land or credits at a mitigation bank.
7) Where the project proponent may acquire land or purchase credits at a mitigation bank.
8) When the project proponent would use the in-lieu fee; and,
9) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.

1-12 Con't

The project proponent should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

**Recommendation #2:** CDFW recommends that the project proponent provide a discussion describing how it intends to commit to mitigation via the in-lieu fee. For example, the project proponent should provide specifics as to when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the project proponent implement to ensure the fee is paid, and when the project proponent would use the project's payment for mitigation. Also, the project proponent should provide specific performance standards and actions to achieve those performance standards.

**Recommendation #3:** CDFW recommends that the project proponent recirculate the DPEIR for more meaningful public review and assessment of the project proponent's in-lieu fee. Additionally, the Project proponent should recirculate the DPEIR if the proposed mitigation measure (i.e., in-lieu fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].

**Additional Recommendations**

Nesting Birds. The Project's proposed Mitigation Measure BIO-2, *Nesting Birds*, as it is currently proposed, Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to exclude the ~~strikethrough~~ and include the underlined language:

"[…] The nesting season generally extends from February 1 through ~~August 31~~ September 15 (as early as January 1 for some raptors), but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the qualified Avian Biologist's-verified nesting season, a preconstruction clearance survey for nesting birds shall be conducted ~~within 30 days~~ within a 500-foot radius of the construction site. Based on local conditions, the nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the ~~of the~~ start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys should be repeated. If no active nests are found, no further action would be required.[…]"

1-13

Rare Plant Surveys. The Project's proposed Mitigation Measure BIO-3, *Additional Biological Resources Assessments*, as it is currently proposed, may result in missed detections of rare plants not previously known to occur at a project site. This may result in population declines or local extirpation of a rare plant species, as there is potential for approximately 24 species of rare plants to occur within the Project boundary, according to BRA Table 2. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to include the underlined language:

"[…] a biological assessment shall be made, while identifying and mapping all vegetation communities and land-cover types, of the selected or potential sites to determine if sensitive biological resources (listed, candidate, or other special-status plants and/or wildlife, sensitive plant community, sensitive species, jurisdiction waters) are present. To determine presence/absence or accurately identifying rare plants, a qualified botanist shall conduct multiple rare plant surveys throughout the growing season for any given year. Surveys shall occur during the time of year when rare plants are more likely to be visually detectable. Rare plant surveys proceeding after a low water year shall be supplemented with one or two additional rare plant surveys over a number of years depending on the rare plant species, annual weather patterns, and whether the project area was recently disturbed (e.g., fire).

1-13 Con't

Rodenticides. CDFW recommends TVMWD prevent the use of second-generation anticoagulant rodenticides on any project associated with the Project.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the subsequent CEQA document include measures where lead agencies of individual projects tiering from the subsequent CEQA document report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDB by completing the Online Field Survey Form (CDFW 2021d). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends TVMWD update the Project's proposed Biological Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist project proponents in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). TVMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided TVMWD with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

1-14

**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 and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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). 1-15

**Conclusion**

We appreciate the opportunity to comment on the Project to assist Three Valley Municipal Water District in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that TVMWD 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 Felicia Silva, Environmental Scientist, at (562) 292-8105 or by email at Felicia.Silva@wildlife.ca.gov 1-16

Sincerely,

DocuSigned by:
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State Clearinghouse - state.clearinghouse@opr.ca.gov

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Comment 1-17



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

| **Biological Resources (BIO)** | | | |
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| **Mitigation Measure (MM) or Recommendation (REC)** | | **Timing** | **Responsible Party** |
| **MM-BIO-1-GDEs** | Project proponents shall determine the following in areas identified for projects and any area sited for individual subsequent projects: 1) determine which proposed project actions are most likely to impact GDEs based on basin hydrology, 2) deploy representative groundwater monitoring stations within GDEs to track groundwater levels and vegetation responses overtime, 3) establish thresholds/triggers for adaptive management to respond to stressed vegetation as needed. | Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document | Project-level lead agency |
| **MM-BIO-2-GDEs** | If habitat benefits are expected based on Project development, through the use of the monitoring stations mentioned in the previous mitigation measure, they shall be monitored for sustainable groundwater levels and the GDE response. If GDEs display a positive response to projects, then Project proponents shall maintain groundwater management activities to allow GDEs to sustain that beneficial level. | Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document | Project-level lead agency |
| **Rec-1-GDEs** | The subsequent CEQA document shall verify the GDE existence, identify vegetated communities (e.g. species compositions), and associated rooting depths/optimal groundwater table elevations. This verification should be conducted for areas identified for projects and any area sited for individual subsequent projects. | Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document | Project-level lead agency |

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| **MM-BIO-3-Impacts on California Fully Protected Birds** | Impacts on California Fully Protected birds shall be avoided by implementing a minimum 0.5-mile no-disturbance buffer around each nest of a California Fully Protected bird. A qualified biologist shall develop a robust avoidance, buffer, and demarcation plan specifically for California Fully Protected birds depending on project-level specifics [e.g., project area, species, life stages(s), scope of work]. | Prior to/During project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-4-Impacts on California Fully Protected Birds** | Individual subsequent projects shall notify and consult with CDFW if a Fully Protected species nest is detected within a project area. | Prior to project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-5-SBKR** | Project proponents shall retain a qualified biologist with experience surveying for SBKR. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist shall conduct surveys for where suitable habitat is present. Pre-construction surveys shall be conducted no more than one week prior to initial Project-related ground-disturbing activities. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys shall consist of appropriate time of day surveys, no more than one month from the start of any ground-disturbing activities. The surveys shall include mapping of current locations of any SBKR for avoidance and relocation efforts and to assist construction monitoring efforts. The survey shall be conducted so that 100 percent coverage of the Project site and surrounding areas is achieved.<br><br>If SBKR are detected, the qualified biologist shall use visible flagging to mark the location where SBKR was detected. The qualified biologist shall take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist shall provide a summary report of SBKR surveys to TVMWD/project proponent before any Project-related ground-disturbing activities. The CDFW shall be notified and | Prior to project ground-disturbing activities | Project-level lead agency |

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| | consulted regarding the presence of any special-status wildlife species found on site during surveys. The USFWS shall also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS. | | |
| **MM-BIO-6-SBKR** | If "take" or adverse impacts to SBKR cannot be avoided during any individual subsequent project activities or over the life of the Project, project proponents shall apply for a CESA Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2080 *et seq*. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. The Project proponent shall seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an ITP or a consistency determination in certain circumstances. CDFW may require separate CEQA documentation for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals shall be of sufficient detail and resolution to satisfy the requirements for a CESA ITP. | Prior to project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-7-Crotch's bumble bee** | Due to suitable habitat within the Project boundary, individual subsequent projects shall analyze potential impacts on Crotch's bumble bee. If suitable habitat is on subsequent project sites, within one year prior to vegetation removal and/or grading for any individual subsequent projects, a qualified entomologist familiar with the species behavior and life history shall conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys shall be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, shall be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report shall provide the following: | Prior to project ground-disturbing activities | Project-level lead agency |

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| | a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.<br>b) Field survey conditions that shall include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.<br>c) Map(s) showing the location of nests/colonies.<br>d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species). | | |
| **MM-BIO-8-Crotch's bumble bee** | If Crotch's bumble bee is detected, the subsequent CEQA document shall require project proponents, in consultation with a qualified entomologist, to develop a plan to fully avoid impacts to Crotch's bumble bee. The plan shall include effective, specific, enforceable, and feasible measures. An avoidance plan shall be submitted to the project proponent prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee. | Prior to project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-9-Crotch's bumble bee** | If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, project proponents /qualified entomologist shall coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. The project | Prior to project ground-disturbing activities | Project-level lead agency |

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| | proponents shall mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts. | | |
| **MM-BIO-10-Impacts of Water Diversion on Streams** | Individual subsequent projects shall analyze potential impacts on biological resources resulting from proposed water diversion. At a minimum, an analysis and shall include:<br>*Study Reach*<br>1) A study reach that includes an additional length of channel downstream from a project site. The additional study reach shall extend a minimum of 1 mile downstream, or to the extent of the LA River downstream that could be expected to be affected similarly by a proposed project (hydraulic and ecological zones), or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater.<br>*Changes to Hydrology and Hydraulics*<br>1) Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis shall clearly define above-average or below-average rainfall year.<br>2) Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.<br>3) A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.<br>4) An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted | Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document | Project-level lead agency |

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| | perimeter (acres gained/lost), and velocity (percent change).<br>*Biological Resources Impact Assessment*<br>1) A map of plant communities and important bird foraging and nesting habitat occurring in the study reach. Plant communities shall be mapped at the alliance/association level using the Manual of California Vegetation, second edition. An updated and thorough floristic-based assessment of plant communities shall follow CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.<br>2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the study reach. For each biological resource, provide:<br>a. A summary of species-specific habitat requirements;<br>b. A discussion as to how the 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,<br>c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts.<br>3) A discussion of whether construction, operations, and maintenance of diversion devices such as rubber dams, pipes, and tunnels, would have direct and/or indirect, permanent or temporal impact on biological resources.<br>4) An adequate discussion to address how the project may potentially affect on-going habitat recovery and restoration efforts.<br>5) An adequate discussion of project-related impacts on biological resources in relation to cumulative flow | | |

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| | reductions. | | |
| **MM-BIO-11-Impacts of Water Diversion on Streams** | For projects proposing to divert water, individual subsequent projects shall develop an Adaptive Management Plan that would reduce or suspend water diversion if at any point the project may impact biological resources downstream exceeding a defined threshold/trigger. | Prior to water diversion construction and activities | Project-level lead agency |
| **MM-BIO-12-Impacts of Water Diversion on Streams** | Project proponents shall provide a copy of the basis of water right (water right permit) by State Water Resources Control Board that authorizes the beneficial use of stormwater or dry weather flows diverted from streams. This information along with the LSA Notification would assist CDFW in assessing the need for an LSA Agreement. This will include documentation of water rights in a project-level CEQA document to ensure project budgets and timelines consider CDFW's regulatory process in the implementation of projects under the Six Basins Strategic Plan. | Prior to water diversion construction and activities | Project-level lead agency |
| **MM-BIO-13-Impacts of Water Diversion on Streams** | Mitigation Measure BIO-4, *Wetland Permits*, shall be modified to include the <u>underlined</u> language:<br><br>"Waters of the State or Waters of the U.S. the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alternation Agreement under Fish and Game Code 1602 are required prior to development. <u>Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion</u> | Prior to water diversion construction and activities | Project-level lead agency |

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| | structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year. | | |
| **Rec-2- Impacts of Water Diversion on Streams** | CDFW's issuance of an LSA Agreement for 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 from a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code 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 Agreement.<br><br>To compensate for any on- and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity. | Prior to water diversion construction and activities | Project-level lead agency |
| **MM-BIO-14- Impacts on Riparian Habitat** | There shall be no net loss of riparian habitat within the Project boundary. Mitigation for impacts to riparian habitat shall be provided within the Project boundary or at a CDFW approved mitigation bank. Compensatory mitigation shall increase if a project would result in permanent loss of riparian habitat within a contiguous riparian corridor or loss of an isolated, remnant habitat patch. Mitigation shall increase if a project would impact a riparian vegetation community considered rare in the State (i.e. S1, S2, or S3). Mitigation shall further increase if the riparian habitat is considered very threatened or threatened (i.e., 0.1, 0.2). Mitigation shall further increase if the riparian habitat impacted supports special status species, specifically obligate riparian breeders (e.g., | Prior to project ground-disturbing activities | Project-level lead agency |

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| | Coastal CA gnatcatcher). Mitigation shall replace the same vegetation association/alliance that was impacted. | | |
| **MM-BIO-15- Impacts on California Species of Special Concern** | If impacts are unavoidable, wildlife shall be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC shall be captured only by a qualified biologist with proper handling permits. The qualified biologist shall prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan shall be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal. Attempts to avoid impacts to SSC shall be the first option. Seeking a Scientific Collection Permits in order to trap and relocate individuals shall only be done if impacts cannot be avoided. | Prior to/During project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-16- Impacts on California Species of Special Concern** | Appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities shall be obtained. | Prior to project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-17- Impacts on California Species of Special Concern** | Compensatory mitigation shall be provided for temporary and/or permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC within the Project boundary. Compensatory mitigation for shall be provided within the project area. Compensatory mitigation shall be provided at no less than 2:1. Mitigation shall provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC shall adhere to CDFW and/or USFWS established protocol/guidelines if available. | Prior to/During project ground-disturbing activities | Project-level lead agency |

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| **MM-BIO-18-Tree Removal** | In order to ensure no net loss of native trees, the City of La Verne *General Plan Update Conservation and Natural Resources Background Report* replacement ratio (at a minimum) shall be required for the removal of any mature tree which states, "Require mature trees to be replaced at the four-to-one ratio". This replacement shall include a combination of native trees and/or appropriate understory and lower canopy plantings. Replacement oaks should be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. Nonnative trees shall be replaced with native trees.. | Prior to/During project ground-disturbing activities | Project-level lead agency |
| **MM-BIO-19-Tree Diseases, Pests, and Pathogens** | The spread of invasive pests and diseases shall be mitigated by implementing the following:<br>1) Prior to tree removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*);<br>2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist shall prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees shall not be transported from a project area without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.<br>3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools shall be cleaned and disinfected before use to prevent | Prior to/During project construction activities | Project-level lead agency |

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| | introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas. | | |
| **REC-3-In-lieu Fees** | CDFW recommends the subsequent environmental document provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:<br><br>1) Whether the in-lieu fee is going towards an established program;<br>2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;<br>3) What the in-lieu fee would acquire;<br>4) What biological resources would the in-lieu fee protect/conserve;<br>5) Why the in-lieu fee is appropriate for mitigating the cumulative loss of biological resources;<br>6) Why the in-lieu fee is sufficient to purchase land or credits at a mitigation bank;<br>7) Where the project proponent may acquire land or purchase credits at a mitigation bank;<br>8) When the project proponent would use the in-lieu fee; and,<br>9) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.<br><br>The project proponent should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147). | Prior to finalizing PEIR | TVMWD |
| **REC-4-In-lieu Fees** | CDFW recommends that the project proponent provide a discussion describing how it intends to commit to mitigation via the in-lieu fee. For example, the project proponent should provide specifics as to when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the project proponent | Prior to finalizing PEIR | TVMWD |

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| | implement to ensure the fee is paid, and when the project proponent would use the project's payment for mitigation. Also, the project proponent should provide specific performance standards and actions to achieve those performance standards. | | |
| **REC-5-In-lieu Fees** | CDFW recommends that the project proponent recirculate the DPEIR for more meaningful public review and assessment of the project proponent's in-lieu fee. Additionally, the Project proponent should recirculate the DPEIR if the proposed mitigation measure (i.e., in-lieu fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)]. | Prior to finalizing PEIR | TVMWD |
| **REC-6-Nesting Birds** | The Project's proposed Mitigation Measure BIO-2, *Nesting Birds*, as it is currently proposed, Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends TVMWD amend Mitigation Measure BIO-2 to exclude the strikethrough and include the underlined language:<br><br>"[…] The nesting season generally extends from February 1 through ~~August 31~~ September 15 (as early as January 1 for some raptors), but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the qualified Avian Biologist's-verified nesting season, a preconstruction clearance survey for nesting birds shall be conducted within 30 days within a 500-foot radius of the construction site. Based on local conditions, the nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the of the start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys should be repeated. If no active nests are found, no further action would be required.[…]" | Prior to finalizing PEIR /During/After project | TVMWD/project-level lead agency |

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| **REC-7-Rare Plant Surveys** | The Project's proposed Mitigation Measure BIO-3, *Additional Biological Resources Assessments*, as it is currently proposed, may result in missed detections of rare plants not previously known to occur at a project site. This may result in population declines or local extirpation of a rare plant species, as there is potential for approximately 24 species of rare plants to occur within the Project boundary, according to BRA Table 2. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to include the underlined language:<br><br>"[…] a biological assessment shall be made, while identifying and mapping all vegetation communities and land-cover types, of the selected or potential sites to determine if sensitive biological resources (listed, candidate, or other special-status plants and/or wildlife, sensitive plant community, sensitive species, jurisdiction waters) are present. To determine presence/absence or accurately identifying rare plants, a qualified botanist shall conduct multiple rare plant surveys throughout the growing season for any given year. Surveys shall occur during the time of year when rare plants are more likely to be visually detectable. Rare plant surveys proceeding after a low water year shall be supplemented with one or two additional rare plant surveys over a number of years depending on the rare plant species, annual weather patterns, and whether the project area was recently disturbed (e.g., fire).[…] | Prior to finalizing PEIR /During/After project | TVMWD/project-level lead agency |
| **REC-8-Rodenticides** | CDFW recommends TVMWD exclude the use of second-generation anticoagulant rodenticides for all subsequent individual projects. | Prior to finalizing PEIR /During/After project | TVMWD/project-level lead agency |
| **REC-9-Data** | Project-level lead agencies should ensure sensitive and special status species data has been properly submitted to the California Natural Diversity Database with all data fields applicable filled out. Confirmation of data submittal should be provided to CDFW. | Prior to finalizing/ adopting project-level | Project-level lead agency |

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| | | CEQA document | |
| **REC-10- Mitigation and Monitoring Reporting Plan** | TVMWD should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. TVMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. | Prior to finalizing PEIR | TVMWD |

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**Letter 1 California Department of Fish and Wildlife**

**Comment 1-1** CDFW's Role. This comment includes a brief summary of CDFW's role as a Trustee agency and as a Responsible agency to review and comment on the Draft Program EIR.

**Response 1-1** TVMWD acknowledges CDFW's role in reviewing the Draft Program EIR and providing comments regarding biological resources that may be affected by future projects identified in the Six Basins Strategic Plan. In addition, TVMWD and other Watermaster Parties that will undertake subsequent projects within the Six Basins project area understand that implementation of such projects may require consultation with CDFW to obtain appropriate authorization under the Fish and Game Code.

**Comment 1-2** Project Description and Summary. This comment provides a summary of the background and description of the proposed Strategic Plan and its related projects.

**Response 1-2** The comment has correctly summarized the purpose and need for the implementation of the Six Basins Strategic Plan to update the Watermaster's Operating Plan, and to implement new projects to optimize conjunctive water management in order to sustainably manage groundwater within the Six Basins.

**Comment 1-3** Groundwater Dependent Ecosystems. The Project may impact biological resources located in areas identified with groundwater dependent ecosystems (GDE). In addition, these ecosystems do not seem to be identified in the Draft Program EIR. The Project may cause local extirpation of wildlife from otherwise suitable habitat through increasing pumping efforts and constructing recharge improvements facilities. The construction of these facilities may remove habitat and alter groundwater levels, significantly impacting GDEs. **(CDFW Comment 1)**

**Response 1-3** The Six Basins are six interconnected groundwater basins located along the base of the San Gabriel Mountains. Regionally, the Six Basins underly a portion of the Eastern San Gabriel Valley in Los Angeles County, and the City of Upland, and the unincorporated community of San Antonio Heights in western San Bernardino County. The project area is an urbanized area along the base of the mountains. Draft EIR Figure 3-4, *Adjudicated Boundary*, shows the relationship between the source of the water and the groundwater basins. As shown in this figure, the area overlying the groundwater basins is largely urban. Most native vegetation has been replaced with ornamental vegetation consisting of a variety of non-native trees, shrubs, and groundcover.

The exception to this is found within the San Antonio Spreading Grounds (SASG) area associated with the San Antonio Creek wash; the area around the Thompson Creek Dam, including the Thompson Creek Spreading Grounds (TCSG); and an area near the northeast corner of Foothill Blvd and Indian Hill Blvd in the City of Claremont associated with the Rancho Santa Ana Botanical Gardens and other vacant land associated with the

Claremont Colleges. The areas within the SASG and TCSG are largely vacant with the exception of the numerous flood control and water conveyance systems, located within each site.

Final EIR Figure 1, Depth to Groundwater in the Six Basins, Fall 2020, is an update to Draft EIR Figure 2-12, Historical Areas of Rising Groundwater and Depth to Groundwater in January 2006, which showed depth to groundwater in 2006. In the interim 14 years, there has been a lowering of the depth to groundwater such that in 2020, groundwater levels were lower in the SASG area than in 2006, reflecting drought conditions experienced in the area over this time period. For example, within the area outlined as the SASG, groundwater levels in 2006 ranged in depth between 100 feet below ground surface (bgs) at the base of the San Antonio Dam and 250 bgs near the southeastern area of the SASG. In 2020, the groundwater levels ranged in depth between 100 feet bgs at the base of the dam to 350 feet bgs toward the southern area of the SASG. Likewise, the groundwater levels in proximity to the TCSG were lower in 2020 than in 2006.

Final EIR Figure 2, Natural Communities Commonly Associated with Groundwater in the Six Basins, illustrates data obtained from the Department of Water Resources Natural Communities Commonly Associated with Groundwater Dataset. DWR's data shows areas within the Six Basins adjudicated boundary including areas within the SASG and TCSG. Based on DWR's dataset, small groundwater dependent ecosystems may occur within the boundaries of the SASG and TCSG project areas as well as in a smaller area west and south of the Pedley Spreading Grounds. However, research completed by project biologists during the preparation of the Biological Resources Assessment for the Draft Program EIR, including a review of groundwater data provided in the Six Basins Strategic Plan, found that the depth to groundwater was between 100 and 350 feet bgs, and at the Pedley Spreading Grounds at or near 150 feet bgs for several years.

The continuous implementation of stormwater control and groundwater recharge over the past 100+ years has affected the SASG and TCSG project areas, particularly in the SASG where a combination of the San Antonio Dam and the channelization of San Antonio Creek have reduced the water supply available to the existing vegetation in the SASG, resulting in the maturation of the Riversidean Alluvial Fan Sage Scrub (RAFFS). In addition, any identified streams within these project areas are disconnected ephemeral surface waters (only during a storm event or a release from a turnout) due to the presence of the dams and the channelization of San Antonio Creek and Thompson Creek, thus there is a lack of a continuous saturation zone beneath the ephemeral water features to the underlying aquifer. Under these conditions, lowering of the groundwater table within the project area through downstream pumping would not affect the rate of loss of surface water, since surface waters are controlled either behind a dam or in a concrete channelized creek. Likewise, due to depth to groundwater below the SASG and TCSG, the rise in groundwater levels during recharge would not be to a level where it would be available to the root system of GDEs.

With regard to mitigation measure #1, based on the above information on disconnected surface waters and depth to groundwater, the project biologist determined that there are no GDEs located in the TCSG or SASG project areas and, thus, GDEs would not be affected by the proposed new recharge basins. Due to the topography of the area, recharge water that percolates into the ground in the existing spreading grounds, does not remain in place. Rather this groundwater flows southerly into the Lower Claremont Heights Basin (LCHB) and the Pomona Basin where it is pumped and treated for municipal water use. Therefore, installing injection wells or developing additional recharge basins would not likely increase groundwater levels so that there is a saturated zone between the surface aquatic feature and the underlying groundwater, needed to create and sustain groundwater dependent ecosystems.

Finally, regarding the recommendation for a subsequent CEQA document to verify the existence of such ecosystems, at such time as the recharge basin for either the SASG or TCSG is designed, site specific studies will be required including the biological resources assessment identified in mitigation measure BIO-3. See response to comment 1-4 (CDFW comment 2).

**Comment 1-4** California Fully Protected Bird Species. The Project may impact California Fully Protected bird species. According to Table 2 of the BRA, California black rail (*Laterallus jamaicensis coturniculus*), a California Fully Protected bird species, has potential to occur within the Project boundary. In addition, according to ebird, American peregrine falcon (*Falco peregrinus*) has been recorded multiple times within the Project boundary.

Project construction and activities, directly or through habitat modification, may result in injury or mortality, reduced reproductive capacity, population declines, or local extirpation of these California Fully Protected bird species. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat may occur. In addition, diverting water from its current course may impact the availability of water for various bird species or habitats supporting birds, impacting the ability of Fully Protected species to persist within the Project boundary. **(CDFW Comment 2)**

**Response 1-4** Because the environmental evaluation of the Strategic Plan was undertaken at a programmatic level, the biological field surveys were conducted in the general area where the future recharge basins in the SASG and TCSG would be located. The Biological Resources Assessment (Draft Program EIR Appendix C) concluded that due to site conditions including several man-made features such as dams, creeks diverted into concrete channel, existing water diversion features, electric transmission lines supported by steel towers, unpaved roads, etc., and the quality of the vegetation (mature RAFSS effected by long-term water diversion), habitat quality for sensitive plant and wildlife is low.

Adoption of the Six Basins Strategic Plan and certification of the Final Program EIR for the Plan does not mean that individual projects are approved, and construction is

imminent. After certification of the Program EIR by the lead agency, each Watermaster Party proposing a subsequent, related project (either identified in the Strategic Plan or a future project not currently known), including the PVPA's SASG and TCSG projects, is responsible for ensuring CEQA compliance, and compliance with all other responsible or trustee agency requirements.

Therefore, once the design of a project including identifying the footprint of the facility and area of disturbance but prior to commencement of construction activities, the Watermaster Party proposing the project will be completing a number of site studies including a site-specific Biological Resource Assessment; and a subsequent environmental assessment in the form of an Initial Study. The Initial Study would be based on a review of the proposed project as evaluated in the Program EIR, as well as the results of any new studies prepared for a project, and based on the whole record, a determination would be made whether a Mitigated Negative Declaration or a Subsequent EIR should be prepared. It is at this time that mitigation measures identified in Mitigation Monitoring and Reporting Program (MMRP), would be implemented, including surveys for nesting birds, and additional biological assessments for sensitive biological species site-specific mitigation measures would be conducted, if required. Under CEQA, the applicant is required to notify CDFW of the proposed project and its potential impacts on plant and wildlife species. It is at this time, when site-specific mitigation measures would be discussed with CDFW.

Mitigation measure BIO-3 has been revised (new text) to clarify that additional biological resources assessments shall be conducted for all future projects where ground disturbing activities would occur when undertaking a project that falls into either Project Category 2 or 3. Future site activities identified in Project Category 1 would all occur on existing sites in urban areas and thus would not require that site surveys be conducted. Note, in response to CDFW comment 1-9b, additional text has been included to clarify the intent of preparing a mitigation strategy for the take of a species of special concern.

BIO-3 *Additional Biological Resources Assessments*. Prior to the approval of future projects on sites not identified in this EIR and occurring within an undeveloped area, or sites within the SASG or TCSG where new recharge basins and related infrastructure are proposed, a biological assessment shall be made of the selected or potential sites to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance ~~and~~ or minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact. Where a species is State-listed, CDFW would require full mitigation under an Incidental Take Permit. At a minimum, the mitigation strategy shall (1) identify the affected SSC; (2) identify strategies for handling and relocation of individuals

per CDFW guidance, and (3) identify compensatory mitigation for temporary or permanent loss of habitat that supports SSC (ratio to be determined in consultation with CDFW) and/or through acquisition of an Incidental Take Permit if a state listed or candidate species is determined to be present.

**Comment 1-5** San Bernardino Kangaroo Rat. Project activities at the SASG may impact San Bernardino Kangaroo Rat (*Dipdomys merriami* parvus; SBKR) habitat. The Project may result in temporary or permanent impacts or removal of SBKR habitat, crushing or filling of active colonies, causing the death or injury of adults or juveniles. Impacts may result from ground disturbing activities (e.g., staging, mobilization, and grading), vegetation removal, increased noise disturbances, light, human activity, and dust associated to the creation of new spreading grounds. In addition, diverting water from its current course may decrease the availability of water for SBKR or habitats supporting SBKR, impacting the ability of the species to persist within the Project boundary. **(CDFW Comment 3)**

**Response 1-5** As discussed in Response 1-3 above, because the environmental evaluation of the Strategic Plan was undertaken at a programmatic level, the biological field surveys were conducted in the general area where the future recharge basins in the SASG and TCSG would be located. During those surveys a general assessment of habitat quality was made and conclusions reached regarding the potential for special status species to occur. The conclusion of the project biologist was that there is no suitable habitat for SBKR and that the occurrence potential is low. Final EIR Figure 3 shows CNDDB observations within a 5-mile radius of the SASG project site. As shown here, there are no recorded observations of SBKR within that 5-mile radius.

However, as discussed above in response to comment 1-4, mitigation measure BIO-3 has been revised to require additional biological resources assessments be conducted prior to commencement of any ground disturbing activities on sites within Project Categories 2 and 3. Project Category 2 includes activities in the SASG and TCSG project areas. Field surveys will be conducted at such time as the footprint of each recharge basin is known. This is in line with CDFW's SBKR mitigation measure #1.

As stated in mitigation measure BIO-3, "If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance and minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact. Where a species is State-listed, CDFW would require full mitigation under an Incidental Take Permit." This is in line with CDFW's SBKR mitigation measure #2 that requires an applicant to apply for an Incidental Take permit.

**Comment 1-6** Crotch's Bumble Bee. A search of CNDDB has indicated four occurrences of Crotch's bumble bee within and adjacent to the Project boundary. The

Project may result in temporal or permanent loss of suitable nesting and foraging habitat. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success. **(CDFW Comment 4)**

**Response 1-6** As part of the Biological Resources Assessment prepared for the Draft Program EIR (Draft EIR Appendix C), the desktop search of literature and databases included a search of the CNDDB for species with the potential to occur in the project area. Crotch's bumblebee was identified during the search. However, based on the field surveys completed in the project area, the project biologist concluded that there was no suitable habitat for this species and that the occurrence potential for the species is low.

The studies completed for the Six Basins Strategic Plan Program EIR were conducted at a programmatic level because the schedule for construction of the new recharge basins is unknown, and the exact footprint of the new recharge basins has not been established Therefore, once the design of a project including identifying the footprint of the facility and area of disturbance but prior to commencement of construction activities, the Watermaster Party proposing the project will be completing a number of site studies including a site-specific Biological Resource Assessment; and a subsequent environmental assessment in the form of an Initial Study. The Initial Study would be based on the results of any new studies prepared for a project, and based on the whole record, a determination would be made whether a Mitigated Negative Declaration or a Subsequent EIR should be prepared.

With regard to mitigation measures #1, this measure describes a standard format for a survey report that is routinely followed by biologists preparing biological resources assessments. If suitable habitat is found at a project site, then an entomologist would be the logical person to conduct focused surveys for the species. Therefore, standard practice for conducting field surveys would be followed.

With regard to mitigation measures #2 and #3, if during subsequent field surveys for a project identify the presence of Crotch's bumblebee, the biological resources report for the project would include appropriate mitigation measures, including consultation with CDFW.

Also see response to comment 1-4 where mitigation measure BIO-3 has been modified to require additional biological resources assessments be completed for the new recharge basins in the SASG or TCSG. At this time, the project biologist will reassess the habitat and determine if the development of new recharge basins at the specific locations identified in subsequent siting studies would impact sensitive species including Crotch's bumblebee.

**Comment 1-7** <u>Water Diversion and Impacts to Streams</u>. The Project may divert surface stormwater and urban runoff for projects, such as those at the Pedley Spreading Grounds (PSG) and the LA County Fairplex (Fairplex). The Project may modify water

received or discharged into channels throughout the Project boundary and install new diversion structures to spreading grounds. This may result in impacts to streams.

Diverting stormwater and runoff into stormwater catchment basins or infiltration galleries may reduce the availability and extent of water flow. Modifications to channels and installation of diversion structures may result in temporary or permanent impacts to a stream. There could be changes to the hydrologic regime both within the immediate area and downstream. Changes to the hydrologic regime could affect abiotic and biotic variables that support plants, fish, wildlife, and macroinvertebrates. Significant impacts to biological resources could occur, especially during a dry season proceeding after a below-average water year. **(CDFW Comment 5)**

**Response 1-7** Pedley Spreading Grounds (PSG) is an existing facility used by the City of Pomona as spreading grounds for water diverted from San Antonio Creek via the Canon Pipeline that surpasses the Pedley Treatment Plant capacity, high turbidity flows, and/or treatment plant backwash. There is currently no stormwater runoff from the surrounding neighborhoods conveyed to the PSG.

Upgrading the PSG site to accommodate local urban runoff would create a new diversion of drainage captured from the surrounding urban area. The area is currently served by an existing storm drain system, and any stormwater collected within this drainage area would be diverted away from its current direction of flow and into the PSG recharge basins. Therefore, the second paragraph of page 4-156 under the heading *Pedley Spreading Grounds* has been amended to clarify that the mitigation measure BIO-3, to conduct a subsequent biological resources assessment to determine if the proposed project would adversely affect biological resources, including downstream riparian habitat would apply to this project. Implementation of this measure would not occur until such time as this project is in the design stage where enough information about the project is known and a CEQA Initial Study can be prepared.

> A general assessment of jurisdictional waters was not completed for the Pedley Spreading Grounds (PSG) site, nor was a field survey completed at the site. The PSG site consists of small basins that are fed by a pipeline that conveys water from behind the San Antonio Dam through the pipeline and into the basins located in a residential neighborhood in the City of Claremont. There are no natural drainage features that provide water to the PSG and there is no outlet from the PSG site into any drainage feature such as a creek or flood control channel. Expansion of the PSG consists of widening and deepening the existing basins and providing additional water from the local storm drain system through a new pipeline. No outlet from the PSG site is envisioned for this project, therefore, there is no impact on jurisdictional waters or wetlands associated with the PSG project <u>at the project site</u>.

> However, the diversion of stormwater from the existing stormdrain system to the PSG could negatively affect downstream habitat that is dependent on that stormwater. Therefore, during the planning/design phase of the PSG site, the Watermaster Party proposing this project shall implement mitigation measure BIO-3 which requires the preparation of a biological resources assessment to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. In addition, if the assessment determines that the project would impact a jurisdictional water (Waters of the State or US), then implementation of mitigation measure BIO-4 to consult with regulatory agencies is also required.

Likewise, the Fairplex project site is located in an urban area surrounded by the Fairplex site itself, as well as surrounding residential, commercial and industrial uses. There is an existing stormdrain system in place including the concrete channelized Thompson Creek that is adjacent to the Fairplex site. The intent of the proposed Fairplex project is to capture, treat and discharge stormwater into an underground infiltration system. The project is still conceptual however, the project would likely include a catch basin that captures stormflows and conveys them into a hydrodynamic separator for pretreatment before being conveyed into the infiltration gallery. It is intended that any overflow from the infiltration gallery will discharge back into Thompson Creek.

The first paragraph on page 4-157 of the Draft EIR states that although the Thompson Creek channel in the vicinity of the LA Fairplex is concrete lined, it is tributary to the San Gabriel River and at the confluence between the creek and the river, the river is unlined and exhibits riparian features. Therefore, mitigation measure BIO-4, has been identified to ensure that should construction or operation activities associated with the Fairplex recharge facilities, regarding conveyance of water from Thompson Creek, would be less than significant. Mitigation measure BIO-4 requires consultation with resources agencies for projects that has the potential to affect riparian habitat or wetlands. In response to CDFW comment, mitigation measure BIO-4 has been revised (see below for new text) to indicate what will be required for the Watermaster Party proposing an MS-4 project to provide to CDFW as part of the Lake and Streambed Alteration application. The Six Basins Strategic Plan Program EIR is a programmatic document that assessed the environmental impacts of plan implementation, including identifying a set of projects that would be developed in order to meet the Watermaster's goals for a more reliable and sustainable water supply. However, none of the projects identified in the Strategic Plan have been designed so site-specific studies have not been completed at this time. At such time as the Fairplex project is in the planning/design phase, a subsequent environmental document, either a subsequent mitigated negative declaration or subsequent EIR, would be prepared tiered from the Six Basins Strategic Plan Program EIR. At that time, project-level studies and assessments would be done for each project, and a determination of the types of permits or agreements with regulatory and resources agencies would be determined, and consultation with those agencies, including the application for an LSA for the Fairplex project would occur.

The discussion of the Fairplex project has been revised to reflect that during the planning/design phase of the project, the Waermaster Part proposing this project, shall implement mitigation measures BIO-3 as follows:

> Although the Thompson Creek channel in the vicinity of the LA Fairplex is concrete lined, it is tributary to the San Gabriel River and at the confluence between the creek and the river, the river is unlined and exhibits riparian features. Therefore, mitigation measure BIO-3 has been identified to requires the Watermaster Party proposing this project shall prepare a biological resources assessment that addresses the diversion of stormwater from the existing stormdrain system to the underground infiltration gallery that could negatively affect downstream habitat that is dependent on that stormwater. Therefore, during the planning/design phase of the Fairplex site, the Watermaster Party proposing this project shall prepare a biological resources assessment to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present.

Mitigation measure BIO-4 requires a Watermaster Party undertaking a project that could result in permanent impacts to jurisdictional waters (USFWS or CDFW), must consult with the resources agencies. The Program EIR for the Six Basins Strategic Plan does not approve any individual projects. After certification of the Program EIR by the lead agency, each Watermaster Party proposing a subsequent, related project (either identified in the Strategic Plan or a future project not currently known), including the City of Pomona's PSG and Fairplex projects, is responsible for ensuring CEQA compliance, including implementation of the mitigation monitoring and reporting program, and compliance with all other responsible or trustee agency requirements.

As recommended by this comment, mitigation measure BIO-4 has been revised to include additional text as follows:

BIO-4 *Wetland Permits or Streambed Alteration Agreement*. Prior to approval of a project where permanent impacts in areas determined to be potential jurisdictional wetlands or riparian features, Waters of the State or Waters of the U.S., the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alternation Agreement under Fish and Game Code 1602 are required prior to development. Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event

for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.

The following shall be incorporated into the permitting subject to approval by the regulatory agencies:

a) On- or offsite replacement of USACE/RWQCB jurisdictional waters of the U.S./waters of the State at a ratio no less than 1:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program.
b) On- or offsite replacement of CDFW jurisdictional streambed and associated riparian habitat at a ratio no less than 2:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program.

**Comment 1-8** Impacts on Riparian Habitat. The Project may impact riparian habitat. The Project may result in temporary or permanent loss of riparian resources. **(CDFW Comment 6)**

**Response 1-8** Impacts to riparian habitat through the development of Project Category 2, *Stormwater and Supplemental Recharge*, projects were identified in the Program EIR, particularly related to new recharge basins at the SASG and TCSG project areas. Project biologists visited the project areas at three different times during the preparation of the EIR in June/July 2019, in June 2020, and again in February 2021. Over this approximately 2.5-year period, biologist concluded that fluvial processes have been substantially modified over the past 100 years in both the SASG and TCSG. In the SASG such processes have been modified by the San Antonio Dam, the channelization and lining (concrete) of San Antonio Creek, the development of recharge basins on both sides of the channel below the dam, and the development of aggregate mine pits.

Draft EIR Figure 2-8 (included as an attachment to this response) shows the SASG and the various man-made features that have interrupted the fluvial process in that wash. The flow paths depicted on this figure represent how water flows when it is released from a turnout. Any water that flows in the channel and is turned out is controlled by the Army Corps of Engineers, and only when there is water behind the dam. Otherwise, there is no water to release. When there is water released the first priority is to divert it to the existing recharge basins below the dam.

The habitat in both the SASG and TCSG project areas was characterized as mature Riversidean alluvial fan sage scrub (RAFSS). RAFSS requires fluvial processes to maintain the openness of the habitat and to deposit sand soils utilized by many of the wildlife

species associated with RAFSS habitat. However, as fluvial processes are interrupted - as they have been within both project areas - the habitat is no longer subject to routine or major storm events. RAFSS habitat on fringes of a wash system or outside the100-year floodplain that no longer exposed to scouring, continue to mature (senescence) into woodier vegetation normally associated with chaparral habitats. Both *Ceanothus crassisfolius* and *Ceanothus leucodermus,* chaparral species, were identified within the SASG and TCSG project areas. Plant cover in mature RAFSS habitat usually exceeds 75 percent. The lack of open habitat in mature RAFSS precludes many of the sensitive species associated with pioneer and intermediate RAFSS habitats from occurring.

The Biological Resources Assessment (Draft EIR Appendix C) included an evaluation of potential jurisdictional water being present within the SASG and TCSG project areas. Aerial imagery of the project sites was examined and compared with the surrounding USGS 7.5-minute topographic quadrangle maps to identify drainage features within the survey area as indicated from topographic changes, blue-line features, or visible drainage patterns. The U.S. Fish and Wildlife Service National Wetland Inventory and Environmental Protection Agency (EPA) Water Program "My Waters" data layers were also reviewed to determine whether any hydrologic features and wetland areas had been documented within the vicinity of the site. Similarly, the Soil maps from the U.S. Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS) Web Soil Survey (USDA 2018) were reviewed to identify the soil series on-site and to check if they have been identified regionally as hydric soils. Upstream and downstream connectivity of waterways (if present) was reviewed in the field, on aerial imagery, and topographic maps to determine jurisdictional status. No obvious signs of jurisdictional features occur within the SASG and TCSG project sites.

The Program EIR for the Six Basins Strategic Plan does not approve any individual projects. After certification of the Program EIR by the lead agency, each Watermaster Party proposing a subsequent, related project (either identified in the Strategic Plan or a future project not currently known), including recharge basin projects, is responsible for ensuring CEQA compliance, including implementation of the mitigation monitoring and reporting program, and compliance with all other responsible or trustee agency requirements.

Therefore, once the design of a project including identifying the footprint of the facility and area of disturbance but prior to commencement of construction activities, the Watermaster Party proposing the project will be completing a number of site studies including a site-specific Biological Resource Assessment; and a subsequent environmental assessment in the form of an Initial Study. The Initial Study would be based on a review of the proposed project as evaluated in the Program EIR, as well as the results of any new studies prepared for a project, and based on the whole record, a determination would be made whether a Mitigated Negative Declaration or a Subsequent EIR should be prepared. It is at this time that mitigation measures identified in Mitigation Monitoring and Reporting Program (MMRP), would be implemented, including surveys for nesting birds, additional biological assessments for sensitive biological species site-

specific mitigation measures may be required. Under CEQA, the applicant is required to notify CDFW of the proposed project and its potential impacts riparian features and/or habitat. It is at this time that site-specific mitigation measures would be discussed with CDFW.

Mitigation measure BIO-3 has been revised (see response to comment 1-7 – CDFW comment #5) to clarify that additional biological resources assessments shall be conducted for all future projects where ground disturbing activities would occur when undertaking a project that falls into either Project Category 2 or 3. Future site activities identified in Project Category 1 would all occur on existing sites in urban areas and thus would not require that site surveys be conducted. Note, in response to CDFW comment 1-4, additional text has been included to clarify the intent of preparing a mitigation strategy for the take of a species of special concern.

**Comment 1-9** California Species of Special Concern. The Project may impact California Species of Special Concern (SSC). According to Table 2 of the BRA, the Project area has the potential to support SSC, which includes two avian species, one fish, four amphibians, five reptiles, and six mammals.

Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of an SSC. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat for an SSC may occur. **(CDFW Comment 7)**

The Biological Resources Assessment prepared for the Program EIR included field surveys for an approximately 195-acre survey area within the larger SASG within which the proposed approximately 50-acre recharge basin would be developed. The field surveys occurred in late June and early July 2019, a year when the Six Basins project area received 43.8 inches of rainfall. By comparison, the area received 17.8 inches of rainfall in 2018. Therefore, the survey dates in 2019 represent an optimal period in which to conduct field surveys. In June 2020, a project biologist returned to the area to verify existing conditions. This was followed up by an additional visit by a project biologist in February 2021. These field surveys were all general reconnaissance surveys within the project study areas (project sites plus surrounding area) in order to identify the potential for the occurrence of special status species, vegetation communities, or habitats that could support special status wildlife species.

The habitat in both the SASG and TCSG project areas was characterized as mature Riversidean alluvial fan sage scrub (RAFSS). RAFSS requires fluvial processes to maintain the openness of the habitat and to deposit sand soils utilized by many of the wildlife species associated with RAFSS habitat. However, as fluvial processes are interrupted - as they have been within both project areas - the habitat is no longer subject to routine or major storm events. RAFSS habitat on fringes of a wash system or outside the100-year floodplain that no longer exposed to scouring, continue to mature (senescence) into

woodier vegetation normally associated with chaparral habitats. Both *Ceanothus crassisfolius* and *Ceanothus leucodermus,* chaparral species, were identified within the SASG and TCSG project areas. Plant cover in mature RAFSS habitat usually exceeds 75 percent. The lack of open habitat in mature RAFSS precludes many of the sensitive species associated with pioneer and intermediate RAFSS habitats from occurring.

No focused surveys were conducted during this time because the BRA was prepared in support of a Program EIR for a Strategic Plan that identified a number of projects to be completed over a 20-year period with no specific schedule for completion of a project. In addition, prior to conducting subsequent BRAs at project sites, the Watermaster Party proposing a project would provide the project biologist with at least the preliminary design of the project including the footprint for the recharge basins and related features such as an access road and the future pipeline alignment to convey water between an existing turnout (see Draft EIR Figure 2-8 for location of turnouts) and the new recharge basin. Therefore, it is premature for the BRA for the Program EIR or the Program EIR itself, to include mitigation strategies for preservation, enhancement or restoration, when project specific impacts are unknown. A subsequent BRA prepared at such time as an individual project is proposed and site design plans are available, would include the biologist's findings and recommendations for mitigation strategies if an SSC is identified on a project site.

At this time, there is no design available for the recharge basin either in the SASG or TCSG. When a BRA for a project is prepared, and field surveys conclude that a SSC may be taken as a result of the construction or operation of the project, the Watermaster Party proposing the project would be required to apply for an Incidental Take Permit under Section 2081 of the Fish and Game Code. It is at this time, when impacts are known at the project level, that consultation with CDFW, including discussion of mitigation strategies would be required.

Regarding mitigation measures outlined in this comment, the lead agency agrees that should a future conjunctive water management project have the potential to "take" an individual SSC, the Watermaster Party proposing the project shall prepare a mitigation strategy as set forth in revised mitigation measure BIO-3, that includes the following: (1) identifies the affected SSC; (2) identifies strategies for handling and relocation of individuals per CDFW guidance, and (3) identifies compensatory mitigation for temporary or permanent loss of habitat that supports SSC. Therefore, mitigation measure BIO-3 has been revised to incorporate this new text (see response to comment 1-4, CDFW comment #2.

**Comment 1-10** Tree Removal. The Draft Program EIR indicates projects may require tree trimming or removal. Project activities that result in the removal of trees may cause temporary or permanent impacts to wildlife that utilize the tree as habitat. In addition, native tree species could be removed, causing further declines in native vegetation. **(CDFW Comment 8)**

**Response 1-10** The discussion of the potential for trees to be removed or trimmed at a project site was intended to address local agency emphasis on urban forestry. The intent was to ensure that during construction and maintenance activities, mature trees are not disturbed without authorization from a city such as Claremont or La Verne that have specific tree ordinances. As written, mitigation measure BIO-1 refers is specific to heritage trees. City of Claremont's *Tree Policies and Guidelines Manual* (https://www.ci.claremont.ca.us/home/showpublisheddocument/15028/637309208415570000) and the City of La Verne's *Wilderness Area Management and Public Access Plan* (https://www.cityoflaverne.org/index.php/documents/community-development-planning/wilderness-management-plan) were reviewed in the preparation of Draft PEIR Section 4.4 with regard to urban trees. The measure does not address other trees that may be disturbed in areas not covered by a city ordinance or one of the cities' plans.

Mitigation measures BIO-2, *Nesting Birds*, was intended to cover all other vegetation, including trees, at any of the conjunctive water management projects covered by the Six Basins Strategic Plans. The intent of this measure is to ensure that the removal or trimming of vegetation that could provide habitat for birds must be addressed prior to commencement of any site disturbing activities, including tree trimming.

To address CDFW's concern regarding habitat for wildlife species, mitigation measure BIO-1 shall be expanded to include any type of tree found on a project site that would be removed or trimmed as part of a Strategic Plan project. In addition, mitigation measure BIO-1 has been renumbered as BIO-1a to indicated that a related measure, as recommended by CDFW, be included to address the potential for pests and plant pathogens to spread to other nearby trees. Mitigation measure BIO-1b is identified in response to CDFW comment 1-11 below.

For other trees, including native trees that may be impacted by a Strategic Plan project, the Watermaster Party proposing a project shall hire a qualified arborist to assess the health of a tree(s) and determine whether trimming a tree would prove detrimental to the tree. In such a case, or if a tree is removed, replacement of trees shall be required and new trees shall be native trees whether the tree removed is native or non-native.

**Comment 1-11** Tree Diseases, Pests and Pathogens. The Project may remove trees and spread material infected with invasive tree diseases, pests, and pathogens. The Project may spread tree insect pests and diseases into areas not currently exposed to these stressors. This could result in expediting the loss of native trees and plant communities. Loss of trees may result in loss of foraging and perching habitat for small mammals, birds, and raptors. **(CDFW Comment 9)**

**Response 1-11** This comment is specific to areas within the Six Basins project area where native trees may be located within a Strategic Plan project site, either for a project identified in the Strategic Plan, or other future project (e.g., new well site) where the project site has not been selected. The Biological Resources Assessment prepared for the Six Basins Program EIR (Draft EIR Appendix C) identified one species identified in this

comment – coast live oak (*Quercus agrifolia*) - observed within the western portion of the study area of the TCSG. However, because the final footprint of either the TCSG or SASG, or future project site not yet identified, is unknown, mitigation measure BIO-3, *Additional Biological Resources Assessments*, was identified (see responses to CDFW comments 1-4 and 1-9), requiring additional site surveys be performed prior to commencement of ground disturbing activities. Implementation of mitigation measure BIO-3 would result in the preparation of a subsequent BRA at a project site which would include identification of any native trees that may be impacted.

However, to specifically address response to comment 1-11 (CDFW Comment #10), mitigation measure BIO-1b, *Removal of Native Trees*, would be undertaken at project sites where native trees would be affected (trimming or removal).

BIO-1b Prior to commencement of ground disturbing activities where native trees may require trimming or removal), and to address the potential spread of invasive pests and diseases by implementing the following:

1) Prior to tree trimming or removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).
2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist shall prepare an *Infectious Tree Disease Management Plan* or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a project area without first being treated using best available management practices described in the *Infectious Tree Disease Management Plan* or list of preventative measures.
3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

**Comment 1-12** In-lieu Fees. Mitigation Measure BIO-4 *Wetland Permits* mentions an "in lieu fee program" as an option for offsite replacement of wetland resources. Impacting wetland resources has the potential to impact directly, or indirectly through habitat loss, sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities. In addition, the Draft Program EIR does not provide sufficient information for CDFW to evaluate the adequacy of in-lieu fees to offset the cumulative loss of biological resources associated with wetlands. **(CDFW Comment 10)**

**Response 1-12** As discussed in the Draft Program EIR *Biological Resources* (Section 4.4) no obvious signs of jurisdictional features were observed during the literature/aerial photograph review for either the SASG or TCSG project areas. During field surveys, the project areas were surveyed with 100 percent visual coverage and no drainage features were present within the survey area for either the SASG or TCSG. The discussion goes on the state that because the final location of the SASG and TCSG recharge basins are unknown, implementation of mitigation measure BIO-4 may be required should the one or both of the new facilities result in impacts to jurisdictional wetlands. However, at this time, no wetlands would be impacted by a Strategic Plan project.

The intent of mitigation measure BIO-4 is to ensure that should the final design of the recharge basins within the SASG and TCSG result in an impact to wetlands, consultation with regulatory agencies would be required, and suggested language that would be included in the permit application. The recommendations identified in this comment are premature because at this time, there are no projects with the potential to impact wetlands are proposed. However, at such time as a recharge basin project in the SASG or TCSG is proposed, additional studies are required (e.g., mitigation measures BIO-2 and BIO-3) and it is at this time that site specific mitigation measures would be identified.

Finally, regarding recirculation of the Draft Program EIR, because at this time, no wetlands have been identified on any of the project sites listed in the Strategic Plan. There is no requirement to revise and recirculate the Draft Program EIR to discuss in-lieu fees.

**Comment 1-13** 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 and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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).

**Response 1-13** The lead agency will file the Notice of Determination with the State Clearinghouse and the Los Angeles County Clerk after certification of the Final Program EIR. The filing fee of $3,445.25 will be included with the NOD filed with the County Clerk.

**Comment 1-14** Responses to CDFW comments and notification of public hearing dates. CDFW has requested an opportunity to review the lead agency's responses to its comments and to be notified of any forthcoming public hearings.

**Response 1-14** The Final EIR, including responses to comments received on the Draft Program EIR will be provided to CDFW staff prior to the TVMWD public hearing on the project.

**Comment 1-15** Attachment A: Draft Mitigation Monitoring and Reporting Program. CDFW has provided a number of mitigation measures in this attachment.

**Response 1-15** The Draft EIR included a MMRP for projects within the three Project Categories – a separate MMRP for each Project Category. Where mitigation measures have been revised to reflect comments received from CDFW, these measures have been revised in the MMRP and included in the Final EIR. Other measures suggested in Appendix A have not been included as they relate to impacts that may not occur. Impacts associated with the construction and development of Strategic Plan projects will be assessed at the project level in separate subsequent CEQA documents as projects are put forward for design and environmental review.

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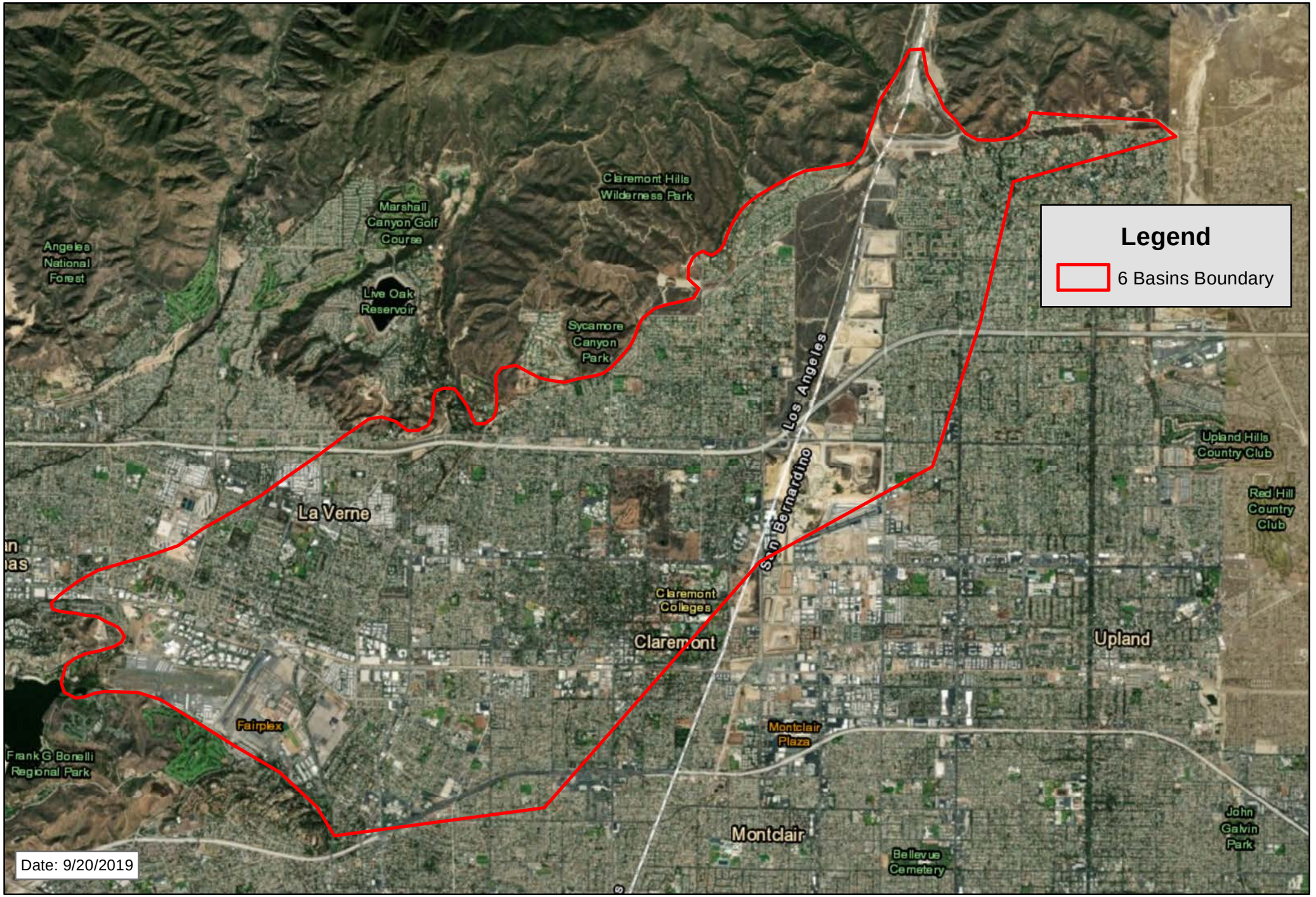


0 0.5 1 2 3 4 Miles

Imagery Date: 8/6/2017

Service Layer Credits: Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

JERICHO SYSTEMS INCORPORATED

1 inch = 5,280 feet

Figure 3-4
Adjudicated Boundary

6 Basins
Strategic Plan - Project EIR

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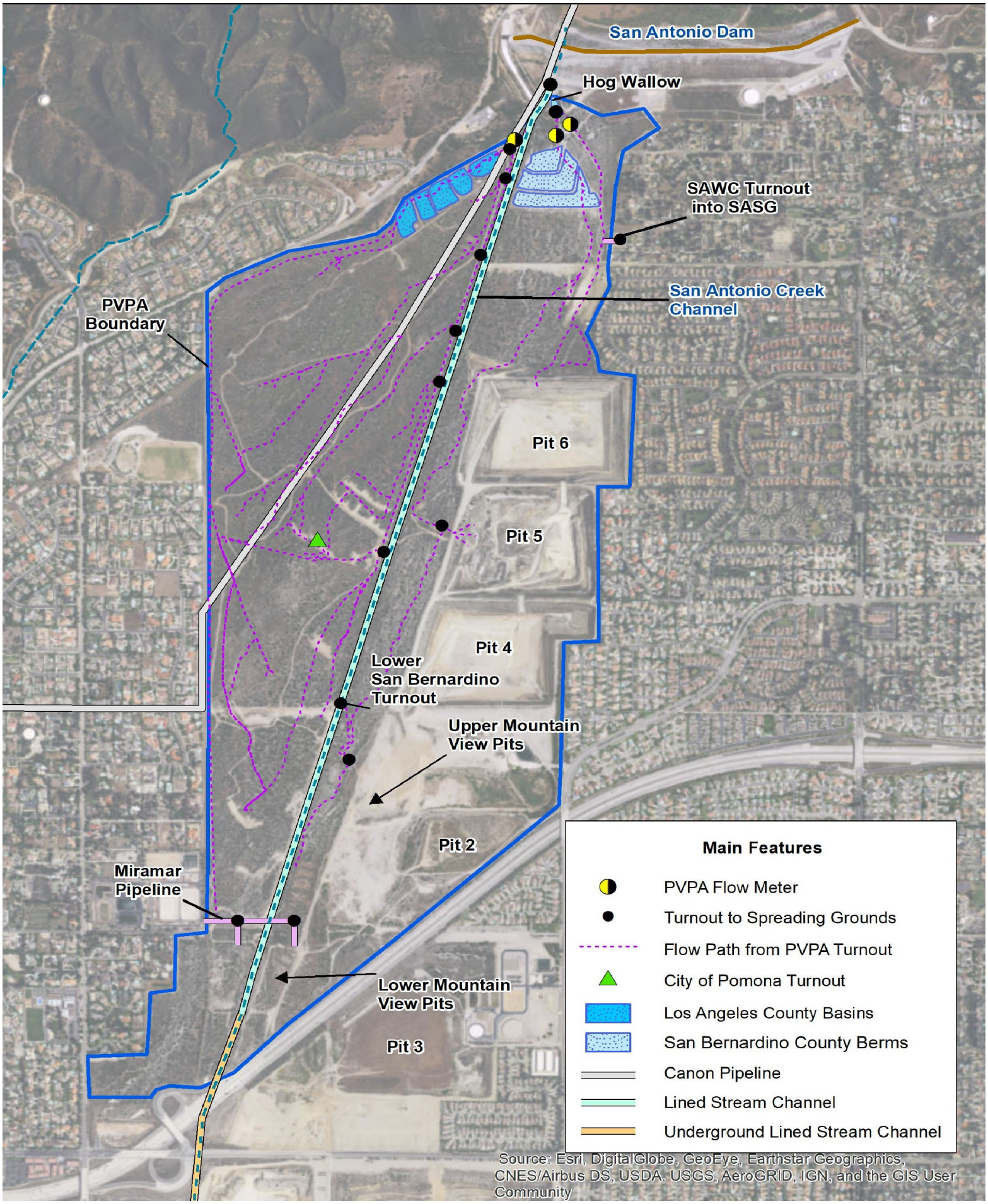


Source: WEI Figure 2-5c

JERICHO SYSTEMS INCORPORATED

| Figure 2-8<br>San Antonio Spreading Grounds | 6 Basins<br>Strategic Plan - Program EIR |
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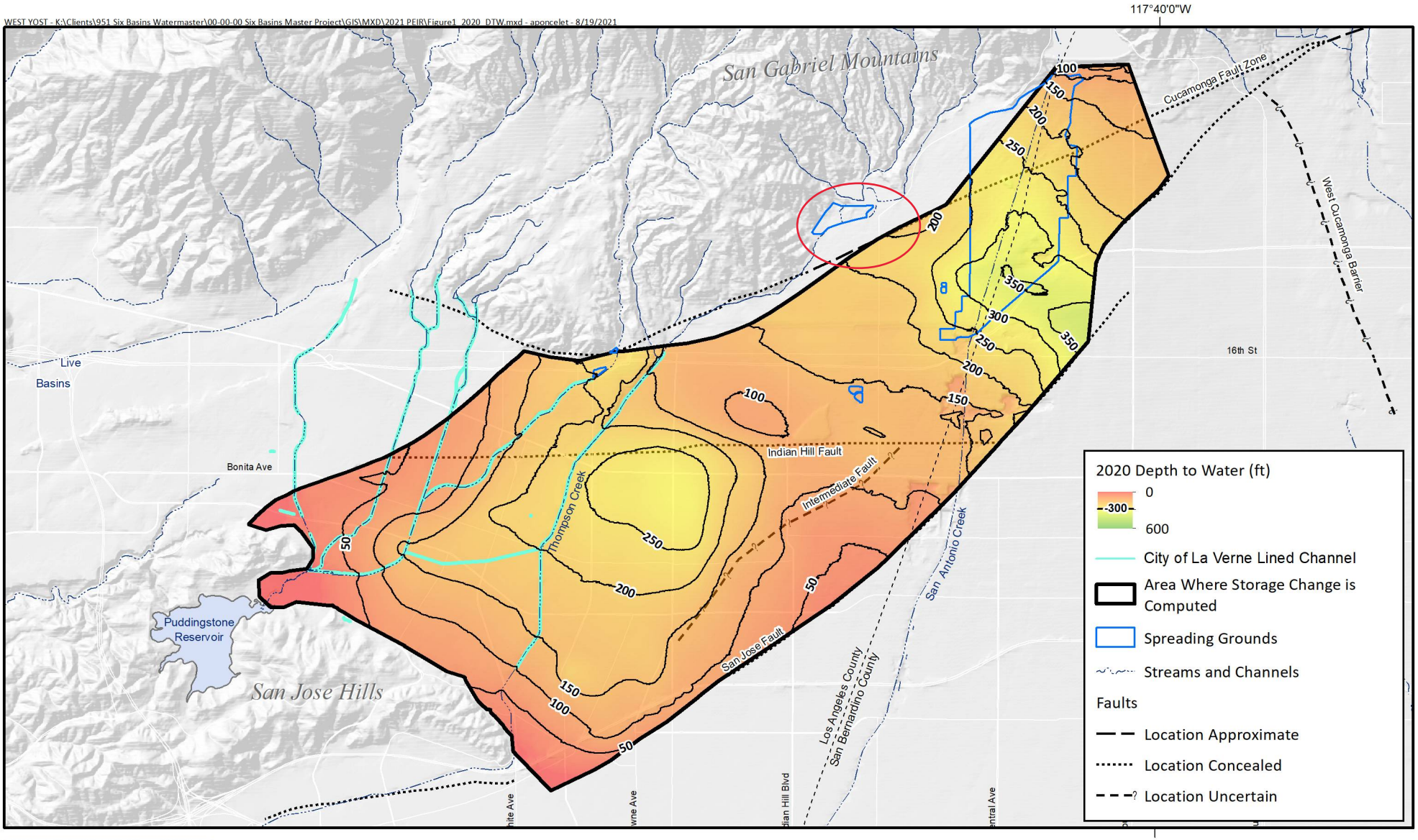


**Figure 1**

**Depth to Groundwater in the Six Basins Fall 2020**

**Six Basins Watermaster**

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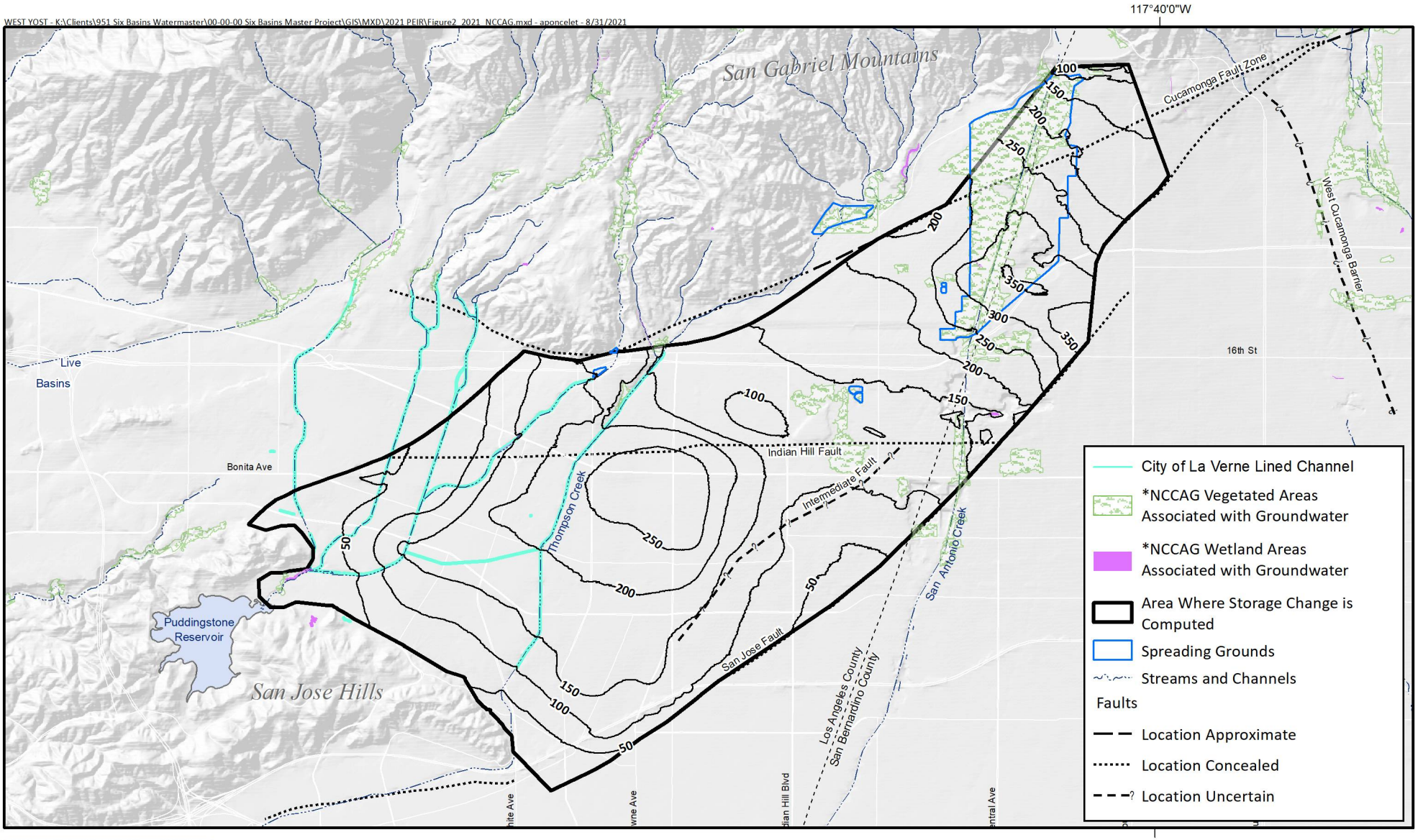


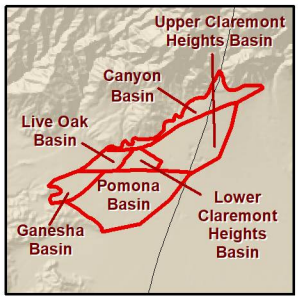


*Source: California Department of Water Resources - NCCAG Dataset
https://gis.water.ca.gov/app/NCDatasetViewer/#

N

0 3,000 6,000

Scale in Feet

**Figure 2**

**Natural Communities Commonly Associated with Groundwater in the Six Basins**

**Six Basins Watermaster**

WEST YOST

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**Legend**

- Center Point
- 5 Mile Buffer
- California diplectronan caddisfly
- California glossy snake
- California muhly
- California saw-grass
- silvery legless lizard
- Coast Range newt
- Crotch bumble bee
- Greata's aster
- Hall's monardella
- Nevin's barberry
- Parry's spineflower
- Plummer's mariposa-lily
- Robinson's pepper-grass
- Salt Spring checkerbloom
- San Bernardino aster
- San Diego desert woodrat
- San Gabriel Mountains elfin butterfly
- San Gabriel manzanita
- Yuma myotis
- arroyo toad
- black swift
- coast horned lizard
- coastal California gnatcatcher
- coastal whiptail
- hoary bat
- many-stemmed dudleya
- mesa horkelia
- northwestern San Diego pocket mouse
- prostrate vernal pool navarretia
- rigid fringepod
- slender mariposa-lily
- slender-horned spineflower
- southern California rufous-crowned sparrow
- southern mountain yellow-legged frog
- two-striped gartersnake
- white rabbit-tobacco
- Riversidian Alluvial Fan Sage Scrub
- Southern Coast Live Oak Riparian Forest
- Southern Sycamore Alder Riparian Woodland
- Canyon Live Oak Ravine Forest

0 1.25 2.5 5 Miles

Source: ESRI Aerial Imagery, San Bernardino County

SIX BASINS

# CNDDB Observations

Figure 3

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ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

# Letter 2

July 2, 2021

Three Valleys Municipal Water District
1021 Miramar Avenue
ATTN: Ben Peralta, P.E. Project Manager
Claremont, CA 91711
bperalta@tvmwd.com

West Yost
23692 Birtcher Drive
Carolina Sanchez, P.E. Senior Engineer
Lake Forest, CA 92630
csanchez@westyost.com

**RE: Draft PEIR for Six Basins Strategic Plan**

Dear Mr Peralta and Ms Sanchez:

Endangered Habitats League (EHL) appreciates the opportunity to comment on this project's CEQA documentation. For your reference, EHL is a Southern California regional conservation group, with a focus on remaining alluvial fan habitat and the rare species therein.

**Biological impacts are not disclosed.**

The project proposes new water recharge basins in San Antonio Creek and Thompson Creek of 50 acres and 25 acres, respectively. In both bases, the habitat involved is characterized as mature Riversidian alluvial fan sage scrub (RAFSS). Based on suitable habitat and scanty surveys, the PEIR acknowledges that rare and sensitive plants are likely to be impacted.

Impacts to the endangered San Bernardino kangaroo rat are discounted due to maturity of the vegetation and location. However, it is well-established that SBKR persist in mature RAFSS, albeit at lower densities, as more upland locations are integral to its life history and survival. (See enclosure.) Yet, surveys were not conducted. In regard to the SBKR, the best available scientific information about occupancy of mature RAFSS has been ignored.

2-1

More generally, the document's contention that, "The area is no longer subject to flood events needed to support open intermediate RAFSS habitat needed by most plant and wildlife species associated with RAFSS habitat," is vague and *unsupported by any*

2-2

*substantial evidence* that would justify the failure to conduct surveys for SBKR and other rare species.

Under CEQA, impacts are *required* to be disclosed at the *earliest point in time*. Program EIRs are no exception. Project design changes, alternatives, and mitigation are all most feasible at the earliest point in time. The DPEIR is defective in its failure to perform full surveys for all sensitive plant and animal species. We specifically recommend consultation with US Fish and Wildlife Service and California Dept. of Fish and Wildlife as to SBKR surveys. We note that the SBKR is currently a candidate species under CESA and subject to state regulation. 2-2 Con't

**Mitigation for biological resource is deferred.**

BIO-3 reads:

> BIO-3 Additional Biological Resources Assessments. Prior to the approval of future project on sites not identified in this EIR and occurring within an undeveloped area, a biological assessment shall be made of the selected or potential sites to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. If a sensitive biological resource is present, an analysis shall be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance and minimization measures will be developed to offset any potential impact or offsite mitigation will be provided to offset the impact. 2-3

This protocol constitutes "deferred mitigation," which is illegal under CEQA. At a minimum, clear and explicit *performance standards* must be formulated *at this time*. This case is particularly egregious in that unless a species *listed* under the state and federal Endangered Species Acts is subsequently found, *no regulatory authority* will be exerted by these agencies, and *no mitigation whatsoever* may in actuality be required by the lead agency.

RAFSS is one of the most depleted are rarest habitats in California. Mitigation for unavoidable impacts to RAFSS should be carried out at a 5:1 ratio, ideally in a CDFW-approved mitigation bank.

We look forward to responses to comments that correct the identified problems and to a PDEIR does justice to the plants and animals that still survive in these rare natural communities. 2-4

*Please retain EHL on all mailing and distribution lists for this project, including CEQA documents and public hearings.* Thank you for your consideration. 2-5

Yours truly,

Dan Silver
Executive Director

Enclosure

8 January 2021.LETTER RE SBKR HABITAT USE.revised#2_small.pdf

28 January 2021

Dan Silver
Endangered Habitats League
8424 Santa Monica Blvd., Suite A 592
Los Angeles, CA 90069-4267

Dear Mr. Silver:

I am writing this brief letter to offer my viewpoints on the issue of what types of habitats can and are occupied by San Bernardino kangaroo rats in the Lytle Creek and Cajon Creek alluvial ecosystems. I have studied the habitats and habits of this species in these areas for 30 years and have logged many hundreds of hours conducting trapping surveys for this species in these areas. These field studies have educated me in the variability of habitat use exhibited by this species in natural occupied areas in both ecosystems.

It is well known that SBKR typically occur in higher numbers in more open alluvial habitat types with sandy soils. However, this is not the only habitat type occupied by this species. In two field studies I completed in 2010 and 2017, I confirmed individuals of this species in a variety of denser scrub habitat types in the Lytle/Cajon Creek ecosystems. The 2017 study in the Cajon Creek Habitat Management Area, owned by Vulcan Materials, reported captures of SBKR in numerous locations exhibiting denser scrub habitats. In that study such dense scrub vegetation was typically named Mature AFSS or in some cases Intermediate AFSS. In addition, some trapping occurred in restored (previously disturbed and revegetated) scrub stands that exhibited very dense shrub cover and captures of SBKR. And these captures occurred during relatively brief 3-night trapping periods, while 5-night protocols are the standard to determine presence/absence of this species by the U.S. Fish and Wildlife Service. The same is true for the 2009-2010 study conducted for the East Branch Extension Project near Redlands, where numerous SBKR were captured in denser scrub stands in terrain far above and southward of the Santa Ana River floodplain. Photographs of habitat conditions in denser scrub stands with confirmed SBKR in the two study areas mentioned above are included at the bottom of this document. In addition, a series of figures from the 2017 study report are included below and show the locations of SBKR captures in the different areas with denser shrub cover at locations high above the main floodplain in the study area.

Although the numbers of SBKR typically are not high in such dense scrub habitats, the species does occur in such “unexpected” locations much of the time. It can be expected that most (all?) vertebrate animals exhibit some amount of plasticity of habitat preference, and this is the case with SBKR. Given the often intensive and broad flooding that periodically occurs in the alluvial systems of the Upper Santa Ana River and Lytle/Cajon Creek drainages, it would be maladaptive for SBKR to be entirely restricted to habitats in the lower elevational main flood zones of these floodplains. If they were solely restricted to the frequently flooded zones of these systems, their

populations would potentially be entirely eliminated during the larger floods that occasionally occur in these systems. Alternatively, the ability of certain individuals of this species to occupy higher benches out of the main flood zones would make considerable evolutionary sense for SBKR. Such "refugia" from the ravages meted by such intensive floods would obviously be critical to the long term survival of this species. That is, animals in the higher benches and higher habitat stands out of the reach of expansive catastrophic flooding would be able to recolonize the newly "refreshed" sandy habitats in lower elevational habitats where all SBKR were eliminated. Eliminating such higher elevation "refugia" may ultimately be the primary factor that leads to the demise of this species.

In addition, a longer-term perspective on habitat use by SBKR is important. The higher elevation benches and associated denser habitats at the edges of the main floodplains of Lytle/Cajon Creeks may harbor low numbers of SBKR at present. However, over the long term, these denser habitats may be altered by such factors as fire and drought, leading to their conversion to more open habitat conditions suitable for the species. SBKR survival over the long term will require an abundance of habitat areas, with corridors connecting separate "islands" of occupied habitat that allow their subpopulations to interbreed and maintain genetic diversity over time. The indiscriminate conversion of large patches of extant denser alluvial fan scrub habitat at different levels above the main flood zones in Lytle/Cajon Creeks, including areas of confirmed occupied habitat, will effectively nudge the species further toward extirpation in this ecosystem.

The existing habitat types in the proposed Neighborhoods 2 and 3 of the Lytle Development project exhibit habitats that are similar to some of the denser occupied habitats in the 2017 trapping study area on Vulcan lands, which are located directly east of the Neighborhood 2. Furthermore, a 2017 trapping survey conducted by San Diego Zoo biologists in the area immediately adjacent to Neighborhood 2 (see SD Zoo figure at the end of this document) captured numerous SBKR in habitats that appear quite similar to those in Neighborhood 2. Given this simple fact, it does not make logical sense that Neighborhood 2 does not harbor good numbers of SBKR in certain areas; that is, in habitat types beyond the classic more open alluvial habitats assumed by previous project biologists to be the only ones that harbor SBKR. And the same logic would apply to Neighborhood 3.

Given the fact that this species does, as reported above, occur in denser scrub habitat types, it is highly likely that extended trapping in areas of denser vegetation in Neighborhoods 2 and 3 (likely including some higher elevation locations) – much of which has been considered to be unsuitable for SBKR by other biologists associated with the project – would confirm presence of individuals of this species in noteworthy locations. In summary, it is highly likely that substantial numbers of SBKR, **and a sizable clearly important population of the species**, will be decimated by numerous portions of the proposed Neighborhood 2 and 3 developments.

Please let me now if you have any questions regarding the information presented above.

Sincerely,

Stephen J. Montgomery

Wildlife Biologist, Permitted SBKR Biologist
Former owner of SJM Biological Consultants, Inc.
2128 N. Cobblestone Circle
Flagstaff, AZ  86001
858 232 9602

**PHOTOGRAPHS OF DENSER SCRUB HABITATS WITH CONFIRMED CAPTURES OF SBKR IN THE LYTLE/CAJON CREEK ECOSYSTEM**


PLOT 16

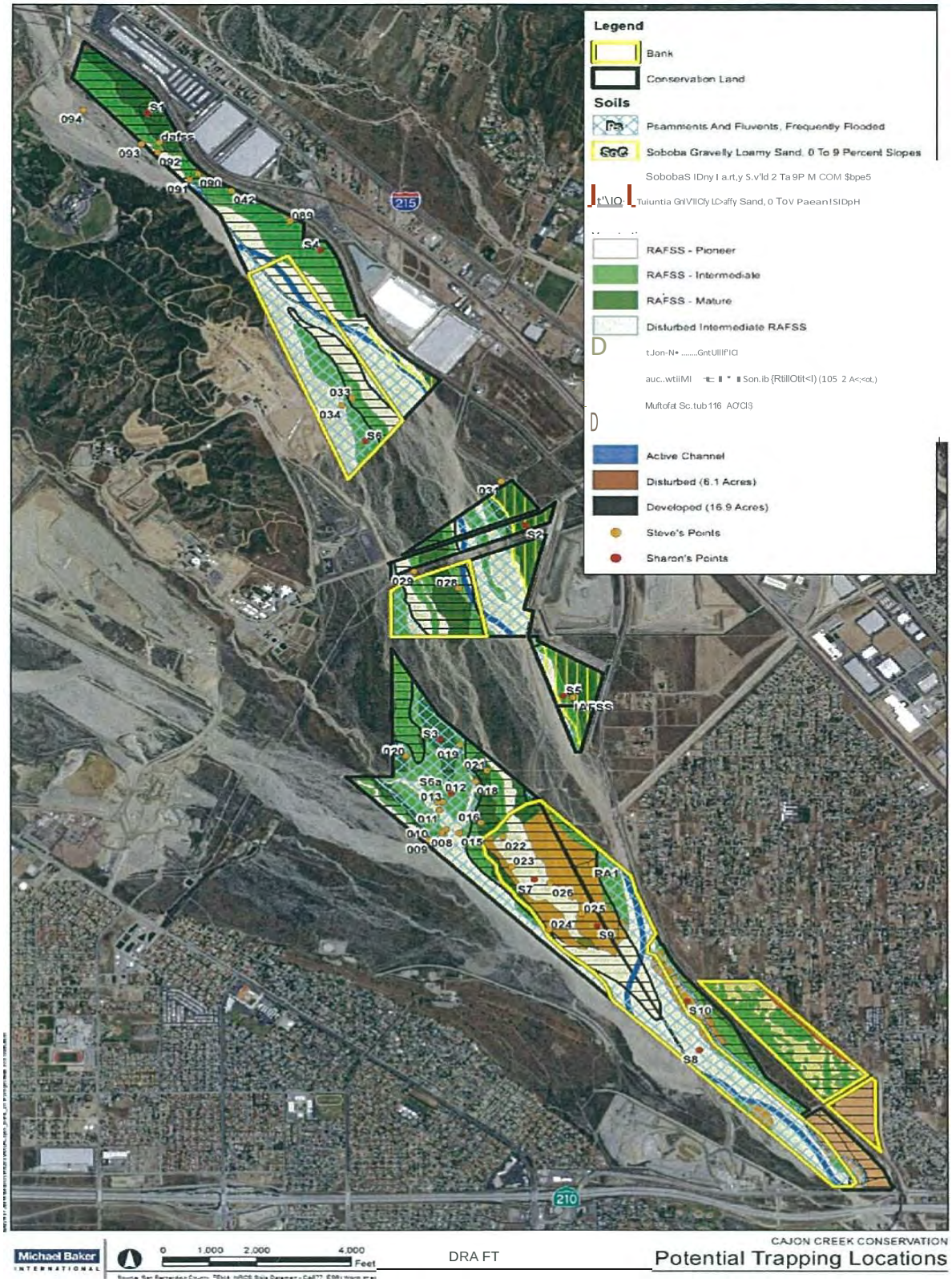
*** Restored (previously disturbed and revegetated) sage scrub habitat with multiple SBKR captures**


Plot [redacted]21
11-5-2017

**PHOTOGRAPHS OF DENSER STANDS OF AFSS HABITAT WITH NUMEROUS SBKR CAPTURES – 2009-2010**

**In the area east of Opal Avenue, Santa Ana River ecosystem – East Branch Extension Project Mitigation Area**

## FIGURES FROM 2017 SBKR SURVEY REPORT



**Legends in the following figures are damaged. SBKR captures are shown as red dots and DKR captures are shown as purple dots. Green vegetation types are shown in previous figure above, and orange areas are restored (previously disturbed/mined) habitats with varying amounts of shrub cover**


Michael Baker INTERNATIONAL

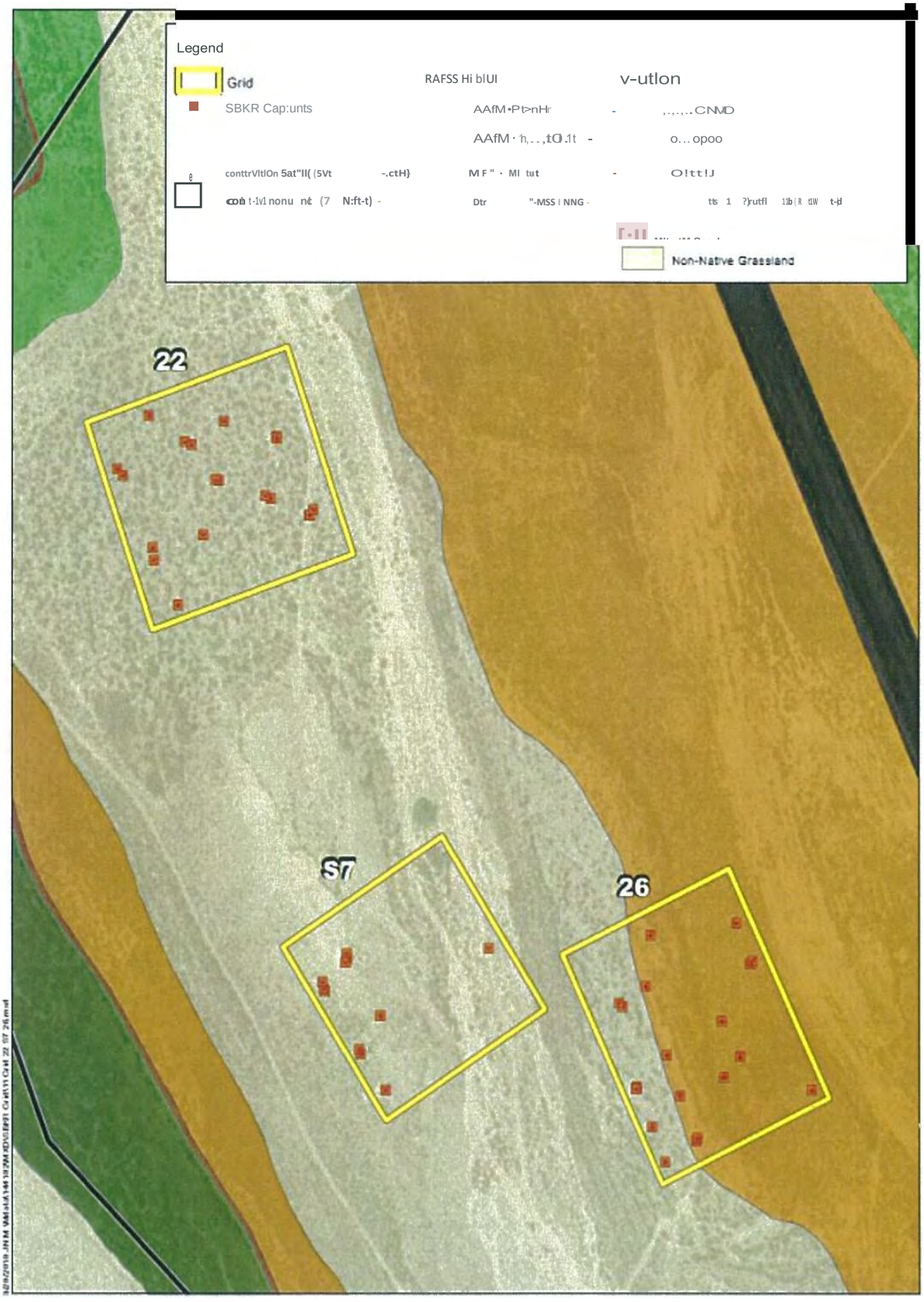
0 100 200 400 Feet

Source: ESRI World Imagery

CAJON CREEK CONSERVATION

Grids 21, 18, 12, 13 and16

Exhibit 9


Legend
Grid
SBKR Cap:unts
Non-Native Grassland
22
S7
26


Michael Baker INTERNATIONAL

0 100 200 400 Feet

Source: ESRI World Imagery

CAJON CREEK CONSERVATION

Grids 26 and RA1

**SD ZOO TRAPPING AREA**

**Letter 2 Endangered Habitats League**

**Comment 2-1** Impacts to the endangered San Bernardino kangaroo rat are discounted due to maturity of the vegetation and location. However, it is well-established that SBKR persist in mature RAFSS, albeit at lower densities, as more upland locations are integral to its life history and survival. (See enclosure.) Yet, surveys were not conducted. In regard to the SBKR, the best available scientific information about occupancy of mature RAFSS has been ignored.

**Response 2-1** The Program EIR was prepared as a programmatic document in support of the Strategic Plan for the Six Basins. CEQA Guidelines Section 16168(c) describes how a Program EIR may be used with activities such as those outlined in the Strategic Plan being proposed by the Watermaster Parties. These activities, including new recharge basins in the SASG and TCSG project areas are considered subsequent or later activities under CEQA.

Because the environmental evaluation of the Strategic Plan was undertaken at a programmatic level, the biological field surveys were conducted in the general area where the future recharge basins in the SASG and TCSG would be located. During those surveys a general assessment of habitat quality was made and conclusions reached regarding the potential for special status species to occur. The conclusion of the project biologist was that there is no suitable habitat for SBKR and that the occurrence potential is low. SBKR has not been trapped in this area of the San Gabriel Mountains in several decades. Final EIR Figure 3 (see Response to 1-5) shows CNDDB observations within a 5-mile radius of the center of the SASG. There were no observations recorded for SBKR within that area, including the TCSG and SASG project areas.

Adoption of the Six Basins Strategi Plan and certification of the Final Program EIR for the Plan does not mean that individual projects are approved, and construction is imminent. After certification of the Program EIR by the lead agency, each Watermaster Party proposing a subsequent, related project (either identified in the Strategic Plan or a future project not currently known), including the PVPA's SASG and TCSG projects, is responsible for ensuring CEQA compliance, and compliance with all other responsible or trustee agency requirements.

Therefore, once the design of a project including identifying the footprint of the facility and area of disturbance but prior to commencement of construction activities, the Watermaster Party proposing the project will be completing a number of site studies including a site-specific Biological Resource Assessment; and a subsequent environmental assessment in the form of an Initial Study. The Initial Study would be based on a review of the proposed project as evaluated in the Program EIR, as well as the results of any new studies prepared for a project, and based on the whole record, a determination would be made whether a Mitigated Negative Declaration or a Subsequent EIR should be prepared.

As stated in mitigation measure BIO-3, "If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation

strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance and minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact." This is in line with California Department of Fish and Wildlife policies.

**Comment 2-2** The document's contention that, "The area is no longer subject to flood events needed to support open intermediate RAFSS habitat needed by most plant and wildlife species associated with RAFSS habitat," is vague and *unsupported by any substantial evidence* that would justify the failure to conduct surveys for SBKR and other rare species. More generally, the document's contention that, "The area is no longer subject to flood events needed to support open intermediate RAFSS habitat needed by most plant and wildlife species associated with RAFSS habitat," is vague and *unsupported by any substantial evidence* that would justify the failure to conduct surveys for SBKR and other rare species.

**Response 2-2** See response to comment 2-1 regarding the purpose of a program EIR and supporting documentation, including a Biological Resources Assessment. A program level focused surveys for specific species is not appropriate because: (1) the specific location of recharge basins is not known at this time; (2) neither the SASG or TCSG project has been designed so the area of disturbance/buffer area is not known; and (3) the schedule for construction is unknown. Specifically, for the SASG the area that was the subject of the Biological Resources Assessment is approximately 195 acres in which a 50-acre recharge basin could be developed. Therefore, conducting focused surveys for specific species at this time would be premature. Therefore, mitigation measure BIO-3 was identified to ensure that at such time as a project is ripe for development all studies including subsequent biological resources assessments would be conducted.

**Comment 2-3** Under CEQA, impacts are *required* to be disclosed at the *earliest point in time*. Program EIRs are no exception. Project design changes, alternatives, and mitigation are all most feasible at the earliest point in time. The DPEIR is defective in its failure to perform full surveys for all sensitive plant and animal species. We specifically recommend consultation with USFWS and CDFW as to SBKR surveys. We note that the SBKR is currently a candidate species under CESA and subject to state regulation.

**Response 2-3** Please see response to comment 2-1.

**Comment 2-4** This protocol outlined in mitigation measure BIO-3 constitutes "deferred mitigation," which is illegal under CEQA. At a minimum, clear and explicit *performance standards* must be formulated *at this time*. This case is particularly egregious in that unless a species *listed* under the state and federal Endangered Species Acts is subsequently found, *no regulatory authority* will be exerted by these agencies, and *no mitigation whatsoever* may in actuality be required by the lead agency.

**Response 2-4** In response to comments received from CDFW, mitigation measure BIO-3 has been revised as follows:

BIO-3 *Additional Biological Resources Assessments*. Prior to the approval of future projects on sites not identified in this EIR and occurring within an undeveloped area, or sites within the SASG or TCSG where new recharge basins and related infrastructure are proposed, a biological assessment shall be made of the selected or potential sites to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance ~~and~~ or minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact. At a minimum, the mitigation strategy shall (1) identify the affected SSC; (2) identify strategies for handling and relocation of individuals per CDFW guidance, and (3) identify compensatory mitigation for temporary or permanent loss of habitat that supports SSC (ratio to be determined in consultation with CDFW through an Incidental Take Permit.

As discussed in response to comment 2-1, adoption of the Six Basins Strategic Plan and certification of the Final Program EIR for the Plan does not mean that individual projects are approved, and construction is imminent. After certification of the Program EIR by the lead agency, each Watermaster Party proposing a subsequent, related project (either identified in the Strategic Plan or a future project not currently known), including the PVPA's SASG and TCSG projects, is responsible for ensuring CEQA compliance, and compliance with all other responsible or trustee agency requirements.

Therefore, once the design of a project including identifying the footprint of the facility and area of disturbance but prior to commencement of construction activities, the Watermaster Party proposing the project will be completing a number of site studies including a site-specific Biological Resource Assessment; and a subsequent environmental assessment in the form of an Initial Study. The Initial Study would be based on a review of the proposed project as evaluated in the Program EIR, as well as the results of any new studies prepared for a project, and based on the whole record, a determination would be made whether a Mitigated Negative Declaration or a Subsequent EIR should be prepared.

**Comment 2-5** We look forward to responses to comments that correct the identified problems and to a PDEIR does justice to the plants and animals that still survive in these rare natural communities. Please retain EHL on all mailing and distribution lists for this project, including CEQA documents and public hearings. Thank you for your consideration.

**Response 2-5** The Endangered Habitats League is on the mailing list to receive the notice of TVMWD's public hearing on the Six Basins Strategic Plan and Program EIR. The notice will include a link where you may review the Final EIR.

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# 3.0 Errata

The following are revisions to the Draft Program Environmental Impact Report (DPEIR) for the Six Basins Strategic Plan. These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the DPEIR. The revisions are listed by page number. All additions to the text are underlined and all deletions from the text are ~~stricken~~.

## 3.1 Revisions to the DPEIR in Response to Specific Comments

### Chapter ES Executive Summary

Chapter ES, Table ES-5, *Six Basins Program EIR Summary of Impacts and Mitigation Measures,* has been revised to reflect comments received from the California Department of Fish and Wildlife starting on page ES-23.

| Impacts | Level of Significance After Mitigation | Mitigation Measures | Level of Significance After Mitigation |
|---|---|---|---|
| *Impact 4.4-1 Have a substantial adverse 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 the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.* | | | |
| Pump and Treat<br>Water Recharge<br>Temporary Surplus | Potentially Significant | BIO-1a *Tree Removal*. Prior to the trimming or removal of a tree at any project site, a project proponent will coordinate with the local agency to determine if the particular trees targeted for trimming or removal are heritage trees regulated by local agency. If the targeted tree is a heritage under the City or County Regulations, the appropriated application will be submitted and approved by the local agency prior to conducting the trimming or removal of the heritage tree(s), except where compliance is not required by California law.<br>BIO-1b Prior to commencement of ground disturbing activities where native trees may require trimming or removal), and to address the potential spread of invasive pests and diseases by implementing the following:<br>1) Prior to tree trimming or removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).<br>2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist shall prepare an *Infectious Tree Disease Management Plan* or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a project area without first being treated using best available management practices | Less than significant |

| Impacts | Level of Significance After Mitigation | Mitigation Measures | Level of Significance After Mitigation |
|---|---|---|---|
| | | described in the *Infectious Tree Disease Management Plan* or list of preventative measures.<br>3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.<br>BIO-3 *Additional Biological Resources Assessments*. Prior to the approval of future projects on sites not identified in this EIR and occurring within an undeveloped area, or sites within the SASG or TCSG where new recharge basins and related infrastructure are proposed, a biological assessment shall be made of the selected or potential sites to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance ~~and~~ or minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact. Where a species is State-listed, CDFW would require full mitigation under an Incidental Take Permit. At a minimum, the mitigation strategy shall (1) identify the affected SSC; (2) identify strategies for handling and relocation of individuals per CDFW guidance, and (3) identify compensatory mitigation for temporary or permanent loss of habitat that supports SSC (ratio to be determined in consultation with CDFW) and/or through acquisition of an Incidental Take Permit if a state listed or candidate species is determined to be present. | |
| *4.4-2 Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.* | | | |
| Pump and Treat Water Recharge Temporary Surplus | Potentially Significant | BIO-4 *Wetland Permits or Streambed Alteration Agreement*. Prior to approval of a project where permanent impacts in areas determined to be potential jurisdictional wetlands or riparian features, Waters of the State or Waters of the U.S., the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alternation Agreement under Fish and Game Code 1602 are required prior to development. Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be | |

| Impacts | Level of Significance After Mitigation | Mitigation Measures | Level of Significance After Mitigation |
|---|---|---|---|
| | | necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.<br><br>The following shall be incorporated into the permitting subject to approval by the regulatory agencies:<br>a. On- or offsite replacement of USACE/RWQCB jurisdictional waters of the U.S./waters of the State at a ratio no less than 1:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program.<br>b. On- or offsite replacement of CDFW jurisdictional streambed and associated riparian habitat at a ratio no less than 2:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program. | |

## Section 4.4 Biological Resources

Page 4-158, first paragraph under *Pedley Spreading Grounds*. Revisions to the text are as follows:

> A general assessment of jurisdictional waters was not completed for the Pedley Spreading Grounds (PSG) site, nor was a field survey completed at the site. The PSG site consists of small basins that are fed by a pipeline that conveys water from below the San Antonio Dam through the pipeline and into the basins located in a residential neighborhood in the City of Claremont. There are no natural drainage features that provide water to the PSG and there is no outlet from the PSG site into any drainage feature such as a creek or flood control channel. Expansion of the PSG consists of widening and deepening the existing basins and providing additional water from the local storm drain system through a new pipeline. No outlet from the PSG site is envisioned for this project, therefore, there is no impact on jurisdictional waters or wetlands associated with the PSG project <u>at the project site</u>.
>
> <u>However, the diversion of stormwater from the existing storm drain system to the PSG could negatively affect downstream habitat that is dependent on that stormwater. Therefore, during the planning/design phase of the PSG site, the Watermaster Party proposing this project shall implement mitigation measure BIO-3 which requires the preparation of a biological resources assessment to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present</u>. <u>In addition, if the assessment determines that the project would impact a jurisdictional water</u>

(Waters of the State or US), then implementation of mitigation measure BIO-4 to consult with regulatory agencies is also required.

Page 4-159, the last paragraph under Fairplex Recharge Facilities, has been revised as follows:

Although the Thompson Creek channel in the vicinity of the LA Fairplex is concrete lined, it is tributary to the San Gabriel River and at the confluence between the creek and the river, the river is unlined and exhibits riparian features. Therefore, mitigation measure BIO-3 has been identified to requires the Watermaster Party proposing this project shall prepare a biological resources assessment that addresses the diversion of stormwater from the existing storm drain system to the underground infiltration gallery that could negatively affect downstream habitat that is dependent on that stormwater. Therefore, during the planning/design phase of the Fairplex site, the Watermaster Party proposing this project shall prepare a biological resources assessment to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present.

Section 4.4-5, Mitigation Measures, pages 4-166 through 4-168. Mitigation Measures have been revised to reflect CDFW comments as follows:

BIO-1a *Tree Removal*. Prior to the trimming or removal of a tree at any project site, a project proponent will coordinate with the local agency to determine if the particular trees targeted for trimming or removal are heritage trees regulated by local agency. If the targeted tree is a heritage under the City or County Regulations, the appropriated application will be submitted and approved by the local agency prior to conducting the trimming or removal of the heritage tree(s), except where compliance is not required by California law.

BIO-1b Prior to commencement of ground disturbing activities where native trees may require trimming or removal), and to address the potential spread of invasive pests and diseases by implementing the following:

1) Prior to tree trimming or removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).
2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist shall prepare an *Infectious Tree Disease Management Plan* or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a project area without first being treated using best available management practices described in the *Infectious Tree Disease Management Plan* or list of preventative measures.

3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

BIO-2 *Nesting Birds*. Removal of any trees, shrubs, or any other potential nesting habitat shall be conducted outside the avian nesting season, as verified by a qualified Avian Biologist. The nesting season generally extends from February 1 through August 31, but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the qualified Avian Biologist's-verified nesting season, a preconstruction clearance survey for nesting birds shall be conducted within 30 days of the start of any construction. If no active nests are found, no further action would be required. If an active nest is found, the biologist shall set appropriate no-work buffers around the nest, which would be determined based on the nesting species, its sensitivity to disturbance, nesting stage and expected types, intensity and duration of disturbance. The nests and buffer zones shall be field checked weekly by a qualified biological monitor. The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.

BIO-3 *Additional Biological Resources Assessments*. Prior to the approval of future projects on sites not identified in this EIR and occurring within an undeveloped area, or sites within the SASG or TCSG where new recharge basins and related infrastructure are proposed, a biological assessment shall be made of the selected or potential sites to determine if sensitive biological resources (sensitive plant community, sensitive species, jurisdiction waters) are present. If a sensitive biological resource is present, an analysis will be made of the potential for impact to the resource, an appropriate mitigation strategy will be developed and submitted to the wildlife and regulatory agencies with authority to review and approve the mitigation strategy as reducing impacts to less than significant. Either appropriate avoidance ~~and~~ or minimization measures will be developed to offset any potential impact or offsite mitigation shall be provided to offset the impact. Where a species is State-listed, CDFW would require full mitigation under an Incidental Take Permit. At a minimum, the mitigation strategy shall (1) identify the affected SSC; (2) identify strategies for handling and relocation of individuals per CDFW guidance, and (3) identify compensatory mitigation for temporary or permanent loss of habitat that supports SSC (ratio to be determined in consultation with CDFW) and/or through acquisition of an Incidental Take Permit if a state listed or candidate species is determined to be present.

BIO-4 *Wetland Permits or Streambed Alteration Agreement*. Prior to approval of a project where permanent impacts in areas determined to be potential jurisdictional wetlands or riparian features, Waters of the State or Waters of the U.S., the

Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alternation Agreement under Fish and Game Code 1602 are required prior to development. Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.

The following shall be incorporated into the permitting subject to approval by the regulatory agencies:

a. On- or offsite replacement of USACE/RWQCB jurisdictional waters of the U.S./waters of the State at a ratio no less than 1:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program.
b. On- or offsite replacement of CDFW jurisdictional streambed and associated riparian habitat at a ratio no less than 2:1 for permanent impacts and to restore the site to pre-project conditions for temporary impacts. Offsite replacement may include the purchase of mitigation credits at an agency-approved offsite mitigation bank or in-lieu fee program.

## 3.2 Revisions to the DPEIR to Clarify Text

The following section is meant to clean up typographical errors, grammar, or to clarify text.

### Chapter ES Executive Summary

The information contained in the column labeled Level of Significance Before Mitigation was incorrect for those issues and project categories where a potentially significant impact was identified, and mitigation measures are required. Therefore, a global correction has been made to Table ES-5 replacing the existing finding with the correct finding as follows:

| Impacts | Level of Significance Before Mitigation |
|---|---|
| Pump and Treat<br>Water Recharge<br>Temporary Surplus | ~~Less Than Significant with Mitigation Incorporated~~ Potentially Significant |